

AGREEMENT FOR THE PERFORMANCE OF  
CONSULTING SERVICES  
**JANUARY – DECEMBER 2024**

This Agreement (the “Agreement”) is entered into and made effective as of the \_\_\_\_ day of \_\_\_\_, 2024, by and between **ms consultants, Inc., 115 West Washington Street, Suite 1310, Indianapolis, Indiana, 46204** (“Consultant”) and **Town of Lapel, Indiana** (“Client”).

In consideration of the mutual promises, covenants, and agreements contained herein, which the parties acknowledge are good, valuable and sufficient consideration for this Agreement, the parties, intending to be legally bound, promise, covenant and agree as follows:

SECTION I. SERVICES TO BE PERFORMED BY CONSULTANT

1.1 Description of Basic Services. Client authorizes Consultant to perform the below listed services (“Basic Services”):

Monthly On-site and Mobile Engineering, Administrative, Planning and Economic Development Consulting:

- (a) On-site consulting no less than 1 day each week of each month with additional days as needed for planning services.
- (b) Available for mobile consultation and response.

**Town Council and Administration Consultation:**

- Advise and facilitate the process to develop a Town Administration Strategic Direction Road Map.
- Advise on the development of a Town Council Policies and Procedures Manual.
- Advise on the development of a Board and Commission Policies and Procedures Manual.
- Advise on the development of an SOP manual for Town government day-to-day operations.
- Advise on the development of a funding priority list for the adoption of a proactive budget.
- Provide on-call advice, mentoring and municipal operations resources to town management.

- Facilitate Town Council Proactive Goal Workshops
- Review and advise on changes to modernize the town code to coincide with the town's quality of life and growth vision.
- Assist the Client with meeting preparation including the completion of an interactive agenda, ordinance and resolution preparation assistance.
- Advise the Client on best practices to develop good public policy.
- Assist the Client with the hiring of a Town Manager when the town is organized and prepared to hire an experienced management professional.
- Provide Lapel Municipal Utilities General Management Consultation to staff and the Town Council.
- Perform an audit of the day-to-day operations of the utilities.
- Develop a line-item budget for each utility that reflects the accurate funding needed to operate each utility.
- Develop and deliver a monthly budget management report to the Town Council and staff.
- Develop a SOP manual for each utility.

**Deliverables:**

Government Operations Audit Report, including:

- Government Operations Organization Chart Recommendations
- Government Operations Staff Evaluation Report
- Government Operations Department Development Guidebook
- Government Operations Department Specific Standard Operating Procedures
- Government Operations Board and Commission Description and Appointment Policies and Procedures Manual
- Town Manager Standard Operations Manual
- Utility Staff Evaluation and Recommendation Report
- Utility Budget
- Monthly Utility Budget Book
- Utility SOP Manuals

**Planning and Zoning Operations Audit:**

- **Review of the Planning Regulations and Procedures focusing on the topics specified by the client.**
  - Audit the permit and petition applications forms.
  - Audit the department standard operating procedures related to the petitions and permit review.

- **Review the Planning and Building Department Application, Permit and Violation Fine Fee Structure**
- **Review Communication policies with the public focusing on topics specified by the client:**
  - Audit the staff's means of communication with the public.
  - Audit the communication of planning information on the town website.
  - Audit any existing information forms that explain how the permitting/public hearing process works.
  - Audit public hearing process and related communications.
- **Review all comprehensive planning documents.**
  - Audit the current comprehensive plan and provide recommendations on changes to the document.
  - Audit the current transportation plan document and provide recommendations on changes to the document.

**Deliverables:**

- Planning and zoning post operations audit report
- Planning and zoning strategic direction guide and SOP book.

**Planning and Zoning Operations Administration:**

- **Permit Review and Approval:**
  - "Permits" are the type of applications that do not require a public hearing.
  - The planner will conduct a planning review of the permit applications and approve those that meet all zoning ordinance standards.
- **Facilitation of the application process:**
  - Conduct preliminary meetings (in person and/or over the phone/video) with the prospective applicant to go over the application requirements and local zoning regulations relevant to the scope of the project.
  - Communication with the applicants over email and phone about the applications process and completeness of the application.
  - Attendance of review meetings, like TAC.
- **Application Review**
  - Planning review of site plans, plats, detailed development plans, PUD ordinances, landscape plans, architectural elevations, and other documents that are part of the submittal.
  - Communication with the applicant regarding the submittal: giving them feedback, requesting edits, answering their questions, etc.

- At least one site visit shall happen for variance cases during the application review to gather data necessary for analysis.
- If needed, visit sites for other applications.
- **Staff Report:**
  - Write a Staff Report that will include submittal's analysis and relevant Exhibits for PC/BZA cases.
  - Submit the Staff Report with Exhibits to the APC/BZA.
- **Attendance of APC/BZA/Town Council Public Hearings:**
  - Staff presentation for every item.
  - Provide answers to the planning questions regarding the items on the agenda.
  - Provide answers to the Commission, Board, and Council members during miscellaneous items discussions.
- **Communication between the Planner and APC:**
  - Provide answers to the questions from the members of APC via email or phone during the application process.
  - Attend the meetings between the Planner and APC per APC's request.
- **Communication between the Planner and BZA:**
  - Per Indiana Law, no communication can happen with the BZA about the items to be heard. The only permitted communication prior to the hearing is staff (planner) submitting a written staff report to the BZA. Thus, the only communication that can happen between Lapel BZA and the planner is the planner sending them a staff report.
- **File Storage:**
  - All submittal files and any files produced during analysis stage (pictures, staff reports, exhibits, approved permits, communication with applicants) will be stored electronically in ms consultants and will be provided to Owner.

#### **Redevelopment/Economic Development Administration Consultation**

- Assess existing economic development plans. Advise on any needed revisions based on the quality of life and growth vision of the community.
- Advise on best practices to implement economic development strategy.
- Advise on the creation and adoption of best practice economic development policy.
- Advise on best practices to work with the EDC to market Lapel's economic development assets.
- Work with the EDC to communicate with potential commercial, industrial and residential development partners.
- Advise and facilitate meetings of the Redevelopment Commission including:

- RDC meeting administration
- EDA/TIF Expansion
- Economic Development Finance Strategy
- RDC Reporting Requirements

**Deliverables:**

- Amended and Updated RDC Economic Development Plan
- RDC SOP Manual

**Grant Application and Administration Services**

- Provide the client with a comprehensive list of available funding sources from local, state, federal, not for profit and private funding sources for priority projects.
- Provide the client with the ms consultants Project Readiness to Proceed to Funding Analysis and Road Map.
- Assist the client with grant application processing including research and narrative.

1.2 Description of Additional Services. When authorized in writing by the Client's authorized representative after approval of Consultant's proposal, the Consultant shall perform the following additional services:

- (a) Analyze operations, maintenance and overhead expenses; prepare rate schedules, earnings and expense statements, feasibility studies, appraisals and evaluations, detailed quantity surveys of materials, equipment and labor, and operating or maintenance manuals.
- (b) Furnish the services of special consultants.
- (c) Furnish renderings, exhibits, or models of any part or all of any project.
- (d) Serve as an expert witness in any administrative or judicial proceeding.
- (e) Travel to places other than the Client in connection with the performance of supplemental services.
- (f) Provide proposal to create or update the Client's Comprehensive Plan, Thoroughfare Plan, Utility Master Plan, Long-term Control Plan, Bicycle and Pedestrian Masterplan, Main Street Plan, UDO.

## SECTION II. THE CLIENT'S RESPONSIBILITY

### 2.1 The Client shall have the responsibilities set forth below:

- (a) Assist the Consultant by placing at its disposal all available information pertinent to any project upon which it is working, including previous reports and any other data.
- (b) Examine all studies, reports, estimates, specifications, drawings, proposals, and other documents presented by the Consultant, and render in writing decisions pertaining thereto within a reasonable time so as not to delay performance of the services of the Consultant.
- (c) Designate in writing a person to act as Client's representative with respect to work to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, and interpret and define the Client's policies and decisions with respect to the services covered by this Agreement. The parties understand the Consultant shall perform its services under the direct instruction and supervision of the Client representative designated under this paragraph.
- (d) Give prompt written notice to the Consultant whenever the Client observes or otherwise becomes aware of any discrepancies in the Basic Services or Additional Services provided by the Consultant so that the Consultant may investigate and make recommendations to the Client.
- (e) Furnish approvals and permits from all governmental authorities having jurisdiction over any project undertaken hereunder and such approvals and consents from others as may be necessary.
- (f) Provide all legal, accounting, insurance counseling, and similar services that may be required in connection with services performed under this Agreement.
- (g) Bear all costs incident to compliance with the requirements of this Section II.

## SECTION III. PERIOD OF SERVICE

The term of this Agreement shall be eight (12) months from January 1, 2024, through December 31, 2024, unless this contract is terminated pursuant to the terms of section 5.1 below. After the expiration of said period, the parties may negotiate to extend this contract for an additional period of time.

#### SECTION IV. PAYMENTS TO THE CONSULTANT

##### 4.1 Methods of Payment for Services and Expenses of the Consultant.

(a) The Client shall pay the Consultant for Basic Services rendered under Section 1.1 of this Agreement the lump sum fee of **Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00)** each month not to exceed **Ninety Thousand, Dollars and Zero Cents (\$90,000)**.

(b) All other tasks described in Section 1 of this agreement shall be authorized by the Client in writing prior to the start of the task authorized in accordance with the rate schedule attached to this Agreement. The cost authorized by the Client shall be in addition to the total contract amount stated in Paragraph 4.1(a). Consultant shall furnish Client with an estimate of the anticipated cost of the task prior to the start of the task when requested by Client.

##### 4.2 Times of Payment.

(a) Consultant shall invoice Client on a monthly basis for all Basic Services and Additional Services performed and shall include supporting documentation as may be requested by Client. Payments are due and payable upon presentation of the Consultant's monthly statement. Amounts unpaid forty-five days after the invoice date shall bear interest at the rate of 2.0% per month on the unpaid balance.

(b) The Consultant may, after giving seven (7) days written notice to the Client of an overdue balance, suspend services under this Agreement until it has been paid in full on such overdue amount.

## SECTION V. GENERAL CONSIDERATIONS

### 5.1 Termination

- (a) This Agreement may be terminated by either party by thirty (30) days advance written notice to the other party.
- (b) If this Agreement is terminated, the Consultant shall be paid for services rendered to the date of termination, and for reimbursable expenses incurred on or before such date.

### 5.2 Insurance

- 5.2.1 Consultant shall procure and maintain insurance for protection claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom.
- 5.2.2 Also Consultant shall procure and maintain professional liability insurance for protection from claims arising out of performance of professional services caused by a negligent error, omission or act for which the insured is legally liable.
- 5.2.3 Consultant shall list Client as additional insured under the Consultant's property and liability insurance.

5.3 Successors. This Agreement shall insure to the benefit of, be binding upon, and be enforceable by and against the successors and assigns of the respective parties hereto.

5.4 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be an original hereof, and it will not be necessary in making proof of this Agreement to produce or account for more than one counterpart hereof. This Agreement may be executed and delivered by facsimile or via electronic mail.

5.5 Construction. The parties acknowledge that each party has reviewed this Agreement and voluntarily entered into this Agreement. This contract shall be construed according to the laws of the State of Indiana.

5.6 Waiver. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

5.7 Severability. Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

5.8 Third Parties. There are no intended third-party beneficiaries to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date set forth in the recitals above.

Client:

Consultant:

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Town Council President or Designees

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Dan Cutshaw  
ms consultants, inc.