CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

AGENDA ● OCTOBER 11, 2022

City Commission Chamber	Regular City Commission Meeting	6:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448

City Commission Chamber
City Hall
1065 Ridgewood Avenue
Holly Hill, FL 32117

CITY COMMISSION MEMBERS

Mayor
Chris Via

District 1 - Commissioner
John Penny

District 3 - Commissioner
John C. Danio

District 2 - Commissioner
Penny Currie

District 4 - Commissioner
Roy Johnson

CITY MANAGER
Joseph Forte

CITY CLERK
Valerie Manning

1. **CALL TO ORDER**

   a. Roll Call
   b. Invocation by City Commissioner John Penny
   c. Pledge of Allegiance

2. **PUBLIC COMMENTS**

3. **APPROVAL OF MINUTES - NONE**

4. **CONSENT AGENDA**

The action proposed is stated for each item on the Consent Agenda. Unless a City Commissioner removes an item from the Consent Agenda, no discussion on individual items will occur and a single motion will approve all items. Is there anyone in the audience who wishes to speak on any item on the Consent Agenda?

   1. TECO Peoples Gas Franchise Agreement - Retroactive Renewal

      (Requested by Valerie Manning, City Clerk)

5. **REGULAR AGENDA**

   1. Resolution –2022-R-80 A Resolution of the City Commission of the City of Holly Hill, Florida, Authorizing the City Manager to Execute the 2Nd Amendment to the Management Agreement with Pictona at Holly Hill; Providing for Severability; and Providing for an Effective Date.

      (Requested by Joseph Forte, City Manager)

   2. Resolution –2022-R-84 A Resolution of the City Commission of the City of Holly Hill, Florida, Extending the Current Local State of Emergency for Another Seven (7) Days; Providing for Severability; and Providing for an Effective Date.

      (Requested by Valerie Manning, City Clerk)

6. **PUBLIC HEARINGS - NONE**

Please silence any cell phone, pager or noise making device as not to interrupt the meeting. Staff will introduce each item for consideration, with comments and recommendations. The applicant or appellant and supporters will be heard first. Those in opposition to the request will be heard next. Comments should be restricted to pertinent information regarding the agenda item under discussion. Out of courtesy to others, we ask that speakers keep their comments brief and try to limit these comments to information not previously discussed. Speakers should state their name and address clearly for the record. The City Clerk's office is required to retain any documents, photographs, drawings, etc. that are shown to the City Commissioners in support of a position. The City Commission may ask questions of speakers or of staff members. The Mayor will then ask the City Commission to make a recommendation or motion. Once a motion has been made and seconded, discussion will be closed to the floor. Following City Commission discussion, a vote will be taken. During voting, Commissioners who do not cast objecting votes are considered to have voted in support of the motion.

7. **COMMUNICATIONS**

A. City Manager & Staff Comments
B. City Attorney Comments
C. City Commission Comments
D. Mayor's Comments

8. ADJOURNMENT

Website Address – www.hollyhillfl.org (City Clerk)

NOTICE – If any person decides to appeal any decision of the City Commission at this meeting, he/she will need a record of the proceedings and, for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City does not prepare or provide such a record.

For special accommodations, please notify the City Clerk's Office at least 72 hours in advance. (386) 248-9441

Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained from the City Clerk's Office.

In accordance with the Americans with Disabilities Act (ADA), persons needing a special accommodation to participate in the Commission proceedings should contact the City Clerk's Office no later than three (3) days prior to the proceedings.

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

City Commission
Agenda Item

MEETING DATE:	**October 11, 2022**
FROM:	**Valerie Manning**
SUBJECT:	**TECO Peoples Gas Franchise Agreement - Retroactive Renewal**
NUMBER:	**(ID # 3916)**
APPLICANT:	
PLANNER:	

DISCUSSION:

This Franchise Agreement expired in October 2019. Within the Ordinance/Agreement, it does state in Section 3. Term., the Franchise Agreement hereby granted shall be for a period of a ten year term, with 4 successive 5 year renewal options from the effective date of this ordinance (see attached Ordinance 2858).

Therefore, this agenda item is to request approval to retroact and renew the original agreement/Ordinance 2858 attached, from October 2019 - October 2024 as its first 4 successive 5 year renewal options and approve the following renewal option years as follows:

*2024-2029
*2029-2034
*2034-2039

FISCAL ANALYSIS:

STAFF RECOMMENDATION:

Approve this request to retroact and renew the original Franchise Agreement from October 2019 - October 2024, as well as, the following successive renewal option years as stated in the original agreement/Ordinance 2858.

COMMISSION GOAL:

N/A

MOTION:

APPROVE AS SUBMITTED BY STAFF.

- TECO Peoples Natural Gas Franchise Agreement - Ordinance 2858 (PDF)

NATURAL GAS
FRANCHISE AGREEMENT

ORDINANCE NO. 2858

AN ORDINANCE GRANTING TO PEOPLES GAS SYSTEM, A DIVISION OF TAMPA ELECTRIC COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE NATURAL GAS FRANCHISE AGREEMENT TO USE THE PUBLIC RIGHTS OF WAY OF THE CITY OF HOLLY HILL, FLORIDA, AND PRESCRIBING THE TERMS AND CONDITIONS UNDER WHICH SAID FRANCHISE MAY BE EXERCISED; MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE; AND REPEALING PRIOR ORDINANCE.

WHEREAS, Peoples Gas System and the City of Holly Hill desire to enter into a franchise agreement for a period of thirty (30) years commencing from the date provided herein; and

WHEREAS, the City Commission finds that it is in the public interest of its citizens to enter into a new franchise agreement with Peoples Gas System.

NOW THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, THAT:

SECTION 1. DEFINITIONS

For the purposes of this Ordinance, the following terms shall have the meaning given herein.

A. "Customer" shall mean any person, firm, public or private corporation, or governmental agency served by the Company within the corporate limits of the City.

B. "City" shall mean the City of Holly Hill, Volusia County, Florida, its successor and assigns.

C. "Company" shall mean Peoples Gas System, a division of Tampa Electric Company, a Florida corporation, its successors and assigns.

D. "Gas" or "Natural Gas" shall mean natural gas and/or manufactured gas and/or a mixture of gases which is distributed in pipes and measured by meter on the Customer's premise. It shall not mean propane gas or liquefied petroleum gas (commonly referred to as "bottled gas") or any other fuel that is typically delivered by truck and stored in tanks.

Attachment: TECO Peoples Natural Gas Franchise Agreement - Ordinance 2858 (3916 : TECO Peoples Gas Franchise Agreement - Retroactive

E "Gross Revenues" shall mean all revenues received by the Company from any Customer from the sale, transportation, distribution or delivery of Gas, including related charges (e.g., customer charges), if any, but excluding miscellaneous charges (e.g., turn-on/turn-off fees) not generated from the sale of Gas.

F. "Facilities" or "equipment" shall mean pipe, pipe line, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, appliance, attachment, structure or structures, and appurtenances used or useful in the distribution of gas, located or to be located in, upon, along, across, or under the streets or within the public rights of way.

G. "Franchise" or "Franchise Agreement" shall mean this agreement, as passed and adopted by the City and accepted by the Company, as provided in Section 19 below.

H. "FPSC" shall mean the Florida Public Service Commission or any successor agency.

I. "Distribution System" shall mean any and all transmission pipe lines, main pipe lines and Customer pipe lines, together with all necessary and desirable appurtenances, that are situated within the corporate limits of the City and are reasonably necessary for the sale, distribution or delivery of Natural Gas for the public and private use of Customers.

SECTION 2. GRANT

The City hereby grants to the Company the non-exclusive right, privilege, and franchise to lay, erect, construct, operate and maintain in, on or under any and all of the public streets, alleys, highways, waterways, bridges, easements and other public places of the City, as they now exist or may be hereafter constructed, opened, laid out or extended within the present incorporated limits of the City, or in such territory as may be hereafter added or annexed to, or consolidated with, the City, a Distribution System subject to the terms and conditions herein contained.

SECTION 3. TERM

Except as provided in Section 15, the Franchise hereby granted shall be for a period of a 10 year term, with 4 successive 5 year renewal options from the effective date of this ordinance.

SECTION 4. ASSIGNMENT

A. The Franchise hereby granted shall not be leased, assigned or otherwise alienated or disposed of except with the prior express written consent of the City Commission of the City, which shall not be unreasonably withheld or unduly delayed. No assignment shall be allowed without the assignee assuming the terms of the Franchise Agreement with the City.

B. Notwithstanding the foregoing, the Company may lease, assign or otherwise alienate and transfer this Franchise in connection with the lease or sale of the

Attachment: TECO Peoples Natural Gas Franchise Agreement - Ordinance 2858 (3916 : TECO Peoples Gas Franchise Agreement - Retroactive

Distribution System or upon its merger and consolidation with, or transfer to, any other corporation engaged in similar business (including any affiliate or subsidiary of the Company), or pledge or mortgage such Franchise in connection with the physical property owned and used by it in the operation of the Distribution System for the purpose of securing payment of monies borrowed by the Company without the express consent of the City Commission of the City.

SECTION 5. CITY COVENANT

As a further consideration for this Franchise Agreement, the City covenants and agrees that it will not, during the term of this Franchise Agreement or any extension thereof, engage in the business of distributing or selling Natural Gas within the corporate limits of the City, as modified, during the term of this Franchise Agreement.

SECTION 6. USE OF STREETS

The Distribution System shall be erected, placed, or laid in such manner as will, consistent with necessity, least interfere with other public uses of said streets, alleys, avenues, easements, and public rights of way, and said streets shall not be unnecessarily obstructed, and before, except in an emergency situation, the Company makes any excavation or disturbs the surface of any of the streets, alleys, or other public rights of way, it shall make application for a permit to the appropriate City authority. The City shall issue, or if applicable deny, permits within ten (10) business days of application by the Company. The Company shall, with due diligence and dispatch, place such streets, easements or public rights of way in as good condition and repair as before such excavation or disturbance was made, and in default thereof the City may make such repairs and charge the reasonable cost thereof to the Company and collect the same from it.

To the extent consistent with Florida law, the Company hereby agrees to abide by all the rules and regulations and ordinances which the City has passed or might pass in the future, and further agrees to abide by any established policy which the City or its duly authorized representative has passed, established, or will establish; provided, however, the City shall not pass any ordinance or regulation that results in a material change in the rights or obligations of the Company under the Franchise Agreement.

SECTION 7. MAINTENANCE

All such components of the Distribution System of the Company located within the City shall be installed and maintained in accordance with accepted good practice and in accordance with the orders, rules, and regulations of the Florida Public Service Commission or other regulatory body having jurisdiction over the Company.

SECTION 8. LAYING OF PIPE

Attachment: TECO Peoples Natural Gas Franchise Agreement - Ordinance 2858 (3916 : TECO Peoples Gas Franchise Agreement - Retroactive

All components of the Distribution System shall be laid consistent with all applicable codes, rules, regulations and laws, including, to the extent consistent with all applicable codes, rules, regulations and laws, specifications contained in City permits.

SECTION 9. CONSTRUCTION WORK

The City reserves the right to permit to be laid electric conduits, water and gas pipes and lines, cables, sewers, and to do and permit to be done any underground work that may be deemed necessary or proper by the City or other governmental body having jurisdiction in, across, along, or under any street, alley, public way, easement, place, or other public rights of way. Whenever, by reason of establishing a grade or by reason of changes in the grade of any street, or by reason of the widening, grading, paving, or otherwise improving present or future streets, alleys, or other public rights of way, or in the location or manner of construction of any water pipes, electric conduits, sewers, or other underground structure, it shall be deemed necessary by the City or other governmental body to alter, change, adapt, or conform any portion of the Distribution System of the Company hereto, such alterations, or changes, shall be made by the Company as ordered in writing by the City or other governing body, without claim for reimbursement. If the City shall require the Company to adapt or conform any portion of its Distribution System or in any way to alter, relocate or change its property to enable any other person or entity to use said street, alley, easement, highway or public rights-of-way of the City, as part of its permitting or approval process, the City shall require the person or entity desiring or occasioning such alteration, relocation or change to reimburse the Company for any loss, cost or expense caused by or arising out of such change, alteration or relocation of any portion of the Company's facilities. The Company further agrees that it will not intentionally interfere with, change, or injure any water pipes, drains, or sewers of said City unless it has received specific permission from the City or its duly authorized representative.

SECTION 10. FRANCHISE FEE

Within thirty (30) days after the close of the first full billing month following the effective date of this Franchise Agreement, and each month thereafter during the term of this Franchise Agreement, the Company, its successors or assigns, shall pay to the City, or its successors, a sum of money which, when added to the amount of all taxes, licenses, permits, or other impositions levied or assessed by the City and actually paid by Company, is equal to six percent (6%) of the Company's Gross Revenue, less any adjustments for uncollectable accounts, from the sale of Natural Gas to Customers within the corporate limits of the City. The franchise fee payment shall be deemed paid on time if post-marked within thirty (30) days of the close of the preceding billing month.

SECTION 11. FRANCHISE PARITY

A. If, during the term of this Franchise Agreement, the City, by franchise agreement or ordinance, allows other gas providers, gas consumers or gas transporters ("Alternate Gas Providers") the right, privilege or franchise to construct, maintain, operate or use gas facilities in, under, upon, over or across the present or future streets, alleys, bridges, easements or other public rights of way of the City, for the purpose of supplying or delivering Natural Gas to customers located within the corporate limits of the City or receiving such gas from a person other than the Company within such corporate limits, and imposes a franchise compensation obligation or an equivalent on such Alternate Gas Provider for any customer or class of customers that is less than that imposed with respect to the same Customer or class of Customers under this Franchise Agreement, the franchise compensation rate and/or base to which such rate is applied with respect to the same class of customers shall be reduced under this Franchise Agreement so that the franchise compensation paid hereunder for such Customer class is no greater than the franchise compensation payable by such Alternate Gas Provider under the franchise agreement or ordinance applicable to it, when compared on a dollars-per-term basis. In the event that the City determines not to impose any franchise compensation by agreement, ordinance or otherwise on any such Alternate Gas Provider, the Company's obligation to pay a franchise fee under this Franchise Agreement with respect to revenues derived from the provision of service by the Company to the comparable class of customers served by such Alternate Gas Provider thereafter shall be extinguished.

B. In the event the Company enters into a franchise agreement with a municipality or other government entity located in Volusia, Flagler or Seminole County, Florida, that contains substantially similar terms and conditions as this Franchise and that provides for a franchise fee calculation that would provide a Franchise Fee higher than that promised hereunder, or that purports to exact a franchise fee based on the volume of Gas transported, then the Company shall so notify City and, at the City's option, the Franchise Fee hereunder will be adjusted so as to be consistent with the franchise fee calculation extended to such Florida municipality or government entity.

SECTION 12. ACCOUNTS AND RECORDS

The Company shall maintain accounting, maintenance, and construction records as prescribed by the FPSC. The Company shall establish and maintain appropriate accounts and records in such detail that revenues within the corporate limits of the City are consistently declared separately from all other revenues, and such records shall be maintained within the State of Florida, and be open at all reasonable times for inspection by the duly authorized representatives of the City pursuant to an appropriate confidentiality agreement. Upon request by the City, or its designated representative, the Company shall make available said records within thirty (30) days to the City for the determination of the accuracy of the Gross Revenues upon which the Company's franchise fee is based. The Company may require, as a condition to the release of any information that identifies a specific customer (such as names or addresses) or Company proprietary or confidential information, that the City first enter into a mutually agreeable confidentiality agreement with the Company. The Company shall maintain its billing records only for the period of time required by the FPSC and any examination conducted after such period shall be confined to the billing records then available. Any over- or underpayment shall be paid by the appropriate party within thirty (30) days. In the event the City audit reveals a net underpayment of more than ten percent (10%) over an annual period, the Company agrees to reimburse the City for its reasonable costs of performing the audit.

Attachment: TECO Peoples Natural Gas Franchise Agreement - Ordinance 2858 (3916 : TECO Peoples Gas Franchise Agreement - Retroactive

No less than thirty (30) days prior to the effective date of a change in the City limits, whether by addition, annexation, or consolidation, the City shall deliver to the Company written notice of such occurrence, and include in such notice a description of the affected territory.

SECTION 13. INSURANCE

During the term of this Franchise, the Company shall file with the City Clerk and shall keep in full force and effect at all times during the effective period hereof, insurance certificates evidencing a general liability insurance policy or policies or evidence of self-insurance within the corporate limits of the City, as they currently exist or may exist in the future. Each such policy shall be in the minimum sum of $1,000,000.00 for injury or death to any one person, and in the minimum sum of $5,000,000.00 for injury or death to all persons where there is more than one person involved in any one accident, and in the minimum sum of $1,000,000.00 for damage to property, resulting from any one accident, and each of the said minimum sums shall remain in full force and shall be undiminished during the effective period of this Ordinance.

Every such insurance policy shall contain a provision whereby every company executing the same shall obligate itself to notify the clerk of the City, in writing, at least thirty (30) days before any material alteration, modification, or cancellation of such policy is to become effective. Every such policy and certificate of insurance shall provide and indicate that the City is an additional insured as to liabilities arising out of the Franchise Agreement.

SECTION 14. INDEMNIFICATION

In consideration of the permissions granted to the Company by this Franchise Agreement, the Company hereby agrees to indemnify and hold harmless the City, its officers, agents and employees from and against claims, suits, actions, and causes of action, caused by or arising out of and to the extent of the Company's negligent operation of the Distribution System within the City during the term of this franchise and resulting in personal injury, loss of life or damage to property sustained by any person or entity, through or as a result of the doing of any work herein authorized or the failure to do work herein required, and including all reasonable costs, attorney's fees, expenses and liabilities incurred by the City in connection with any such claim, suit, action or cause of action including the investigation thereof, and the defense of any action or proceeding brought thereon and any order, judgment or decree which may be entered in any such action or proceeding or as a result thereof, **except** that neither the Company nor any of its employees, agents, contractor, licensees, or sublessees shall be liable under this section for any claims, suits, actions, damages, expenditures, including attorney's fees, or causes of action arising out of injury, loss of life or damage to persons or property caused by or arising out of the negligence, strict liability, intentional torts, criminal acts, or error of the City, its officers, agents, or employees. The provisions of this section shall survive the expiration or earlier termination of this Franchise Agreement. Notwithstanding any provision herein to the contrary, the Company's liability under this Agreement shall be limited to the assets and business of Peoples Gas System,

Attachment: TECO Peoples Natural Gas Franchise Agreement - Ordinance 2858 (3916 : TECO Peoples Gas Franchise Agreement - Retroactive

a division of Tampa Electric Company, as if Peoples were incorporated separate and apart from Tampa Electric Company.

SECTION 15. TERMINATION BY CITY

Violation by the Company of any of the covenants, terms, and conditions hereof, or default by the Company in observing or carrying into effect any of said covenants, terms and conditions, shall authorize and empower the City to declare a termination this Franchise Agreement; provided, however, that before such action by the City shall become operative and effective, the Company shall have been served by the City with a written notice setting forth all matters pertinent to such violation or default, and describing the action of the Commission with respect thereto, and the Company shall have had a period of sixty (60) days after service of such noticeor, in the event such cure reasonably requires a period of more than sixty (60) days, to present a plan, satisfactory to the City, acting reasonably, to effect such cure; and provided further that any violation or default resulting from a strike, a lockout, an act of God, or any other cause beyond the control of the Company shall not constitute grounds for termination.

SECTION 16. CHANGES IN PROVISIONS HEREOF

Changes in the terms and conditions hereof may be made by written agreement between the City and the Company.

SECTION 17. SEVERABILITY; CHANGE IN LAW

(A) If any section, part of a section, paragraph, sentence, or clause of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of any other portion hereof, but shall be restricted and limited in its operation and effect to that specific portion hereof involved in the controversy in which such decision shall have been rendered; provided, however, that should elimination of the specific portion of the Franchise Agreement adjudged to be invalid results in significant adverse consequences to a party, then that party may terminate this Franchise Agreement by providing thirty (30) days written notice to the other party.

(B) Upon the issuance by a court of competent jurisdiction of an order, ruling, or decision, or the enactment or adoption by the Florida Legislature, the City or any other governmental or regulatory body, of a law, rule, regulation or ordinance, that materially diminishes a municipality's ability to exact franchise fees from a utility, or that effectively does away with the ability of a municipality to grant a franchise altogether, then the Company or City may terminate this Franchise Agreement by providing ninety (90) days written notice to the other party.

SECTION 18. GOVERNING LAW

This franchise shall be governed by the laws of the State of Florida and applicable federal law.

Attachment: TECO Peoples Natural Gas Franchise Agreement - Ordinance 2858 (3916 : TECO Peoples Gas Franchise Agreement - Retroactive

SECTION 19. EFFECTIVE DATE

This Franchise Agreement shall become effective upon its acceptance by the Company, which acceptance must be evidenced in writing within sixty (60) days of the City's passage and adoption hereof.

The within and foregoing Ordinance was introduced and read on first reading before City Commission of the City of Holly Hill, Florida, at its regularly scheduled meeting held in Commission Chambers at City Hall on the 13th day of October, 2009.

It was moved by Commissioner Glass and seconded by Commissioner Towsley that said Ordinance be approved on first reading. A roll call vote of the Commission held on said motion for approval of the Ordinance resulted as follows:

ROLL CALL VOTE AS FOLLOWS: (Ordinance 2858):

Mayor Roland D. Via	Yes
Commissioner John Penny	Yes
Commissioner Rick Glass	Yes
Commissioner Mark Reed	Yes
Commissioner Liz Towsley	Yes

ADOPTED THIS 13th DAY OF October, 2009.

Attachment: TECO Peoples Natural Gas Franchise Agreement - Ordinance 2858 (3916 : TECO Peoples Gas Franchise Agreement - Retroactive

The within and foregoing Ordinance was introduced and read on second reading before the City Commission of the City of Holly Hill, Florida, at its regular meeting held in Commission Chambers at City Hall on the 27th day of October, 2009.

It was moved by Commissioner Penny and seconded by Commissioner Glass that said Ordinance be adopted. A roll call vote of the Commission held on said motion to adopt the Ordinance resulted as follows:

ROLL CALL VOTE AS FOLLOWS: (Ordinance 2858):

Mayor Roland D. Via	Yes
Commissioner John Penny	Yes
Commissioner Rick Glass	Yes
Commissioner Mark Reed	Yes
Commissioner Liz Towsley	Yes

ADOPTED THIS 27th DAY OF October, 2009.

Attachment: TECO Peoples Natural Gas Franchise Agreement - Ordinance 2858 (3916 : TECO Peoples Gas Franchise Agreement - Retroactive

Whereupon, the Mayor of the City of Holly Hill, Florida, has hereunto set his official signature, duly attested by the City Clerk and has caused the official seal of said City to be affixed all at City Hall of Holly Hill, Florida, this 27th day of October, 2009, for the purpose of authenticity as is required by law.

City of Holly Hill, Florida

Roland D. Via, Mayor

Kurt Swartzlander, Interim City Manager

Attest:

Valerie Manning

Valerie Manning, City Clerk

Attachment: TECO Peoples Natural Gas Franchise Agreement - Ordinance 2858 (3916 : TECO Peoples Gas Franchise Agreement - Retroactive

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

City Commission
Resolution

MEETING DATE: **October 11, 2022**
FROM: **Joseph Forte**
SUBJECT: **A Resolution of the City Commission of the City of Holly Hill, Florida, Authorizing the City Manager to Execute the 2Nd Amendment to the Management Agreement with Pictona at Holly Hill; Providing for Severability; and Providing for an Effective Date.**
NUMBER: **2022-R-80**
APPLICANT:
PLANNER:

DISCUSSION:

Rainer and Julie Martens (Martens Charities, LLC) are in completion of developing Pictona at Holly Hill, Phase 2 that would accommodate 24 additional Pickleball courts and be home to several regional and national tournaments as well as education and training facilities.

On January 10, 2019 the City and Pictona executed a Management Agreement setting forth the terms and conditions of Pictona's management of the Pickleball facility owned by the City and located at the city's Holly Land Park. The development of the Pickleball facility is a public/private partnership between the City and Pictona. At the completion of Phase 2 of the Pickleball facility, the campus will have 48 courts plus a covered stadium with a championship court that will seat 1200 for Pickleball events and 1500 for non-pickleball events. The City and Pictona both desire to have city events conducted in the Stadium.

The City and Pictona recognize the potential for the City to hold certain events at the Pickleball facility. Pictona and the City desire to enter into this Amendment to the Management Agreement to provide for the city's utilization of the Pickleball facility in coordination and cooperation with the operations of the Pickleball facility. Except as provided amended herein, the existing Management Agreement, as amended, shall remain in full force and effect.

FISCAL ANALYSIS:

In most situations each community performance the city contract with a promoter to produce will be funded through ticket sales. There will be events that will not be funded completely by ticket sales and in these situations, the Community Redevelopment Agency will need to fund the event from the CRA budget.

Funds in the amount of $50,000.00 have been budget for community events it the 2022/2023 budget year.

STAFF RECOMMENDATION:

Staff recommends the City Commission approve the 2nd Amendment to the Management Agreement and authorize the City Manager to execute the Management Agreement.

COMMISSION GOAL:

Goal #3: Implement the CRA master plan with a focus on the best utilization of vacant properties and blighted properties in the city. Attention should also focus on infrastructure improvements within the district and strategies to encourage private investment and business retention.

Goal #5: Promote a small town city "branding" that focuses on the city's accessible staff and interactive use of technologies (i.e. city website), the city's business friendly approach to attract and retain business, and the city's available open space, parks, and waterfront amenities that enhance the quality of life for citizens.

MOTION:

TO APPROVE THE 2ND AMENDMENT TO THE MANAGEMENT AGREEMENT AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AMENDMENT.

ATTACHMENTS:

- Changes To Agreement Per CM - Pictona 2nd Amendment to Agreement(PDF)

HISTORY:

09/27/22 **City Commission** **PULLED BY CITY MANAGER**
Next: 10/11/22

Mr. Forte asked that this item be pulled until the next regularly scheduled City Commission on Tuesday, October 11, 2022 at 6:00 PM.

Resolution No. 2022-80

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE THE 2ND AMENDMENT TO THE MANAGEMENT AGREEMENT WITH PICTONA AT HOLLY HILL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE CITY MANAGER TO EXECUTE THE 2nd AMENDMENT TO THE MANAGEMENT AGREEMENT WITH PICTONA AT HOLLY HILL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Holly Hill (City) is the owner of Hollyland Park located at 1066 Ridgewood Avenue, Holly Hill, Florida 32117; and

WHEREAS, Pictona at Holly Hill desires to manage and operate Phases 1 and 2 of the Facility in the designated portion of Hollyland Park hereinafter (Property); and

WHEREAS, this amendment shall provide the terms and conditions of the management of community events at the Stadium.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. That the City Commission approves the 2nd Amendment to the Management Agreement and the City Manager of the City of Holly Hill is authorized to execute the Management Agreement.

SECTION 2. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 3. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

APPROVED AND AUTHENTICATED on this 11th day of OCTOBER, 2022.

2ND AMENDMENT
PICKELBALL MANAGEMENT AGREEMENT

THIS 2nd AMENDMENT is made and entered into this 25th day of October, 2022, by and between the CITY OF HOLLY HILL, a municipal corporation, ("City") and PICTONA AT HOLLY HILL, INC. ("Pictona").

WITNESSETH:

WHEREAS, on January 10, 2019 the City and Pictona executed a Management Agreement setting forth the terms and conditions of Pictona's management of the pickleball facility owned by the City and located at the City's Holly Land Park.

WHEREAS, the development of the pickleball facility is a public/private partnership between the City and Pictona. At the completion of Phase 2 of the pickleball facility, the campus will have 48 courts plus a covered stadium with a championship court that will seat 1200 for pickleball events and 1500 for non-pickleball events. The City and Pictona both desire to have City events conducted in the Stadium.

WHEREAS, the City and Pictona recognize the potential for the City to hold certain events at the pickleball facility.

WHEREAS, Pictona and the City desire to enter into this Amendment to the Management Agreement to provide for the City's utilization of the pickleball facility in coordination and cooperation with the operations of the pickleball facility.

WHEREAS, except as provided amended herein, the existing Management Agreement, as amended, shall remain in full force and effect.

NOW, THEREFORE, in consideration of the mutual promises set forth below, the Parties agree as follows:

1. **Purpose.** The purpose of this Amendment is to define the terms and conditions of cooperation between the two parties in conducting City events in Pictona's Stadium and adjoining areas such as parking lot, sidewalk and adjacent areas (Facility). In addition to pickleball events, Pictona may also conduct non-pickleball events in the Facility or elsewhere on the pickleball facility. These events will be referred to as Pictona events. The potential events that the City or Pictona could have at the Facility include the following categories.

- Music (singing, instrumentals, bands, ensembles, dance, karaoke)
- Performances (plays, talent contests, magic)
- Celebrations (weddings, reunions, graduations, retirements)
- Exhibitions (art shows, festivals, fashion shows)
- Corporate (trade shows, expos, field marketing, training seminars, recruiting events)
- Presentations (Community gatherings, speakers, debates, political rallies)

2. **Facility Availability.** Commencing in January of 2023, there shall be a master calendar that shall be

Attachment: Changes To Agreement Per CM - Pictona 2nd Amendment to Agreement (2022-R-80 : Second Amendment to the Management

controlled by a representative of each party. Each party shall use best efforts to provide as much advance notice as possible to the party of a scheduled event. An event not on the master calendar is not considered scheduled. The first party to schedule an event on the master calendar shall have the right to that date. The parties agree to use best efforts to avoid or resolve scheduling conflicts and coordinate anticipated events with as much advance notice as reasonably possible. The City and Pictona shall each be allowed a minimum of one event per month. Each party shall be allowed additional events in a month as long as the date is available. If an event is not scheduled for a particular month by a party, the right to that event for that month is lost and is not carried over to future months.

Pictona retains the rights to providing concession and food/drink services for Pictona and City events. Pictona will pay all expenses and retain all income from concession, food/drink services. No outside food may be brought into the Facility for City events without the authorization from Pictona. The seven suites on the second floor of the Pictona Educational Center are not part of the Facility as defined in this Amendment. The city may access these suites only with the authorization from Pictona in advance of a City event.

3. Supervision and Control - City. At all times the Facility is used by City for a City Event, the Facility shall be under the supervision and control of the City, its agents and employees and administered. City shall be responsible for the marketing, ticket sales, crowd control, staffing, parking and cleanup after a City Event. City shall be responsible for the repairs for all damage caused during a City Event. City shall be responsible for obtaining all necessary permits and approvals for a City Event.

4. Supervision and Control – Pictona. At all times the Facility is used by Pictona for a Pictona Event, the Facility shall be under the supervision and control of Pictona, its agents and employees and administered. Pictona shall be responsible for the marketing, ticket sales, crowd control, staffing, parking and cleanup after a Pictona Event. Pictona shall be responsible for the repairs for all damage caused during a Pictona Event. During a City Event, Pictona shall be responsible for providing the lighting, sound system, restrooms and all other amenities not the responsibility of the City in Paragraph 3 above.

5. City Compensation. As part of the right to use the Facility as outlined herein, the City agrees to reimburse up to $50,000 for the following items:

a) 50% of the cost of a stage anticipated to be 44 feet long by 16 feet wide with a backdrop

b) 20 stage chairs

c) 2 tables with skirting

d) Protective carpet in the form of mats to protect the flooring of Center Court in the Facility

e) 360 chairs to be placed on the protective flooring over the Center Court in the Facility.

f) One lectern

Pictona shall purchase the items and shall submit receipts to the City for the cost incurred. The City will reimburse the costs incurred within thirty (30) days of the City receiving the receipts, up to $50,000 and reimbursement shall be made no sooner than October 1, 2022. Pictona shall be responsible for the repair and maintenance of the above equipment, City, at its sole discretion, shall be responsible for the replacement of the above equipment unless it is due to improper storage and maintenance by Pictona or damage during a Pictona Event or Pictona use.

6. **Event Revenue/Sponsorship and Expenses.** Each party shall retain all revenue generated by their event and shall be responsible for all costs associated with their event. In the event either party requests assistance from the other party for a particular event, the party providing assistance shall be entitled to be reimbursed actual costs of providing assistance upon providing the other party with an invoice outlining the services provided and costs associated with said services. Payment shall be made within thirty (30) days of receipt of the invoice. The City is responsible for creating and erected its own signage for City events at the City's expense. Permeant sponsor signage contracted with Pictona shall remain in place. Non-permanent signs of Pictona shall be removed prior to a City event and City signs shall be removed following a City event.

7. **Facility Cleaning.** The party that uses any Facility in accordance with this amendment shall be responsible for cleaning after use. Should either party be required to assume custodial costs due to the other party's use, the costs may be billed to the responsible party with sufficient information accompanying the billing to identify the reason for required service as identified in respective documents. Each party shall make every effort to insure the Facility is clean and ready for the next event. Each party shall make every effort to communicate information regarding clean-up problems noted to the other agency in an effort to improve housekeeping.

8. **Damage to Facility.** The party that uses any Facility in accordance with this Agreement shall assume responsibility for damage occurring to the Facility during such use and shall be responsible to notify the other party of any damage noted during the next workday.

9. **Insurance.** The City shall insure that during any City Event that either the City's general liability coverage shall provide coverage to the extent of the limits of liability insurance the City normally carries or that any 3rd party conducting a City Event shall obtain adequate insurance naming the City and Pictona as additional named insureds.

10. **Existing Management Agreement.** Except as modified herein, the existing Management Agreement, as amended, shall remain in full force and effect.

WHEREFORE, being fully advised of the above terms and conditions, the undersigned parties do hereby freely and voluntarily executed this 2nd Amendment on the date indicated below.

City of Holly Hill	Pictona of Holly Hill, Inc.
By:______________________	By:______________________
Title:____________________	Title:____________________
Date:____________________	Date:____________________

Attachment: Changes To Agreement Per CM - Pictona 2nd Amendment to Agreement (2022-R-80 : Second Amendment to the Management

STAFF REPORT
CITY OF HOLLY HILL, FLORIDA

City Commission
Resolution

MEETING DATE:	**October 11, 2022**
FROM:	**Valerie Manning**
SUBJECT:	**A Resolution of the City Commission of the City of Holly Hill, Florida, Extending the Current Local State of Emergency for Another Seven (7) Days; Providing for Severability; and Providing for an Effective Date.**
NUMBER:	**2022-R-84**
APPLICANT:	
PLANNER:	

DISCUSSION:

On Tuesday, September 27, 2022 the City Commission declared a Local State of Emergency by adopting Resolution 2022-R-81 for the city limits of Holly Hill.

On Tuesday, October 4, 2022 the City Commission called a Special Meeting extending the seven (7) days to the current Local State of Emergency Resolution 2022-R-81.

Tonight's request is to extend the Local State of Emergency Resolution that was adopted on October 4, 2022 (Resolution 2022-R-82) for another seven (7) days from the date of adoption for this Resolution 2022-R-84.

STAFF RECOMMENDATION:

Approve Resolution 2022-R-84.

MOTION:

Approve as submitted by staff.

Resolution No. 2022-84

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, EXTENDING THE CURRENT LOCAL STATE OF EMERGENCY FOR ANOTHER SEVEN (7) DAYS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA, EXTENDING THE CURRENT LOCAL STATE OF EMERGENCY FOR ANOTHER SEVEN (7) DAYS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, **Hurricane Ian** is a major hurricane and is projected to impact within the corporate limits of the City of Holly Hill, Florida posing a severe threat to the health safety and wellbeing of its residents; and

WHEREAS, Governor Ron DeSantis issued Executive Order 22-218 on September 23, 2022, declaring a state of emergency exists for several counties in Florida and the Florida Keys due to Hurricane Ian; and

WHEREAS, Governor Ron DeSantis issued Executive Order 22-219 on September 24, 2022, amending Executive Order 22-218 declaring a State of Emergency exists for the State of Florida with regard to Hurricane Ian; and

WHEREAS, the City Commission of the City of Holly Hill adopted Resolution 2022-R-81 Declaring A Local State of Emergency for the City of Holly Hill due to Hurricane Ian, on Tuesday, September 27, 2022; and

WHEREAS, the City Commission of the City of Holly Hill adopted Resolution 2022-R-82 extending the Local State of Emergency for the City of Holly Hill due to Hurricane Ian, on Tuesday, October 4, 2022 for another seven (7) days; and

WHEREAS, the Florida Division of Emergency Management, working with the National Hurricane Center to evaluate weather prediction, has determined there is a continuing risk of dangerous storm surge, heavy rainfall, flash flooding, strong winds, hazardous seas, and isolated tornadic activity for Florida's Peninsula; and

WHEREAS, the threat posed by Hurricane IAN creates considerable hardship and threatens the health, safety, and welfare of the citizens of Holly Hill and therefore requires timely precautions are taken to protect the communities, critical infrastructure, and general welfare of Holly Hill; and

WHEREAS, under the provisions of Florida Statute 252.38(5), local subdivisions have the authority to request state assistance or invoke emergency-related Mutual Aid assistance by declaring a state of local emergency; and

WHEREAS, as the City Manager, I am responsible to meet the dangers presented to the City of Holly Hill and its residents by the emergency.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLY HILL, FLORIDA:

SECTION 1. The City Commission does hereby declare that a State of Emergency exists within the City of Holly Hill, Florida.

SECTION 2. The Holly Hill Comprehensive Emergency Management Plan shall be fully executed.

SECTION 3. The City Manager is formally directed to engage all City resources to provide such assistance as can be delivered, and to coordinate all departments to provide assistance and support for the protection of life and property, to assist and coordinate with other local, county, state and federal emergency management agencies, to order evacuations and curfews as necessary, and to take any and all emergency response actions required to safeguard life and property and ensure continuity of government services and operations within the City of Holly Hill, Florida.

SECTION 4. Under this State of Emergency, as provided in Florida Statute 252.38(5), the City Manager is hereby authorized to waive procedures and formalities otherwise required by law pertaining to:

To request state assistance or invoke emergency-related mutual-aid assistance by declaring a state of local emergency in the event of an emergency affecting only one political subdivision. The duration of each state of emergency declared locally is limited to 7 days; it may be extended, as necessary, in 7-day increments. Further, the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

a. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.

b. Entering into contracts.

c. Incurring obligations.

d. Employment of permanent and temporary workers.

e. Utilization of volunteer workers.

f. Rental of equipment.

g. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.

h. Appropriation and expenditure of public funds.

SECTION 5. SEVERABILITY. If any section or portion of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 6. EFFECTIVE DATE. Pursuant to Florida statute 252.38(5), this State of Emergency Resolution shall take effect immediately upon adoption by the City Commission and shall be limited to seven (7) calendar days from the date of adoption, but may be extended, as necessary, in seven (7) day increments by action of the City Commission.

The within and foregoing Resolution was read before the City Commission of the City of Holly Hill, Florida at a regularly scheduled City Commission meeting held in Commission Chambers at 1065 Ridgewood Avenue, Holly Hill, Florida on the 11th day of October, 2022.

APPROVED AND AUTHENTICATED on this 11th day of OCTOBER, 2022.