

CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

AGENDA • APRIL 11, 2017

City Commission Chamber

Regular City Commission Meeting

7:00 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
John Penny

District 1 - Commissioner
Arthur J. Byrnes

District 3 - Commissioner
John C. Danio

District 2 - Commissioner
Penny Currie

District 4 - Commissioner
Chris Via

CITY MANAGER
Joseph Forte

CITY CLERK
Valerie Manning

1. CALL TO ORDER

- A. Roll Call
- B. Invocation
- C. Pledge of Allegiance to the Flag

2. PRESENTATION

- 1. Proclamation - Child Abuse Prevention Month
(Requested by Valerie Manning, City Clerk)

3. PUBLIC COMMENTS**4. APPROVAL OF MINUTES**

- 1. Minutes - March 28, 2017 - Regular City Commission & CRA Meeting
(Requested by Valerie Manning, City Clerk)

5. CONSENT AGENDA - ITEM (1)

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. Resolution Resolution 2017-R-29 A Resolution of the City Commission of the City of Holly Hill, Florida, Authorizing the City Manager to Execute the Mutual Aid Agreement with FlaWarn
(Requested by Mark Juliano, Public Works)

6. REGULAR AGENDA

- 1. Ordinance Ordinance 2993 An Ordinance of the City of Holly Hill, Volusia County, Florida, Relating to Solid Waste Franchise Agreements; Amending Section 54-10, G, (2) Insurance and Bond Requirements; Providing for Repeal of All Ordinances and Parts of Ordinances in Conflict Herewith; Providing for Severability; and Providing an Effective Date.
(Requested by Kurt Swartzlander, Finance)

7. 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.

8. COMMUNICATIONS

A. City Manager and Staff Comments

1. Proposed Budget Calendar for Fiscal Year 2017-2018
(Requested by Kurt Swartzlander, Finance)
2. Support of the Halifax Humane Society Grant Application to Petco
(Requested by Joseph Forte, City Manager)
3. TMH Consulting, Inc. - Final Contract Renewal
(Requested by Joseph Forte, City Manager)
4. Planning Solutions Corp. - Final One Year Extension of Service Agreement
(Requested by Valerie Manning, City Clerk)

B. City Attorney Comments

C. Mayor's Comments

D. City Commission Comments

9. 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.

**City Commission**

1065 Ridgewood Ave
Holly Hill, FL 32117

SCHEDULED**PRESENTATION (ID # 1586)**

Meeting: 04/11/17 07:00 PM
Department: City Clerk
Category: Proclamation
Prepared By: Valerie Manning
Initiator: Valerie Manning
Sponsors:

DOC ID: 1586

Proclamation - Child Abuse Prevention Month

April is Child Abuse Prevention Month.

The Department of Children and Families invites the City of Holly Hill to participate with them in recognizing the importance of preventing child abuse by proclaiming to everyone that the City recognizes the importance of healthy children and the detrimental effect that abuse has on our children.



**PROCLAMATION
BY THE MAYOR OF THE CITY OF HOLLY HILL, FLORIDA
DECLARING APRIL AS
CHILD ABUSE PREVENTION MONTH**

WHEREAS, Florida's future depends on nurturing the healthy development of over four million children in our state; and

WHEREAS, the abuse and neglect of children can cause severe, costly and lifelong problems; and

WHEREAS, every child has the right to be safe, healthy and educationally and developmentally on track; and

WHEREAS, research shows that parents and caregivers who have support systems and know how to seek help in times of trouble are more resilient and better able to provide safe environments and nurturing experiences for their children; and

WHEREAS, individuals, businesses, schools, and faith-based and community organizations must make children a top priority and take action to support the physical, social, emotional, and educational development and competency of all children; and

WHEREAS, during the month of April, in collaboration with the Governor's Office of Adoption and Child Protection and the Department of Children and Families, City of Holly Hill will support the statewide campaign promoting awareness of healthy child development, positive parenting practices, and the type of concrete support families need within their communities.

NOW, THEREFORE, I, John Penny, Mayor of the City of Holly Hill, Florida, and on behalf of the City Commission, do hereby proclaim April 2017 as ***Child Abuse Prevention Month*** and urge all who read or hear this proclamation to engage in activities whose purpose is to strengthen families and communities to provide the optimal environment for healthy child development.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City to be affixed this 11th day of April, 2017.

City of Holly Hill, Florida

John Penny, Mayor



**STAFF REPORT
CITY OF HOLLY HILL, FLORIDA**

**City Commission
Agenda Item**

MEETING DATE: April 11, 2017
FROM: Valerie Manning
SUBJECT: Minutes - March 28, 2017 - Regular City Commission & CRA
Meeting
NUMBER: (ID # 1639)
APPLICANT:
PLANNER:

DISCUSSION:

Minutes from March 28th regular City Commission & CRA meeting.

FISCAL ANALYSIS:

N/A

STAFF RECOMMENDATION:

Approve minutes.

COMMISSION GOAL:

N/A

MOTION:

Approve as submitted by staff.

- Minutes - March 28, 2017 - Regular City Commission & CRA meeting (PDF)



CITY OF HOLLY HILL, FLORIDA

CITY COMMISSION

MINUTES • MARCH 28, 2017

City Commission Chamber

Regular City Commission Meeting

7:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

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

1. CALL TO ORDER

A. Roll Call

Attendee Name	Title	Status	Arrived
Arthur J. Byrnes	District 1 - Commissioner	Present	
Penny Currie	District 2 - Commissioner	Absent	
John C. Danio	District 3 - Commissioner	Present	
Chris Via	District 4 - Commissioner	Present	
John Penny	Mayor	Present	

B. Invocation

C. Pledge of Allegiance to the Flag

*Commissioner Via made a motion to **EXCUSE Commissioner Currie**, seconded by Commissioner Danio.*

PASSED, 4-0.

2. PRESENTATIONS

1.

Proclamation - Water Conservation Month - April 2017

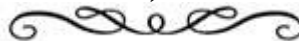
(Requested by Valerie Manning, City Clerk)



2. Resolution

Cynthia A. "Cindy" Mitchell Retirement - 35 Years of Service

(Requested by Kurt Swartzlander, Finance)



3. RECESS THE CC MTG & CONVENE AS THE CRA

4. CRA AGENDA

Attachment: Minutes - March 28, 2017 - Regular City Commission & CRA meeting (1639 : Minutes)

1.

Resolution 2017-R-25 A Resolution of the City of Holly Hill, Community Redevelopment Agency, Florida, Approving the Sale of 9.42 Acres Located at 1200 Center Avenue, Holly Hill, Florida.

(Requested by Joseph Forte, City Manager)

Mr. Forte stated this revised contract reflects the changes that they discussed at the previous meeting. It pushes the closing date out to August 31st, which allows time for the developer to formulate the engineer drawings so that he can get it to the banks and then the bank can come up with a value in order to issue a loan for the development of the project. It also clarifies what is contained in the development of Phase 1, the first section of Phase 1 and additional deposit. There is a deposit owed tomorrow, a non-refundable deposit of \$15,000 and then on May 31st there is an additional \$25,000 for the extension contract. That summarizes the changes.

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

Enacted and approved this 28th day of March, 2017, in Holly Hill



5. ADJOURN AS THE CRA & RECONVENE THE CC MTG

6. PUBLIC COMMENTS

No one spoke.

7. APPROVAL OF MINUTES

1.

Minutes - February 28, 2017 - Regular City Commission & CRA Meeting / March 14, 2017 - Regular City Commission & CRA Meeting

(Requested by Valerie Manning, City Clerk)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Arthur J. Byrnes, District 1 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

Enacted and approved this 28th day of March, 2017, in Holly Hill



8. CONSENT AGENDA - ITEMS (1 - 2)

Mayor Penny asked if any member of the Commission would like to pull an item from the Consent Agenda for further discussion and if any member of the audience would like to discuss any item on the Consent Agenda. No one spoke or pulled an item.

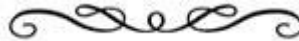
1.

RFP for Compensation and Classification Study

(Requested by Kurt Swartzlander, Finance)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John C. Danio, District 3 - Commissioner
SECONDER:	Chris Via, District 4 - Commissioner
AYES:	Byrnes, Danio, Via, Penny

Enacted and approved this 28th day of March, 2017, in Holly Hill



2.

Special Law Enforcement Trust Fund Expenditure - Florida FBI NAA Training

(Requested by Steve Aldrich, Police)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	John C. Danio, District 3 - Commissioner
SECONDER:	Chris Via, District 4 - Commissioner
AYES:	Byrnes, Danio, Via, Penny

Enacted and approved this 28th day of March, 2017, in Holly Hill



9. REGULAR AGENDA

1. Resolution

Resolution 2017-R-26 A Resolution of the City of Holly Hill, Florida, Approving the Sale of 9.42 Acres Located at 1200 Center Avenue, Holly Hill, Florida.

(Requested by Joseph Forte, City Manager)

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

RESOLUTION

Enacted and approved this 28th day of March, 2017, in Holly Hill



2. Resolution

Resolution 2017-R-27 A Resolution of the City of Holly Hill, Florida, Approving the Submittal of an Application to the Volusia Transportation Planning Organization (TPO) for XU Bicycle/Pedestrian Funding for the Center Avenue Phase 1 Sidewalk Project; Providing for Severability; Providing for Conflicting Resolutions; and Providing for an Effective Date.

(Requested by Thomas Harowski, Board of Planning and Appeals)

Mr. Harowski stated the Resolution they have before them is authorizing submission of the sidewalk project on Center Avenue, which would extend from LPGA to Flomich. It's one of five projects that the city is trying to work on improvements around the elementary school and serving that neighborhood. The Resolution authorizes the submittal and he will point out that the city will be responsible for 10% of the design and construction cost. The costs that the Commissioners see in the agreement are based on a preliminary version of the study. We're expecting a final study in a week or so and they may change a little bit. They would not impact budget until probably 2018/2019 fiscal year. So, they have some time to plan for that going forward. The other unresolved item in here is who is ultimately going to do the design work and serve as the LAP Agency (Local Agency Program) and we're still negotiating with DOT and Volusia County to try and get one of them to fill that role.

Commissioner Byrnes asked if the LAP Agency looks promising?

Mr. Forte stated, no.

Commissioner Byrnes stated, okay.

Mayor Penny asked the County has said no and DOT has said no?

Mr. Forte stated the DOT is taking it into consideration. They are going to take a week or two to get back to us on a response but in an email as of this evening, another area of the DOT is basically say to the TPO, "We haven't gotten Holly Hill's LAP certification letter, therefore, it's going to be taken off the list and pushed out until you get one." Another department of theirs that we're talking to is trying to negotiate with them to take over the LAP portion of this. They may not be communicating with this portion of the

DOT and they're putting these projects at risk, quite frankly, and he will be sending a letter off to the County Manager tomorrow and asked him why the County can't step up to the plate for us on this, instead of losing a million dollars' worth of sidewalk projects.

Commissioner Via asked with the TPO keep this in their rotation? Can we ask them to extend any of that?

Mr. Forte stated it gets pushed out to the next year.

Mr. Harowski stated but the project that is being pushed out is actually, the Flomich Street Phase 1, which is Nova Road to approximately Center Avenue. That one is a little further along in that it had the design study and the city put it in a couple of years ago for funding. They did allocate design money for that in fiscal year 2017/2018, the State fiscal year, and what they are saying is that at this point we don't have a LAP Agreement in place, they can't spend that money on that project and so they will reassign it to another project. That project will still remain on the priority list, he believes and the city will be able...

Commissioner Via stated because the city is next on the priority list with TPO, those projects. They are right there, right?

Mr. Harowski stated the two projects that they are talking about submitting tonight will be individually ranked as construction projects and go on the construction list with that Flomich project. His plea to the TPO is, on that particular one, is going to be give the city until June 1st and if we can't get it resolved then we understand they are going to have to reprogram that money. So, we'll see if they will go with that or not.

Mayor Penny opened public participation. No one spoke.

Commissioner Byrnes stated he thinks it's crazy that a simple project like this gets held up by bureaucracy that will add nothing, nothing is added to this project by having that so-called certification. All it does is delay things and cause the citizens of Holly Hill to possibly lose the ability to get a sidewalk where it's badly needed in a school zone,

Mayor Penny asked what's the total of these two projects, about \$1 million?

Mr. Harowski stated more than that. Center Avenue, on the preliminary estimate is \$937,000, the one that will be coming up next is \$767,000 and those will probably go a little higher when they see the final plan.

Commissioner Byrnes stated and the city's share is about 10% of that.

Mr. Harowski stated a minimum of 10%.

Mr. Forte stated what the Commissioner need to understand is that the city's share of that will probably come out of the gas tax monies which are allocated for road resurfacing and sidewalks. Those dollars will be set aside that should this go through, the city will be able to meet its match.

Mayor Penny asked if they can use CDBG money to match that.

Mr. Forte stated, no. CDBG money has to be designated to CDBG target areas. He's not sure if this fits that or not but the city has so much CDBG area that it may but at least he knows they have it in the gas tax money to do it.

Mayor Penny stated, okay.

Mr. Harowski stated on the Center Avenue project, just so they are clear, the primary improvement will be adding sidewalk on the east side of Center Avenue where there is none now and then improving sidewalk on the west side where there is deficiency.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

RESOLUTION

Enacted and approved this 28th day of March, 2017, in Holly Hill



3. Resolution

Resolution 2017-R-28 A Resolution of the City of Holly Hill, Florida, Approving the Submittal of an Application to the Volusia Transportation Planning Organization (TPO) for XU Bicycle/Pedestrian Funding for 15Th Street Sidewalk Project; Providing for Severability; Providing for Conflicting Resolutions; and Providing for an Effective Date.

(Requested by Thomas Harowski, Board of Planning and Appeals)

Mr. Harowski stated this sidewalk project goes from Nova to Center and it again, is to try and improve the existing sidewalk and add sidewalk on the south side where they don't have it now. Everything else he said about the Center Avenue project, ditto on this one.

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John C. Danio, District 3 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

RESOLUTION

Enacted and approved this 28th day of March, 2017, in Holly Hill



10. PUBLIC HEARINGS

1. Ordinance

Ordinance 2992 An Ordinance of the City of Holly Hill, Florida, Approving the Sixth Amendment to Marina Grande Residential Based Mixed Use Planned Unit Development (MPUD) Agreement; Providing for Conflicting Ordinances; Providing for Severability; and Providing for an Effective Date.

(Requested by Thomas Harowski, Board of Planning and Appeals)

Mr. Harowski stated this is the program the Commission considered, he thinks, it was three meetings ago and then they had to come back and do it in an Ordinance form. He was advised that one of the graphics might still show the signs on the seawall, they are NOT part of the program. Those were excluded and if they got it on the graphic, they will fix that and take that out.

Mayor Penny opened public participation.

The following individual spoke to the Mayor and Commissioners: John Caveto, resident at MG on the Halifax, Holly Hill.

Mayor Penny closed public participation.

Commissioner Byrnes stated he thinks it's important, this Commission did talk about possibly relating it to sales and found that the logistics was just a little bit hard to work with, at least from his gathering of the discussion because of the variabilities involved. So, that's why the city went with a time certain that it's going to come down and if there are any mechanical problems with it then it would be brought down by order of Code Enforcement.

Mayor Penny stated any problems will be addressed by the property manager.

Commissioner Byrnes stated, yes and the city.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



2. Ordinance

Ordinance 2987 An Ordinance of the City of Holly Hill, Florida, Amending Section 82-322 (Evaluation of Request for Accommodation Pursuant to the Fair Housing Act) of the City of Holly Hill Code of Ordinance to Incorporate Recent Changes in Federal Law Regarding the Review and Approval of Group Homes; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

(Requested by Thomas Harowski, Board of Planning and Appeals)

Mr. Harowski stated as the title says, they are proposing an amendment to the city's Fair Housing section of the code relating to Group Homes to add an additional criteria, which is a spacing criteria between similar types of uses. This is something that has been relatively, recently added to the Federal Statute. The city is making an adjustment to bring the city's into line with it.

Commissioner Byrnes asked if they look on the map, does this affect any current properties that might not have been done if this had been in effect? Basically, this keeps them from two being on the same block or something similar to that.

Mr. Harowski stated yes, there's a distance requirement. He does not know whether or not it would affect any existing properties.

Commissioner Byrnes stated because he thinks about Bishop's Glen and just up the street from that is the other low income...

Mr. Harowski stated he's not sure those all fall within the scope of this particular...

Mr. Forte stated just the group homes. Residential group homes.

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	John C. Danio, District 3 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill

3. Ordinance

Ordinance 2988 An Ordinance of the City of Holly Hill, Florida, Adopting a Twelve (12) Month Moratorium on the Approval of Any Development Order or Issuance of Any

Business Tax Receipt for the Growing, Processing, Manufacturing, Distribution, Dispensing and Selling of Medical Cannabis Within the City Limits; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

(Requested by Thomas Harowski, Board of Planning and Appeals)

Mr. Harowski stated the Ordinance is simply what it says. Simply, asking for a moratorium on approving units to sell medical marijuana. Basically, what the city is waiting here for is the legislature to finish their requirements under the recent State Constitutional amendment and give the city whatever guidance that they are going to share. He can tell the Commissioners that staff is regularly getting calls from people who are interested.

Commissioner Byrnes asked interested sellers?

Mr. Harowski stated, sellers.

Mayor Penny opened public participation. No one spoke.

Commissioner Via stated he hopes that the city can, once the State determines what they want to lay out, hopefully the city can get this moving forward faster than twelve months. Like he said last month, he's in favor of this.

Commissioner Byrnes asked if someone calls now, once this has passed, what would be staffs answer to them be?

Mr. Harowski stated we have a moratorium in place and we don't have any approval at this point.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	John C. Danio, District 3 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



4. Ordinance

Ordinance 2989 An Ordinance of the City of Holly Hill, Florida, Amending the Land Development Regulations, by Rezoning the Parcels Described in Exhibit "A" from City of Holly Hill R-7 Medium Density Multi-Family Residential to City of Holly Hill R-3 Medium Density Single-Family; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

(Requested by Thomas Harowski, Board of Planning and Appeals)

Mr. Harowski stated the subject property is on the north side of Walker Street, opposite the Fountainhead project location. There's a residential unit and a nonconforming business unit. At one time those two were in common ownership and they have since been divided into two separate ownerships. Under the R7 zoning the only use they can qualify for either site of those locations is single-family use and one of those lots are substandard for the R7 requirements, lot width is the issue. The proposal is to rezone from R7 to R3, which is also a single-family zone so the city is not changing the use and the city is making those lots consistent with the rest of the single-family lots along that side of the street. He believes there is a little bit of R2 right at the intersection at Center and Walker but the balance of that strip is R3. That will make the two lots there conforming as to minimum lot size and it will not affect the business activity as that will continue as a nonconforming businesses.

Commissioner Byrnes stated you said it has been divided or are they waiting for our...

Mr. Harowski stated no, they have sold. They are under separate ownerships.

Commissioner Byrnes asked they can make a nonconforming lot without...

Mr. Harowski stated apparently, the city in past years had agreed to allow that subdivision and the city honored that agreement and now the city is making it conforming. So, that issue basically goes away, the lots will be conforming.

Commissioner Byrnes asked both of them?

Mr. Harowski stated, yes.

Commissioner Byrnes stated he thought one was going to be conforming and the other one was...

Mr. Harowski stated, no. Both will be conforming as to lot size for single-family use and one has a nonconforming use on it, which will continue.

Commissioner Byrnes asked does the nonconforming use go with the property or with the owner?

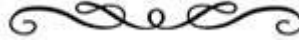
Mr. Harowski stated the property.

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	John C. Danio, District 3 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



5. Ordinance

Ordinance 2990 An Ordinance of the City of Holly Hill, Florida, Amending the Land Development Regulations by Rezoning the Parcels Described in Exhibit "A" to City of Holly Hill CC-1 Commercial Corridor; Providing for Conflicting Ordinances; Providing for Severability; and Providing for an Effective Date.

(Requested by Thomas Harowski, Board of Planning and Appeals)

Mr. Harowski stated the property that's the subject of this ordinance is on the west side of Parque Avenue north of Calle Grande, between Parque and the railroad tracks. The city's Comprehensive Plan has identified this as a wholesale warehouse and industrial property. It currently has no city zoning. When it was annexed it was not given city zoning at that time and they need to go ahead and give it a city zoning. The choices from the city's Comprehensive Plan are I1, I2, CC1 or a residential PUD. The applicant is proposing a development that would be basically, a rental warehouse base and with the possibility of maybe a limited amount of retail up at the south end of the property. They have asked for CC1 Commercial Corridor Zoning. It is the least intensive of those zones that the city has, other than, depending on how the city might restrict an IPUD. The Planning Board reviewed it and recommended it to the Commission. They believe that the proposed zoning is consistent with the Comprehensive Plan.

Commissioner Byrnes asked how wide is that again?

Mr. Harowski stated, 180.

Mayor Penny opened public participation. No one spoke.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



6. Ordinance

Ordinance 2991 An Ordinance of the City of Holly Hill, Florida, Approving the Fountainhead Mixed Use Planned Unit Development (MPUD) Agreement; Providing for Conflicting Ordinances; Providing for Severability; and Providing an Effective Date.

(Requested by Thomas Harowski, Board of Planning and Appeals)

Mr. Harowski stated he thinks by this time, they are all familiar with the project and have heard a number of presentations and the applicant has been before the Commission a number of times. He thinks they hashed out at the first reading all of the issues and he thinks the only item to yet come in is the building designs. The applicant submitted today some more current versions of that and he thinks Mr. Forte may be prepared to go over some of those with the Commission.

Mr. Forte stated what staff will put up on the screen is what was delivered today, that the developer had submitted. (*showing elevation designs on the overhead*). Mr. Forte stated they're kind of...he kind of calls them vanilla. He knows that's not overly fancy but it meets the intent but he met with Mr. Meyer just prior to the meeting and he kind of enlightened himself and the Mayor with something they will call Rocky Road. (*referring to the elevation designs that Mr. Meyer showed the Mayor and Mr. Forte before meeting*). Mr. Forte stated he had an opportunity to meet with Mr. Meyer before the meeting and what he brought in, this is the same...these are the pictures that the Commission saw in the color version but this gives them a better idea of what the Commission can expect on the development of these three buildings. It's a little bit more exciting now when they get to see it in this version. He is glad that they had that twenty minutes prior to the meeting to get this snapshot because it certainly changed the perspective quite a bit. It still has work to be done. This is in the right direction of where Fountainhead needs to go. Mr. Meyer is showing the mezzanine on the second floor, he's showing the floating staircase that he had talked about earlier, this is just an example of what some work spaces would be. (*referring to the snapshot of the design from Mr. Meyer*).

Commissioner Byrnes asked if he could give some idea of orientation because he is trying to figure out...

Mr. Forte stated this is the media center, this is Center Street and this is LPGA (*referring to the design*), this is the media center, this would be the gymnasium and this is the third building, about 11,000 to 12,000 square foot building if he recalls. Mr. Forte stated and again, this is just showing another detail of just the gymnasium building where Mr. Meyer is showing how he is going to have office spaces around the outside, this is first floor storage, this is Mr. Meyer's assembly area on the first floor looking at it from the overhead, the collanade, they actually had a little opportunity to do check on Google and see some example of what that actually is going to be and the type of roof structure that's in there, then the restrooms. For the most part, the administrative offices is what Mr. Meyer is looking at to be on the second floor. It's hard to see on these pictures and he knows that might be a little bit confusing but from the staff perspective, this is kind of what they were hoping to see. He is glad they had the opportunity to come in just before the meeting to get some more clarification on them.

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Attorney John Ferguson, Cobb Cole, 914 Riverside Drive, Holly Hill and Jayson Meyer, 1410 LPGA Blvd., Daytona Beach present. Attorney Ferguson stated one thing he wants to make sure everyone is clear on and he is sure they are, they built in to the PUD Agreement that the architectural plans will be coming back before this Commission. No one is asking to approve these now. These are just for informational purposes.

Mr. Meyer stated he didn't want to come before the Commission empty handed. When they spoke last time, they talked about bringing some elevations and showing them at an 80% completion level and they've been working diligently since their last meeting to flush out everything that will go inside the buildings, they've been sourcing materials and they looked at just the outside elevations, they weren't ready to just finalize those just yet but he wanted to demonstrate to the Commission the progress that they had made so they brought copies of the plans and they have been delivered today to take a look at each of the individual buildings. As the Commission recalls, they have two rehabs and one new construction building. They spent a lot of time going through the different uses and who would physically be in different locations, looking at different materials. So, when he comes back before the Commission next time, he will be presenting to the Commission very in depth elevations that are calling out all of the materials and they will show the Commission from different views from each of the perspectives of the new buildings. What the Commission saw before they went to these architectural diagrams here, these were examples of the evolution of those. So, this evening he wanted to come before the Commission to show the progress, to show the Commission that they have hit the ground running but they are not quite ready to show the Commission at 80% completion. Mr. Meyer stated he understands, per their agreement with the city, they will be back before the Commission to review all of the architecture before the actual commencement.

Mayor Penny stated he wasn't sure if these drawings need to be part of the PUD. Are these in the PUD or out of the PUD.

Attorney Simpson stated he thinks there is an exhibit for them. He thinks their intent is that they are a guide to what will be coming in the future.

Mr. Meyer stated that's his understanding as well.

Attorney Ferguson stated because they will be coming back with the final.

Attorney Simpson stated with the final stuff but this is kind of like a guide of what the final will look like.

Mr. Forte asked do they want to call them the exhibit for the PUD?

Attorney Simpson asked there was an exhibit number wasn't there?

Mr. Forte stated de doesn't know if it's F or G.

Mayor Penny stated there's a blank page there now. He doesn't know if these go into page or just leave it blank.

Mr. Meyer stated he thinks when they come back before the Commission with the elevations at the 80%, calling out the materials then...

Mr. Forte stated that's going to come during the site plan.

Attorney Simpson stated yes, they don't want to do that because...

Mayor Penny stated the PUD will be done tonight.

Attorney Simpson stated the PUD will be done. He would attach these as the exhibit as a guide and then the finals can come back later. They won't have to amend the PUD again.

Attorney Ferguson stated because the PUD already has provision in there for them to make changes between now and then.

Attorney Simpson stated, exactly.

Attorney Ferguson stated and it still has to be approved by the Commission.

Attorney Simpson stated, right.

Mayor Penny stated they're all on the same page.

Attorney Simpson stated if Attorney Ferguson and Mr. Meyer are happy with the pictures, he's good to go.

Commissioner Byrnes stated he has a question for Attorney Simpson and there may be some input from Mr. Meyer. In all the years I've been doing this, whenever we've done a PUD it's been, "Okay, this is it." And, then they would come back and say, "Well, this has changed, we need an amendment." Are you sure the wording is here so that we can have control over this if...

Attorney Simpson stated, yes and that language is still in there too if they want to come back and they want to change...and that's more dealing with the text of the language or the site plan. The layout in the site plan and those types of changes will have to come back either as a minor amendment, which staff can approve or a major amendment,

which would have to go to the Planning Board for a recommendation and then back to the Commission. Basically, the same approval this went through. But in addition to the way it's been done before, typically elevations don't come to the Commission for approval. What they are doing in addition to what they've done in all the other approvals, they put a provision in there that the final elevations will come back to the Commission for approval. They didn't do that for Marina Grande, for instance. The final elevations didn't come to the Commission.

Commissioner Byrnes stated, okay. They saw a lot of stuff from Marina Grande that were a lot more solid than what they are seeing in here and that's why he had a question. He has no trust issues with the applicant, he just wants to make sure legally that the city is not...

Attorney Simpson stated that's why we're bringing the final elevations back here.

Commissioner Byrnes stated, okay.

Attorney Simpson stated because the details for certain are not known as of yet and there are other things that are going to come back to the Commission that didn't come back through with Marina Grande. Subdivisions, the Commission is going to see subdivision of land are going to have to come back to the Commission relatively soon between now and August. As parcels are sold, they have to go through a subdivision process. If they need to modify the layout of the site plan, that might come back to the Commission for approval as well. So, there is going to be more coming back to the Commission for approval than with Marina Grande.

Commissioner Byrnes stated, okay.

Commissioner Via stated going off of what Commissioner Byrnes said. He has a little bit of heartburn about it as well. Meaning, his main question is, how can the Commission approve an MPUD on second reading if they don't know really what's in it? For instance, and Mr. Meyer knows he's been 100% for this project, one of his biggest supporters, can't wait to create hundreds of careers but this is the first time he has seen the elevations. He was expecting, like Commissioner Byrnes was stating, to have some elevations for the first reading, hopefully, and then by the second reading. He digs into every single page of their packet and he really wants to see this and he still can't see it because it's out there and he doesn't have it in front of him. So, his question is, how can the Commission approve the MPUD if they don't really know what they're approving with elevations? What if the Commission disagrees with the way that Mr. Meyer wants to go ahead and change this?

Mayor Penny asked at the site plan?

Attorney Simpson stated well, he guesses the way to look at it is, the Commission has just as much information as they had going through Marina Grande. He means, the same information that was with Marina Grande is here in that they had a preliminary site plan, they have a preliminary site plan here that lays out everything. If that gets modified, minor changes staff can approve; major changes are going to have to come back to the

Commission. The only difference is Fountainhead doesn't have final elevation drawings and he's never gone back to look at Marina Grande's final elevations, compared to what were in the documents. He doesn't know if they're the same or not to be honest with them. If deviations were made, if any. So, the only thing that staff made the difference in is that final elevations because they weren't in a final product form for an MPUD and understand, that's an artist rendering. That is not...final construction plans do not come back to this body on any project; ever or for a long, long time, let's put it that way. So, the Commission never see the final site plan, the final construction plans, the final construction drawings of what it's going to be for any type of project for Marina Grande, straight zoning, or any other type of MPUD including this one.

Commissioner Via stated but the Commission was told that they would have 80% of the elevations by the first reading and then the second reading. He understands they don't have 80% elevations tonight, correct?

Mayor Penny stated those were the first...and that's...

Attorney Simpson stated that's why it's coming back to the Commission.

Mayor Penny stated he understands Commissioner Via's concerns and he appreciates Mr. Meyer coming right before the meeting and luckily, he was with Mr. Forte when Mr. Meyer came so he saw the plans. It's easier to see up close. But the one thing that the Commission does have is that when it comes back to site plan review. The Commission has ultimate control at that point. It will come back to the Commission for final review. What came up in discussions was, what is their expectation of an 80% elevation? What is it? For him, Mr. Meyer and himself talked about an architect in town that did the black and white print like that but put pastel water colors on it. That's what in his brain would love to see but when they Googled it, it's really black and white, flat, two dimensional drawing, pretty much like what they see there (*referring to the pictures presented to the Commission*) because it's not construction drawings. It's an artist's rendering of what it could be and so, not being here for Marina Grande, he thinks this Commission has another layer of control than the past Commission had with Marina Grande because it is going to come back for final site and review and then all those details are in there at that point. So, that's where his comfort level is. Is that the Commission does have an additional layer of control at that point. He was sharing Commissioner Via's concerns until a half hour before the meeting because the drawings that they saw were a little simplistic in his opinion. Mr. Forte took a picture to get as much detail to the Commission in a very quick time frame as possible.

Attorney Simpson stated just to correct on thing the Mayor said. He said the final site plans come back to this body. That's not what this document says. Final elevations are coming back to this body for review.

Mayor Penny asked at site plan?

Attorney Simpson stated whenever they get it done.

Mayor Penny stated, okay.

Attorney Simpson stated but final site plan approval, that's a staff decision.

Mayor Penny stated, okay.

Attorney Simpson stated that's administratively handled. IF the final site plan deviates from the preliminary plan, which is attached to this PUD agreement then the question is, is it a major amendment or a minor amendment, there's a little judgment in making that decision but if it's a major amendment, it has to go back through the whole rezoning process again; notice, everything and then it will come back before the Commission. So, only very small changes will be made at staff level and anything of significance will be made at this level. If they do a site plan that's identical to what's in the PUD the Commission won't see it again. The Commission will see elevations but not the final site plan.

Mayor Penny stated, okay.

Mr. Forte stated there were no issues with the site plan.

Attorney Simpson stated, no.

Mayor Penny stated no and he should have said elevations instead of site plan. He misspoke.

Mr. Meyer stated just a quick question, Attorney Simpson, based on your experience, at this stage of the development process, is it typical to have final elevations presented?

Attorney Simpson stated no, it's an architectural rendition.

Mr. Meyer stated, right.

Attorney Simpson stated is what you have and honestly, I don't know what a final elevation would look like because I don't get involved in site plan review either. I'm assuming a true, final elevation is the construction plans.

Mr. Meyer stated, right.

Attorney Simpson stated and the construction plans just get reviewed by the building department.

Mr. Meyer stated so, since this is a partnership between Fountainhead, Synergy and the City of Holly Hill and this is property that is not just within the City of Holly Hill but also as owners of the property, he wanted to go that extra distance to show the Commission what they are building and creating. So, it wouldn't be typical to provide the elevations at this level of detail at this stage. It typically comes, once they get this approval then architecture really begins. They wanted to show the Commission what they were creating and through this process, the architectural process, the elevations would typically come at a later stage. He wanted to show the Commission that he didn't take the

Commissions concerns and the things they talked about in vain and disregarded them but the process of creating those, it doesn't normally happen at the beginning of the cycle. He wanted to mention that and also let the Commission know that in the MPUD Agreement, there's a specific clause in there as the Mayor alluded to and Attorney Simpson, that the Commission has the final say on the architecture to say whether it meets the guidelines outlined in the MPUD. What they are presenting to the Commission today is, still it's conceptual but it's forming but before they actually build these buildings, he will come back before the Commission and they will see these specked out, the diagrams and it will show the Commission what the different materials are and that's what they agreed to. It's just today, at this point, those are not prepared but it also, would not be typical to have them prepared at this point so, he wants the Commission to understand that he is not trying to circumvent in any way or not fulfill a promise or commitment.

Commissioner Via stated he understands that but the Commission was also told that they would have 80% elevations numerous times by his attorney not Attorney Ferguson. So, that's the only reason why he is bringing this up just because the Commission was told over and over. He thought that before this meeting, before they totally said yes to this MPUD, the Commission would really be able to see how it is, they would be able to publicly put it into their agenda, the taxpayers who really, actually are Mr. Meyer's investors in this, the Commissioners are representing the taxpayers here, should be able to look at what they are investing in and put in their input through each of the Commissioners. That's what he was looking at. That's what his understanding was. So, now he is sitting here kind of surprised. He's really surprised to be honest with them.

Mr. Meyer stated and he completely understands that, he's sorry to disappoint him. In the MPUD it does call...there are two options. One is, present the elevations at 80% approval, at MPUD approval and then they don't come back before the Commission to get the final say or the second option is, if the elevations are not already prepared, they come back before the Commission and the Commission gets to decide and approve the architecture. It does call that out in the agreement.

Commissioner Via stated Attorney Simpson...

Attorney Simpson stated yes, the elevations come back for approval.

Commissioner Via stated so the Commission comes back and if at that point, say they want to paint the building purple and put an elephant on the side of it, does the Commission still have...be able to put their thumb print on it and say, "Look..."

Attorney Simpson stated it still has to go through the Commission for approval. His example, he doesn't know if they put color in here as a material....

Commissioner Via stated he's just saying...

Attorney Simpson stated it has to meet the description that's in the written agreement, that outlines this is the type of architecture and when they start talking about architectural styles, it's kind of tough. It's not...and he's glad they are putting pictures and drawings to say, "Look, this is generally what we're talking about" but when they start talking about

particular types of architectural style it's very more of a subjective standard than (?) and it's hard and they put in here as much as they can objectively.

Mayor Penny asked would it help to pull those pictures back up?

Commissioner Via stated this is the time though, where they negotiate that, right? Where, the Commission makes sure they like the way...

Attorney Simpson stated, no.

Commissioner Via stated where they like the way this development is looking.

Attorney Simpson stated, no. What they negotiated is the criteria.

Commissioner Via stated, okay.

Attorney Simpson stated now when Mr. Meyer comes in, we say that doesn't meet the criteria. That's what the city's judgment is.

Commissioner Via stated, okay.

Attorney Simpson stated we've negotiated the criteria and we put examples in, however far along they are, that's generally what we're talking about as a guide so, it comes back to our judgment to say that doesn't meet, you have to make some other changes to meet it.

Commissioner Via stated so, his whole entire conversation, what this boils down to, his question is, will the Commission be pigeon-holed, if they approve this tonight, will they be backed into a corner to go ahead and approve this even if they somehow...it changes a little bit and the Commission doesn't like it? Are they backed into a corner?

Attorney Simpson stated, no. You're not backed into a corner. He doesn't know what changes Commissioner Via is talking about. If Mr. Meyer goes, and all of a sudden builds a southern colonial there, well, that's totally different then the city can say, "That's not what we're talking about." If all of a sudden something that was a window in this picture is now a wall, that might be hard to say that's not an architectural style. It just depends on the change you're talking about and that's what he is saying. He would say, historically...

Commissioner Byrnes stated he needs some clarification.

Attorney Simpson stated historically, this city has not gotten into architectural issues.

Commissioner Byrnes stated but this is a special project.

Attorney Simpson stated no more than Marina Grande was.

Commissioner Byrnes stated this is a special project. From the beginning of the discussion and now it's changed, the beginning of the discussion the applicant and

everybody says the elevations are coming back before the Commission and he thought he heard the words “for approval”.

Attorney Simpson stated, right.

Commissioner Byrnes stated that’s different than just review. For approval, the Commission can look at the pictures and if they see a purple elephant and don’t want that, the Commission can say no, they have to change it. That’s the kind of control that he wants to make sure that they have coming back because it’s going to be important. It’s a special project.

Mayor Penny stated when they go to the PUD, Chapter 10E, Building Design Standards, Buildings of Fountainhead, “*Building design standards: Buildings within the Fountainhead MPUD on the PROPERTY shall comply with "Contemporary Architecture."* There are thirteen sub-paragraphs that describe what that architectural style is. If the applicant came back and wanted to build a Crackle Barrel style architecture there, that clearly does not meet these definitions in here and we would have that element of control but if they wanted to use brushed aluminum and you liked brushed bronze, you’re going to get what they want. That’s the level of control the city has.

Commissioner Byrnes stated but he doesn’t think that’s...he’s not going to speak for Commissioner Via but when he hears the words coming back to the Commission “for approval”, we don’t like brushed aluminum and we say that then there’s negotiations with the applicant, it’s not just a “get it”. That’s what he is trying to determine here and as he thinks he understands Commissioner Via, he thinks that’s the same level of approval that Commissioner Via wants.

Mr. Meyer stated Commissioner Byrnes, if I may, within the MPUD we have outlined it in very specific details and narrative format the can’s and cant’s.

Commissioner Byrnes stated, okay.

Mr. Meyer stated as it relates to architecture. So, those parameters it outlines different stylings, architecture style, window styles, all those things are outlined. When they come back before the Commission, the Commission will be utilizing their judgment against the backdrop of that MPUD to determine whether what he is presenting to the Commission meets that. That document represents the negotiation and it outlines can’s and cant’s, it is the framework for everything that they will do on the property. It’s outlined there. It’s up to the Commission’s judgment to determine whether what he presents meets those guidelines or not.

Attorney Simpson stated what they can do to just make it clear because he’s reading paragraph H and paragraph H, subpart A & B says, “*To ensure the consistency described above, this MDP provides for an additional step in the review process to address the elevations of the buildings to be constructed on the Property. The process shall be as follows:*

- a. *Elevations for the Corporate Headquarters Building, which shall be the first building permitted under this MDP, are attached hereto and incorporated herein as Exhibit "G". With the approval of this MDP, the elevations for said building shall be approved and the following paragraph shall not apply for said building.*

- b. *If elevations for the Corporate Headquarters Building have not been submitted as part of the approval of this MDP or as final renderings for subsequent buildings are not available at the time of the MDP adoption, the standard site plan approval process shall now require that the architectural elevations for any building constructed on the Property, other than the structural elevations approved by this MDP, shall be brought before the Holly Hill City Commission for review and approval."*

Attorney Simpson asked do you just want a provision in there saying that you are NOT finally approving any architecture styles elevations with the approval of the MDP? That all of them have to come back to you?

Commissioner Via stated because then that will give the Commission negotiations.

Attorney Simpson stated it would have to come back through for review and approval. Paragraph A talks about Corporate Headquarters and if they are attached as *Exhibit "G"* then with the approval of this agreement the elevations are approved and they don't come back to this body. Paragraph B says, "If elevations for the Corporate Headquarters Building have not been submitted as part of the approval of this MDP or for other buildings then the elevations have to come back to the City Commission for review and approval. So, the question is, have the Corporate Headquarters buildings been submitted for final approval elevations right now? He is hearing them, the applicant, say no. It's what he's hearing. Are you all intending to do final approval of the Corporate Headquarter tonight, elevations?

Mr. Meyer stated, no and we're not asking for that either.

Attorney Simpson stated, okay but that's what's in here.

Mr. Meyer stated and it says, if not that then it says...

Mayor Penny stated then it comes back.

Attorney Simpson stated it then comes back to the second but the problem is we do have Corporate Headquarter buildings elevations attached as Exhibit "G", going to be attached, and this is saying that's been finally approved. So, what he is saying is they can either strike "A" to say they all come back or they make it clear that no final elevations have been approved.

Mayor Penny stated just take the drawings out as exhibits then it comes back.

Attorney Ferguson stated why don't they just take the drawings out.

Attorney Simpson stated, okay. They can take the drawings out.

Attorney Ferguson stated and then that way...

Mayor Penny stated then that way it comes back.

Attorneys Ferguson and Simpson stated, okay.

Attorney Simpson stated if there's no Exhibit "G" then everything comes back.

Attorney Ferguson stated, which was the intention.

Attorney Simpson stated, okay.

Mr. Harowski stated just for clarification, what he thinks they ought to do is take that Exhibit "G" page and just write on there "NONE".

Attorney Simpson stated okay, that's fine.

Mr. Harowski stated because somebody down the road looking at it will know that there was no exhibit, not that there was an exhibit and it just didn't get attached.

Attorney Simpson stated, sure.

Mr. Meyer stated he's fine with that.

Attorney Simpson stated and he thinks when that language was written, they intended to have some final renditions and not others.

Mr. Meyer stated, yes.

Attorney Simpson stated so there is no final renditions. So they will have no Exhibit "G" so everything comes back to this body.

Mayor Penny asked if everybody was on the same page now? Does that address the Commissions concerns?

Commissioner Via stated it seems so.

Commissioner Byrnes stated, yes.

Mayor Penny opened public participation.

The following people spoke to the Mayor and City Commissioners: Maureen France, 1144 Riverside Drive, Holly Hill; Jim Legary, 342 Burleigh Avenue, Holly Hill; Jim Cameron, Senior Vice-President Government Relations Daytona Regional Chamber of Commerce.

Mayor Penny closed public participation.

Mayor Penny stated this is quasi-judicial so they need to disclose any ex parte communication with the applicant. Him, himself have had countless meetings with Mr. Meyer, Mr. McMann, Ms. Duerr, he thinks everyone on this side of the room he has talked too at least three times at different times concerning this project. He was in a private meeting, it wasn't closed-door but it was a meeting right before this meeting when Mr. Meyer came in most recently with Mr. Forte and saw the close up views. He has had, he can't tell them how many one-on-one contacts with the applicant and the representative, as well as, meetings in the conference room with the applicant, numerous attorneys, traffic study engineers and landscape engineers, architects. He has had a lot of outside communication on this project. He hopes that satisfies the intent of his disclosure. Commissioners Byrnes and Via nodded that they have had no ex parte communications.

Mr. Forte stated when they modified the PUD and the Ordinance they had at one point put down that the PUD was going to be effective at a later date. Then they went back and said no, they will go ahead and amend the Ordinance so it's effective immediately. With this new computer system (ACCELA program), he wants to make sure that the right Ordinance is in there. The only difference is the effective date. The effective date was immediately and the other was effective at a time that had to do with the financing.

Mayor Penny asked can the motion state that?

Attorney Simpson stated, yes. Make the motion state clearly that the Ordinance becomes effective immediately upon date of adoption.

Mr. Forte stated and also that there are no exhibits in Exhibit "G". If the Ordinance is reflective of those two things, it's in there. He just wants to make sure it's worded that way.

Commissioner Via stated his motion reflects the changes that they just talked about.

Commissioner Byrnes agreed. Commissioner Byrnes asked Mr. Forte if he was satisfied.

Mr. Forte stated he will be satisfied when a shovel goes in the ground but at this point, he thinks Mr. Meyer has met the expectation of what they said the deliverables were going to be.

Commissioner Byrnes stated, thank you.

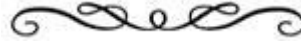
Mayor Penny stated he forgot a couple of people he had contact with, he wanted to be in full disclosure. Last week he had a conversation with Team Volusia and Volusia Economic Development Department and the Governor of the State of Florida about this project.

Commissioner Via stated he is excited to have Mr. Meyer here and is one of his biggest supporters throughout this and with these questions, he's here as a representative of the taxpayer and that is his job to ask these questions and to make sure that the Commission is doing their due diligence and make sure that all of our questions get answered. Thank you for coming to the city, we look forward to partnering with you and let's create 500 jobs and really put Holly Hill on the map.

RESULT:	ADOPTED AT 2ND READING [UNANIMOUS]
MOVER:	Chris Via, District 4 - Commissioner
SECONDER:	Arthur J. Byrnes, District 1 - Commissioner
AYES:	Byrnes, Danio, Via, Penny
ABSENT:	Currie

ORDINANCE

Enacted and approved this 28th day of March, 2017, in Holly Hill



11. COMMUNICATIONS

a. City Manager and Staff Comments

A. City Manager and Staff Comments

1.

Volusia County Mosquito Division - Spraying in COHH

(Requested by Valerie Manning, City Clerk)

Just for informational purposes; no vote needed.

RESULT:	INFORMATION ONLY
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Enacted and approved this 28th day of March, 2017, in Holly Hill



B. City Attorney Comments

None.

C. Mayor's Comments

Mayor Penny gave an update on the FAITH Assembly meeting that he attended; proud to represent Holly Hill; the city has committed \$13,800 to HOPE Place which is a homeless community for families; Mr. Forte sits as a board member on the First Step Corporation which will be a new shelter out on Red John Road and the city has over \$60,000 in the budget to address the homeless situation and this Commission will have to decide how to divide that \$60,000; attended Bishop's Glen this afternoon at a gathering.

D. City Commission Comments

Commissioner Byrnes stated it was a fine celebration at Bishop's Glen; clarified his comment on the marijuana moratorium.

Commissioner Danio apologized for not feeling his best; Easter Egg event on Saturday, April 8th at 10:00 AM.

Mayor Penny spoke about the Mile417 bumper stickers; #mile417 is something that they are going to spread around; great marketing idea; cool idea.

12. ADJOURNMENT

The meeting adjourned at approximately 8:30 PM.



**STAFF REPORT
CITY OF HOLLY HILL, FLORIDA**

**City Commission
Resolution**

MEETING DATE: April 11, 2017
FROM: Mark Juliano
SUBJECT: Resolution 2017-R-29 A Resolution of the City Commission of the
City of Holly Hill, Florida, Authorizing the City Manager to
Execute the Mutual Aid Agreement with FlaWarn
NUMBER: (ID # 1631)
APPLICANT:
PLANNER:

DISCUSSION:

Florida's Water/Wastewater Agency Response Network (FlaWARN) is the formalized system of "utilities helping utilities" to address mutual aid during emergency situations. These incidents may be man-made or natural disaster. The project's infrastructure consists of a secure web-based data bank of available resources and a practical mutual aid agreement designed to reduce bureaucratic red tape in times of emergency. The goal of FlaWARN is to provide immediate assistance, as quickly as possible, to impacted utilities by whatever means necessary until such time that a permanent solution to the devastation may be implemented.

FlaWARN is made up of Water and Wastewater Utilities across Florida, assisted by regulatory, technical, and law enforcement agencies. Currently, in addition to regional utilities, FlaWARN collaborates with the FDEP, UF-TREEO, SERT, FWPCOA, FRWA, FL-AWWA and FWEA.

In responding to several natural disaster emergencies in 2005, FlaWARN demonstrated that a network of "utilities helping utilities" is the best method for responding to the immediate water and wastewater damage caused by natural disasters. By combining a mutual aid network with security information collaborative FlaWARN has been able to cover all aspects of both natural and manmade emergency assistance.

While the City joined FlaWARN in 2008, we never executed the Mutual Aid Agreement required to utilize the services. Approval of this agreement will provide the City with improved abilities to respond to emergencies by simplifying our ability to obtain assistance from other utilities.

FISCAL ANALYSIS:

There is no expense to the City in executing this Mutual Aid Agreement. Costs only arise if we ask for assistance from a number entity, and reimbursement is per FEMA regulations.

STAFF RECOMMENDATION:

City staff has reviewed the agreement and recommend it be approved and the City Manager be authorized to execute said agreement.

COMMISSION GOAL:

Goal #4: Provide proficient public health and safety services in terms of police and fire protection, water, storm water, waste water and solid waste management and disaster preparedness with a focus on intergovernmental collaboration, private sector partnerships, and utilization of technologies and proven innovations.

MOTION:

APPROVE RESOLUTION 2017-R-29, AUTHORIZING THE CITY MANAGER TO EXECUTE THE MUTUAL AID AGREEMENT WITH FLAWARN.

ATTACHMENTS:

- FlaWarn Mutual Aid Agreement (DOC)

Resolution No. (ID # 1631)**RESOLUTION 2017-R-29 A RESOLUTION OF THE CITY COMMISSION
OF THE CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE CITY
MANAGER TO EXECUTE THE MUTUAL AID AGREEMENT WITH
FLAWARN****RESOLUTION 2017-R-29**

**A RESOLUTION OF THE CITY COMMISSION OF THE
CITY OF HOLLY HILL, FLORIDA, AUTHORIZING THE
CITY MANAGER TO EXECUTE THE MUTUAL AID
AGREEMENT WITH FLAWARN; AND PROVIDING FOR
AN EFFECTIVE DATE.**

WHEREAS, The City of Holly Hill has been a member of FlaWARN since 2008;
and

WHEREAS, FlaWARN has demonstrated that a network of "utilities helping
utilities" is the best method for responding to the immediate water and wastewater damage
caused by natural disasters and manmade emergency assistance by combining a mutual aid
network with security information; and

WHEREAS, By utilizing FlaWARN the City can respond to our citizens issues
during an emergency with a faster response time as demonstrated by FlaWARN responses during
the 2005 hurricane season; and

WHEREAS, The City has not executed the Mutual Aid Agreement required to
utilize services provided through FlaWARN.

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

SECTION 1. That the City Commission of the City of Holly Hill does hereby
authorize the City Manager to execute the mutual aid agreement with FlaWARN.

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 adoption by the City Commission.

APPROVED AND AUTHENTICATED this 11th day of APRIL, 2017.

MUTUAL AID AGREEMENT FOR WATER / WASTEWATER

ARTICLE I. PURPOSE

The Water/Wastewater Mutual Aid Program was established to provide a method whereby water/wastewater utilities sustaining physical damage from natural or man made disasters could obtain emergency assistance, in the form of personnel, equipment, and materials and other associated services necessary, from other water/wastewater utilities. The purpose of this Agreement is to formally document such program.

ARTICLE II. DEFINITIONS

- A. AGREEMENT – The Water/Wastewater Mutual Aid Agreement. The original agreement and all signatory pages shall be kept at TREEO Center 3900 SW 63rd Blvd., Gainesville, FL 32608
- B. PARTICIPATING UTILITY – Any Water/Wastewater utility which executes this Mutual Aid Agreement.
- C. DAMAGED UTILITY – Any Participating Utility which sustains physical damage to its water/ wastewater system due to a natural or manmade disaster and seeks assistance pursuant to this Agreement.
- D. ASSISTING UTILITY – Any Participating Utility which agrees to provide assistance to a Damaged Utility pursuant to this Agreement.
- E. AUTHORIZED REPRESENTATIVE – An employee of a Participating Utility authorized by that utility's governing board to request or offer assistance under the terms of this Agreement. (A list of the Authorized Representatives for each Participating Utility shall be attached to this Agreement as Appendix A)
- F. PERIOD OF ASSISTANCE – The period of time beginning with the departure of any personnel of the Assisting Utility from any point for the purpose of travelling to the Damaged Utility in order to provide assistance and ending upon the return of all personnel of the Assisting Utility, after providing the assistance requested, to their residence or place of Work, whichever is first to occur.
- G. SCHEDULE OF EQUIPMENT RATES – The latest rates published by Federal Emergency Management Agency under the response and recovery directorate applicable to major disasters and emergencies.

- H. WORK OR WORK-RELATED PERIOD – Any period of time in which either the personnel or equipment of the Assisting Utility are being used by the Damaged Utility to provide assistance. Specifically included within such period of time are rest breaks when the personnel of the Assisting Utility will return to active Work within a reasonable time. Also, included is mutually agreed upon rotation of personnel and equipment.

ARTICLE III. PROCEDURE

In the event that a particular utility becomes a Damaged Utility, the following procedure shall be followed:

- A. The Damaged Utility shall contact the Authorized Representative of one or more of the participating utilities and provide them with the following information:
1. a general description of the damage sustained;
 2. the part of the water/wastewater system for which assistance is needed;
 3. the amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they will be needed;
 4. the present weather conditions and the forecast for the next twenty-four hours; and
 5. a specific time and place for a representative of the Damaged Utility to meet the personnel and equipment of the Assisting Utility.
 6. The identification of Work conditions and special constraints such as availability of fuel supplies, lodging/meal support, medical facilities, security, communications, etc.
- B. When contacted by a Damaged Utility, the Authorized Representative of a Participating Utility shall assess his utility's situation to determine whether it is capable of providing assistance. No Participating Utility shall be under any obligation to provide assistance to a Damaged Utility. If the Authorized Representative determines that the Assisting Utility is capable of and willing to provide assistance, the Assisting Utility shall so notify the Authorized Representative of the Damaged Utility and providing the following information:
1. a complete description of the personnel, equipment and materials to be furnished to the Damaged Utility.

2. the estimated length of time the personnel, equipment and materials will be available;
 3. the work experience and ability of the personnel and the capability of the equipment to be furnished;
 4. the name of the person or persons to be designated as supervisory personnel; and
 5. the estimated time when the assistance provided will arrive at the location designated by the Authorized Representative of the Damaged Utility.
- C. The personnel and equipment of the Assisting Utility shall remain, at all times, under the direct supervision and control of the designated supervisory personnel of the Assisting Utility. In instances where only equipment is provided by the Assisting Utility, the ownership of said equipment shall remain with the Assisting Utility and said equipment shall be returned to the Assisting Utility immediately upon request. Representatives of the Damaged Utility shall suggest Work assignments and schedules for the personnel of the Assisting Utility; however, the designated supervisory personnel of the Assisting Utility shall have the exclusive responsibility and authority for assigning Work and establishing Work schedules for the personnel of the Assisting Utility. The designated supervisory personnel shall maintain daily personnel time records and a log of equipment hours, be responsible for the operation and maintenance of the equipment furnished by the Assisting Utility, and report Work progress to the Damaged Utility.
- D. The Damaged Utility shall have the responsibility of providing food and housing for the personnel of the Assisting Utility from the time of departure from their regularly scheduled Work location until the time of return to their regularly scheduled Work location. The food and shelter provided shall be subject to the approval of the supervisory personnel of the Assisting Utility. If not agreeable, food and shelter shall be provided and paid for as determined by mutual agreement.
- E. The Damaged Utility shall have the responsibility of providing communications between the personnel of the Assisting Utility and the Damaged Utility.

ARTICLE IV. REIMBURSABLE EXPENSES

The terms and conditions governing reimbursement for any assistance provided under this Agreement shall be agreed to prior to the providing of such assistance and shall be in accordance with the following provisions:

A. PERSONNEL – During the Period of Assistance, the Assisting Utility shall continue to pay its employees according to its then prevailing rules and regulations. The Damaged Utility shall reimburse the Assisting Utility for all direct and indirect payroll costs and expenses incurred during the Period of Assistance, including, but not limited to, employee pensions and benefits.

~~G.B.~~ EQUIPMENT – The Assisting Utility shall be reimbursed for the use of its equipment during the Period of Assistance according to the SCHEDULE OF EQUIPMENT RATES established and published by FEMA. If an Assisting Utility uses an alternate basis of rates for equipment listed on the FEMA Schedule of Equipment Rates it shall provide such rates to the Damaged Utility prior to providing assistance. Rates for equipment not referenced on the FEMA Schedule of Equipment Rates shall be developed based on actual recovery of costs.

~~D.C.~~ MATERIALS AND SUPPLIES – The Assisting Utility shall be reimbursed for all materials and supplies furnished by it and used or damaged during the Period of Assistance, unless such damage is caused by negligence of the Assisting Utility's personnel. The measure of reimbursement shall be the replacement cost of the materials and supplies used or damaged, plus ten (10) percent of such cost. In the alternative, the parties may agree that the Damaged Utility will replace, with a like kind and quality as determined by the Assisting Utility, the materials and supplies used or damaged.

~~E.D.~~ PAYMENT – Unless mutually agreed otherwise, the Assisting Utility should bill the requesting utility for all expenses not later than ninety (90) days following the Period of Assistance. The requesting utility shall pay the bill in full not later than forty-five (45) days following the billing date. Unpaid bills shall become delinquent upon the forty-fifth (45th) day following the billing date, and once delinquent shall accrue interest at the rate of prime plus two percent (2%) per annum as reported by the Wall Street Journal.

E. DISPUTED BILLINGS – Those undisputed portions of a billing should be paid under this payment plan. Only the disputed portions should be sent to arbitration under Article VI.

ARTICLE V. INSURANCE

Each Participating Utility shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry. Nothing herein shall act or be construed as a waiver of any sovereign immunity or other exemption or limitation on liability that a Participating Utility may enjoy.

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ARTICLE VI. ARBITRATION

All disputes between two or more participating utilities arising from participation in this Agreement, which cannot be settled through negotiation, shall be submitted to binding arbitration before a panel of three persons chosen from the members of this Mutual Aid Agreement which are participating utilities, excluding those members that are parties to the dispute.

Each party to the dispute shall choose one panel member and those panel members shall agree on one additional panel member.

The panel shall adopt rules of procedure and evidence, shall determine all issues in dispute by majority vote and shall assess damages. The decision of the panel shall be final and binding upon the parties to the dispute.

Water/Wastewater Utility Representative(s):

Name: Mark Juliano

Title: Director of Public Works

Name: Walt Smyser

Title: Dep Director of Public Works

Name of Participating Utility: City of Holly Hill

NOW, THEREFORE, in consideration of the covenants and obligations contained herein, the participating utility listed here, as a Participating Utility duly executes this Water / Wastewater Mutual Aid Agreement this ____ day of _____, 2017.

CITY OF HOLLY HILL

By: _____

Name: Joseph A. Forte

Title: City Manager

As approved by the City Commission on: _____



**STAFF REPORT
CITY OF HOLLY HILL, FLORIDA**

**City Commission
Ordinance**

MEETING DATE: April 11, 2017
FROM: Kurt Swartzlander
SUBJECT: Ordinance 2993 An Ordinance of the City of Holly Hill, Volusia County, Florida, Relating to Solid Waste Franchise Agreements; Amending Section 54-10, G, (2) Insurance and Bond Requirements; Providing for Repeal of All Ordinances and Parts of Ordinances in Conflict Herewith; Providing for Severability; and Providing an Effective Date.
NUMBER: (ID # 1636)
APPLICANT:
PLANNER:

DISCUSSION:

The City code currently calls for Solid Waste Franchises to maintain insurance coverage at a burdensome level. Staff is proposing to adjust the current requirements to align more closely with industry standards. The proposed insurance requirements more closely match what is standard coverage for these types of companies and similar to what other cities require.

FISCAL

ANALYSIS:

This amendment has no impact on either revenues or expenditures. The only exposure the City faces is if it is sued in conjunction with the contractor and the contractors insurance does not provide enough coverage for the incident.

STAFF

RECOMMENDATION:

Approve amendments to the first reading of Ordinance 2993 as proposed.

COMMISSION GOAL:

N/A

MOTION:

APPROVE FIRST READING OF ORDINANCE 2993, AMENDING THE CITY'S SOLID WASTE FRANCHISEE INSURANCE REQUIREMENTS.

Ordinance No. (ID # 1636)**ORDINANCE 2993 AN ORDINANCE OF THE CITY OF HOLLY HILL, VOLUSIA COUNTY, FLORIDA, RELATING TO SOLID WASTE FRANCHISE AGREEMENTS; AMENDING SECTION 54-10, G, (2) INSURANCE AND BOND REQUIREMENTS; PROVIDING FOR REPEAL OF ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.****ORDINANCE 2993**

AN ORDINANCE OF THE CITY OF HOLLY HILL, VOLUSIA COUNTY, FLORIDA, RELATING TO SOLID WASTE FRANCHISE AGREEMENTS; AMENDING SECTION 54-10, G (2) INSURANCE AND BOND REQUIREMENTS; PROVIDING FOR REPEAL OF ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Holly Hill desires to amend the Solid Waste Franchise Agreement Insurance Requirements; and

WHEREAS, the City of Holly Hill finds its current insurance requirements burdensome for franchisees.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF HOLLY HILL, VOLUSIA COUNTY, FLORIDA:

SECTION 1. The City Commission hereby amends section 54-10 G (2) to read as follows:

Sec. 54-10. - Franchises/non-exclusive franchises.

(g) *Insurance and bond requirements.* The city commission of the City of Holly Hill hereby enacts a new section of the Code of Ordinances of the City of Holly Hill to read as follows:

- (1) Franchisees are authorized under this section to aid the city in fulfilling its responsibility for providing an adequate, safe and sanitary system of collecting, transporting and disposing of refuse from buildings and establishments which are not covered by the city franchisees' solid waste and recyclables collection services franchise agreements.
- (2) All solid waste or recyclable collection franchisees who are issued a franchise shall secure and maintain a public liability insurance policy in the amount of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 Aggregate, and an umbrella coverage in an amount not less than \$2,000,000.00. ~~for one person injured, and \$5,000,000.00 for more than one person injured, and property damage liability insurance of not less than \$5,000,000.00.~~ Evidence of such insurance shall be ~~deposited with the~~ submitted to the building department city clerk, or designee, prior to issuance of the franchise. The franchisee shall maintain an insurance policy in place issued by a licensed insurance company permitted to do business in the State of Florida for a public liability and property damage in the amounts specified. The city shall be named as an additional insured, and the policy shall provide that the city shall be provided at least 30 days' written notice prior to cancellation or any modification. Throughout the duration of the franchise, the franchisee shall supply the city with a renewal or replacement certificate of insurance not less than 30 days before expiration or replacement of the insurance for which a previous certificate has been provided. Failure to maintain insurance shall be a per se breach of the franchise.

SECTION 2. All ordinances made in conflict with the Ordinance are hereby repealed to the extent of such conflict.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by a Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

SECTION 4. This Ordinance shall become effective immediately upon adoption.

APPROVED AND AUTHENTICATED ON FIRST READING on this 11th day of APRIL, 2017.



**STAFF REPORT
CITY OF HOLLY HILL, FLORIDA**

**City Commission
Agenda Item**

MEETING DATE: April 11, 2017
FROM: Kurt Swartzlander
SUBJECT: Proposed Budget Calendar for Fiscal Year 2017-2018
NUMBER: (ID # 1637)
APPLICANT:
PLANNER:

DISCUSSION:

City staff is proposing the following budget calendar. Please see attached documentation. As is our usual custom, we will need to move the first meeting in September from Tuesday September 12 to Monday September 11, 2017.

We cannot hold our meeting the same time as the Volusia County School Board therefore we must pick a different date.

FISCAL ANALYSIS:

N/A

STAFF

RECOMMENDATION:

Move meeting to Monday, September 11, 2017 at 7:00 PM

COMMISSION GOAL:

N/A

MOTION:

Motion to move meeting to Monday, September 11, 2017 at 7:00 PM instead of Tuesday, September 12, 2017.

- Budget Calendar - Proposed FY17-18 (PDF)

FISCAL YEAR 2017-2018		
BUDGET CALENDAR		
2017 DEADLINES	RESPONSIBLE PARTY	REQUIRED ACTIVITY
05/12/17	Dept. Heads	Submit Capital Plans to Finance Department
05/12/17	Dept. Heads	Enter proposed budgeted operational expenses into HTE (to include proposed line item details and capital)
05/15/17	Finance Dept.	Revenue Estimates less Ad Valorem Taxes
5/22/17-5/26/17	Dept. Heads	Dept. Budget Meetings w/City Manager
5/23/2017*	City Commission	16-17 Mid Year Budget Review. Workshop 6:00pm
06/01/17	Property Appraiser	Preliminary city wide taxable values (not including CRA value)
06/27/2017*	City Commission	Budget Workshop 6:00pm
		Presenting Departments: HR, PD, FD, B&Z, IT, CM, Commission, Finance
07/01/17	Property Appraiser	City wide taxable values including CRA value
07/11/2017*	City Commission	Budget Workshop 6:00pm
		Presenting Departments: Public Works, Solid Waste
07/15/17	Finance Dept.	Proposed Budgets for Distribution for Agenda
07/25/2017*	City Commission	Budget Workshop 6:00pm
		Presenting Departments: CRA & Econ. Dev.
07/25/2017*	City Commission	Establish Maximum Millage Rate for FY 2017-2018
07/30/17	Finance Dept.	Notify Property Appraiser of Proposed Millage rate in compliance with TRIM requirements
08/22/17	Property Appraiser	Mail NOPPT to all parcel owners
09/11/2017**	City Commission	Adopt Tentative Millage Rate
09/11/2017**	City Commission	Adopt Tentative Budget
09/12/17	City Commission	Regular Scheduled Meeting Moved to 9/11/17 Due to TRIM Requirements.
09/23/17	Finance Dept.	Advertise Public Hearings to consider final adoption of the budgets, final millage rate and operating expenditures for FY 2017-18
09/26/2017*	City Commission	Conduct Public Hearings to adopt Final Millage Rate
09/26/2017*	City Commission	Conduct Public Hearings to adopt Final Budget
09/27/17	Finance Dept.	Notify Property Appraiser of adopted Final Millage Rate
09/27/17	Finance Dept.	Certify through online TRIM final millage rate, maximum millage calculation and final vote.
09/27/17	Finance Dept.	Begin distribution of Final Budget Documents and prepare final budget in accounting software for beginning of new fiscal year.
10/01/17	Property Appraiser	Distribute Final CRA Values
10/08/17	Finance Dept.	Certify to State final TRIM filings.

* Regular Commission Meeting

** Monday Meeting

Attachment: Budget Calendar - Proposed FY17-18 (1637 : City Manager Budget Calendar FY2017-18 - Staff Report)



**STAFF REPORT
CITY OF HOLLY HILL, FLORIDA**

**City Commission
Agenda Item**

MEETING DATE: April 11, 2017
FROM: Joseph Forte
SUBJECT: Support of the Halifax Humane Society Grant Application to Petco
NUMBER: (ID # 1635)
APPLICANT:
PLANNER:

DISCUSSION:

The Halifax Humane Society is applying to Petco for a grant to assist in the funding of their Spay and Neuter program. If awarded, qualified Holly Hill residents may be eligible to have their pet spayed or neutered at no cost.

FISCAL

ANALYSIS:

There is no cost to the City of Holly Hill

STAFF RECOMMENDATION:

No action necessary, for informational purposes only.

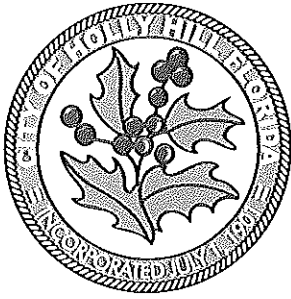
COMMISSION GOAL:

Goal #4: Provide proficient public health and safety services in terms of police and fire protection, water, storm water, waste water and solid waste management and disaster preparedness with a focus on intergovernmental collaboration, private sector partnerships, and utilization of technologies and proven innovations.

MOTION:

None.

- Letter of support to the HHS for Petco grant (PDF)



CITY OF HOLLY HILL
 The City with a Heart
 1065 Ridgewood Avenue ♥ Holly Hill, Florida 32117
 www.hollyhillfl.org

March 31, 2017

**Building,
Zoning,
Licensing &
Inspections**

386-248-9442
 Fax 386-248-9498

**City
Clerk**

386-248-9441
 Fax 386-248-9448

**City
Manager**

386-248-9425
 Fax 386-248-9448

**Community
Services**

386-248-9435
 Fax 386-248-9448

**Economic
Development**

386-248-9444
 Fax 386-248-9448

Finance

386-248-9427
 Fax 386-248-9497

**Human
Resources**

386-248-9440
 Fax 386-248-9448

**Information
Technology**

386-248-9459
 Fax 386-248-9448

**Public
Works**

386-248-9463
 Fax 386-248-9499

**Utility
Billing**

386-248-9432
 Fax 386-248-9458

**Mayor & City
Commission**

386-248-9441
 Fax 386-248-9448

Petco Foundation, Extraordinary Gifts
 Attn: Paul Jolly
 9125 Rehco Road
 San Diego, Ca. 92121

Dear Mr. Jolly:

Please accept this letter of support for the Halifax Humane Society (HHS) in regard to the Petco Companion Animal Transport Program grant. The City of Holly Hill has worked with the HHS many times throughout the years and has seen firsthand the quality of their organization, staff, volunteers, and supporters.

On a regular basis, HHS staff and volunteers bring animals Petco stores in the hopes of finding them forever homes. The dedication they show on a consistent basis for their adoption program is a small glimpse of their overall dedication to assisting homeless and abused animals in Volusia County. The City of Holly Hill believes HHS would use awarded grant funds to make a big difference in our community.

It is our hope that the Petco Foundation will continue supporting this worthy cause and the City of Holly Hill looks forward to working with the HHS on their adoption promotions.

If you need any further information regarding the City of Holly Hill's experience with the Halifax Humane Society and support of their work, feel free to contact me.

Sincerely,

Mark Ballard,
 Code Enforcement Officer
 City of Holly Hill

C. City Commission
 City Manager, Joseph Forte



**STAFF REPORT
CITY OF HOLLY HILL, FLORIDA**

**City Commission
Agenda Item**

MEETING DATE: April 11, 2017
FROM: Joseph Forte
SUBJECT: TMH Consulting, Inc. - Final Contract Renewal
NUMBER: (ID # 1634)
APPLICANT:
PLANNER:

DISCUSSION:

In May 2013, the City entered into a continuing services agreement with TMH Consulting, Inc., (Tom Harowski) for a period of three years with two (2) one year renewals. The City Manager is authorized to extend the contract for each one year period for a total of two years.

This agreement was extend for one year and is up for a final one year renewal at the discretion of the City Manager. The City Manager is proceeding with extending the final year of this contract on a month to month basis through the end of the fiscal year.

Due to an increase in the need for planning services, the City Manager will be recommending and budgeting for a full time City Planner in the 2017/2018 fiscal year.

FISCAL ANALYSIS:

The City has budgeted in the current year \$71,200.00, which will cover this expense through the end of the fiscal year.

STAFF

RECOMMENDATION:

Presented to the City Commission for informational purposes. No action needed.

COMMISSION

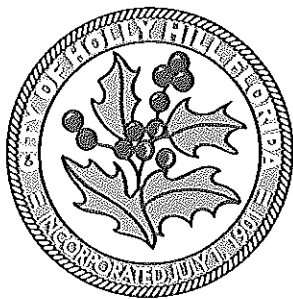
GOAL:

Goal #4: Provide proficient public health and safety services in terms of police and fire protection, water, storm water, waste water and solid waste management and disaster preparedness with a focus on intergovernmental collaboration, private sector partnerships, and utilization of technologies and proven innovations.

MOTION:

None

- TMH Consulting, Inc. - Final Renewal (PDF)
- TMH Consulting, Inc. - Tom Harowski - Consulting Services (PDF)



CITY OF HOLLY HILL

The City with a Heart

1065 Ridgewood Avenue ♥ Holly Hill, Florida 32117

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Building, Zoning, Licensing & Inspections

386-248-9442
Fax 386-248-9498

City Clerk

386-248-9441
Fax 386-248-9448

City Manager

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Fax 386-248-9448

Community Services

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Public Works

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Fax 386-248-9499

Utility Billing

386-248-9432
Fax 386-248-9458

Mayor & City Commission

386-248-9441
Fax 386-248-9448

March 30, 2017

Tom Harowski
THM Consulting, Inc.
97 N. Saint Andrews Drive
Ormond Beach, FL 32174

Mr. Harowski,

On May 15, 2013, your firm entered into a continuing services Contract with the City of Holly Hill to provide Planning Services under RFQ-PLN-13-01. As stated in Section 11 of the Contract, the contract term is for a period of three years. Subsequent to the conclusion of the initial three year term, this Contract may be renewed by the City Manager for one (1) each year for a total of an additional two (2) years. Should the City wish to not have this Contract renewed for any year, the City shall provide written notice to the CONTRACTOR thirty (30) days prior to the ending date.

The City Commission approved a belated one year renewal on July 26, 2016 because a formal renewal was not completed in a timely fashion. This action left a one year renewal to the Contract.

The City has chosen to renew the THM Consulting, Inc. Contract, on a month to month basis, under the same terms and conditions as provided for in the original Contract. It is the City's intention to start the next fiscal year by hiring a full time planner on staff. The recent increase in demand for planning services is the cause for this decision to move toward a full time position.

Let it be known, the services of THM Consulting has met or exceeded the expectations of the City of Holly Hill and this decision in no way reflects anything other than a need for full time services.

Your signing to this letter is in acknowledgement to continue to provided services under the current Contract on a month to month basis.

Sincerely,

Joseph A. Forte

Accepted

Thomas Harowski



CITY OF HOLLY HILL

The City with a Heart

1065 Ridgewood Avenue ♥ Holly Hill, Florida 32117

www.hollyhillfi.org

**Building,
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Licensing &
Inspections**

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Fax 386-248-9448

**Community
Services**

386-248-9435
Fax 386-248-9448

**Economic
Development**

386-248-9424
Fax 386-248-9444

Finance

386-248-9427
Fax 386-248-9497

**Human
Resources**

386-248-9440
Fax 386-248-9448

**Information
Technology**

386-248-9459
Fax 386-248-9448

**Public
Works**

386-248-9463
Fax 386-248-9499

**Utility
Billing**

386-248-9432
Fax 386-248-9458

**Community
Development &
Resource Center**

386-248-9453
Fax 386-248-9437

May 16, 2013

Thomas A. Harowski
TMH Consulting, Inc.
97 N. Saint Andrews Drive
Ormond Beach, FL 32174

Re: Continuing Services Agreement with the City of Holly Hill

Dear Mr. Harowski:

On May 15, 2013, your firm entered into a continuing services agreement with the City of Holly Hill to provide Planning Services under RFQ-PLN-13-01. As stated in Section 11 of the referenced agreement, the contract term is for a period of three years, with renewal options, and services shall begin upon written notification to proceed by the City. This letter and the fully executed contract attached hereto serve as the official notice to proceed.

On behalf of the City, thank you for your interest in our community. We look forward to working together with your firm in our continuous effort to improve the City of Holly Hill.

Sincerely,

James A. McCroskey
City Manager

JAM/jnm

Cc: Valerie Manning, City Clerk

CITY OF HOLLY HILL
SERVICES AGREEMENT FOR
Planning Services With TMH Consulting, Inc.
(REQUEST FOR QUALIFICATION RFQ-PLN-13-01)

THIS AGREEMENT made and entered into the 15th day of May, 2013
by and between the:

City of Holly Hill, Florida
1065 Ridgewood Avenue
Holly Hill, Florida 32117

a municipal corporation of the State of Florida, holding tax exempt status, hereinafter referred to as the "City," and:

TMH Consulting, Inc.
97 N. Saint Andrews Drive
Ormond Beach, Florida 32174

a corporation, authorized to do business in the State of Florida, hereinafter referred to as the "Contractor".

The City and the Contractor are collectively referred to herein as the "parties".

WITNESSETH:

WHEREAS, the City desires to retain the Contractor for the work identified in the Request For Qualifications (RFQ) and description of services outlined in Exhibit A; and

WHEREAS, the City desires to employ the Contractor for the performance to support the activities, programs, and projects of the City upon the terms and conditions hereinafter set forth, and the Contractor is desirous of performing and providing such services upon said terms and conditions; and

WHEREAS, the Contractor hereby warrants and represents to the City that it is competent and otherwise able to provide professional and high quality services to the City; and

WHEREAS, all submissions submitted by the Contractor in the Qualifications/RFQ submitted to the City are hereby incorporated to the extent not inconsistent with the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by and between the parties hereto as follows:

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SECTION 1: DEFINITIONS.

Ad valorem - In proportion to the estimated value of the goods taxed.

Agreement - This document and all subsequent Work Orders between the City and Contractor. Each Exhibit, as identified below, even if not physically attached, shall be treated as if they were part of this Agreement. The effective date of this Agreement is the date City Commission approves the selection of the Contractor.

Billing Period - The period of time between project commencement to the close of the current period, (inclusive); or from the close of the previous billing period, (exclusive), to the close of the current period, usually concurrent with the month. In no case shall this period be less than one calendar month except for the final Billing Period.

Bona Fide - Made or carried out in good faith; sincere.

City - The City of Holly Hill, a municipal corporation of the State of Florida holding tax exempt status.

Contractor - To include all principals of the Contractor including, but not limited to, full and part time employees, professional or otherwise, and all other agents employed by or for Contractor to perform its obligations hereunder.

Description of Services - Shall be written in paragraph form reasonably describing those services the City can expect the Contractor to provide. The description shall be written in such a manner that the type of service is clearly provided, but broad enough that all services reasonably expected of the Contractor, including services provided by partners, subcontractors, and other supporting professionals, can be provided to the City.

Designated Representative - A person who administers, reviews, and coordinates the provision of services. This definition applies equally to the City and to the Contractor.

- Exhibit A - Description of Services
- Exhibit B - Certificate of Liability Insurance
- Exhibit C - Draft City Work Order Form
- Exhibit D - ADA Form
- Exhibit E - Price Schedule
- Exhibit F - Business Tax Receipt - (City of Holly Hill)
- Exhibit G - W-9

Force Majeure - Force Majeure shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, explosion, any law, proclamation, regulation, or ordinance or other act of government, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause whether or not enumerated in this Agreement is beyond the control and without the fault or negligence of the party seeking relief under this Agreement.

Law - Said phrase shall include statutes, codes, rules, and regulations of whatsoever type or nature enacted or adopted by a governmental entity of competent jurisdiction.

Pari Materia - of the same matter; on the same subject. Laws pari materia must be construed with reference to each other/together when related to the same matter or subject. The provisions of a contract/agreement are to be construed together with no isolated construction of a particular provision such that it would defeat the overall intent of the contract/agreement.

Submittals - Any item required by this agreement that the Contractor must provide the City either for inclusion as part of this agreement or not.

Type of Service - Planning Services of a professional nature in accordance with the controlling provisions of law,

Work Order - A detailed description of quantities, services, and a completion schedule provided issued by the City on it's approved form which, on occasion, may contain documents published on Contractor letterhead describing all work associated with the service to be provided by the Contractor to the City for an agreed price referencing this Agreement by title and date.

SECTION 2: CAPTIONS.

The Section headings and captions of this Agreement are for convenience and reference only and in no way define, limit, describe the scope or intent of this Agreement or any part thereof, or in any way affect this Agreement or construe any provision of this Agreement.

SECTION 3: EXTENT OF AGREEMENT/INTEGRATION/AMENDMENT.

- (a). This Agreement, together with the Exhibits, constitutes the entire integrated Agreement between the City and the Contractor and supersedes all prior written or oral understandings in connection therewith. This Agreement, and all the terms and provisions contained herein, including without limitation the Exhibits attached, constitute the full and complete agreement between the parties hereto to the date hereof, and supersedes and controls over any and all prior agreements, understandings, representations, correspondence, and statements, whether written or oral.
- (b). This Agreement may only be amended, supplemented, or modified by a formal written amendment.
- (c). Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties.
- (d). The Exhibits made part of this Agreement are as follows:
 - Exhibit A - Description of Services
 - Exhibit B - Certificate of Liability Insurance
 - Exhibit C - Draft City Work Order Form
 - Exhibit D - ADA Form
 - Exhibit E - Price Schedule
 - Exhibit F - Business Tax Receipt – (City of Holly Hill)
 - Exhibit G - W-9

SECTION 4: NO GENERAL CITY OBLIGATION.

- (a). In no event shall any obligation of the City under this Agreement be or constitute a general obligation or indebtedness of the City, a pledge of the ad valorem taxing power of the City or a general obligation or indebtedness of the City within the meaning of the Constitution of the State of Florida or any other applicable laws, but shall be payable solely from legally available revenues and funds.
- (b). The Contractor shall not have the right to compel the exercise of the ad valorem taxing power of the City.

SECTION 5: CONTRACTOR UNDERSTANDING OF SERVICES REQUIRED

- (a). Execution of this Agreement by the Contractor is a representation that the Contractor is familiar with local conditions and with the services to be performed. The Contractor shall make no claim for additional time or money based upon its failure to comply with this Agreement. The Contractor has informed the City, and hereby represents to the City, that it has extensive experience in performing and providing the services and/or goods described in this Agreement and to be identified in the Work Orders, and that it is well acquainted with the components that are properly and customarily included within such projects and the requirements of laws, ordinances, rules, regulations, or orders of any public authority or licensing entity having jurisdiction over City Projects. Execution of a Work Order shall be an affirmative and irrefutable representation by the Contractor to the City that the Contractor is fully familiar with any and all requisite work conditions of the provisions of the services.

- (b). The recitals herein are true and correct and form and constitute a material part of this Agreement upon which the parties have relied.
- (c). It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties, or as constituting the Contractor (including, but not limited to, its officers, employees, and agents) the agent, representative, or employee of the City for any purpose, or in any manner, whatsoever. The Contractor is to be and shall remain forever an independent Contractor with respect to all services performed under this Agreement.
- (d). Persons employed by the Contractor in the provision and performance of the services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the City's officers and employees either by operation of law or by the City.

SECTION 6: GENERAL PROVISIONS.

- (a). Each party hereto represents to the other that it has undertaken all necessary actions to execute this Agreement, and that it has the legal authority to enter into this Agreement, and to undertake all obligations imposed on it. The person(s) executing this Agreement for the Contractor certifies/certify that he/she/they is/are authorized to bind the Contractor fully to the terms of this Agreement.
- (b). This Agreement is for services pertaining to various Planning and related services needed for the City's operations as set forth herein and as otherwise directed by the City to include all labor and materials that may be required.
- (c). The Contractor acknowledges that the City may retain other Contractor to provide the same types of services for City projects. The City reserves the right to select which Contractor shall provide services for City projects.
- (d). The Contractor acknowledges that the City has retained other Contractors and the coordination between said Contractors and the Contractor may be necessary from time to time for the successful completion of each Work Order. The Contractor agrees to provide such coordination as necessary within the Scope of Services as contained in Section 12; Description of Services.
- (e). The Contractor agrees to provide and ensure coordination between goods / services providers.
- (f). Time is of the essence of the lawful performance of the duties and obligations contained in this Agreement to include, but not be limited to, each Work Order. The parties covenant and agree that they shall diligently and expeditiously pursue their respective obligations set forth in this Agreement and each Work Order.
- (g). Contractor shall maintain an adequate and competent staff or professionally qualified persons throughout the performance of this Agreement to ensure acceptable and timely completion of each Work Order.
- (h). Requirements for signing and sealing plans, reports, and documents prepared by the Contractor shall be governed by the laws and regulations of Volusia County and State Regulatory agencies.
- (i). The Contractor hereby guarantees the City that all material, supplies, services, and equipment as listed on a Purchase Order meet the requirements, specifications, and standards as provided for under the Federal Occupations Safety and Health Act of 1970, from time to time amended and in force on the date hereof.
- (j). No claim for services furnished by the Contractor not specifically provided for herein shall be honored by the City.

SECTION 7: CODES AND DESIGN STANDARDS

- (a). All the services to be provided or performed by the Contractor shall in the minimum be in conformance with commonly accepted industry and professional codes and standards, standards of the City, and the laws of any Federal, State, or local regulatory agencies.
- (b). The Contractor shall be responsible for keeping apprised of any changing laws applicable to the services to be performed under this Agreement.

SECTION 8: SUBCONTRACTORS.

- (a). Any Contractor proposed SubContractor shall be submitted to the City for written approval prior to the Contractor entering into a subcontract. SubContractor information shall include, but not be limited to, State registrations, business address, occupational license tax proof of payment, and insurance certifications.
- (b). The Contractor shall coordinate the provision of services and work product of any City approved SubContractor and remain fully responsible for such services and work under the terms of this Agreement.
- (c). Any subcontract shall be in writing and shall incorporate this Agreement and require the subcontractors to assume performance of the Contractor duties commensurately with the Contractor's duties to the City under this Agreement, it being understood that nothing herein shall in any way relieve the Contractor from any of its duties under this Agreement. The Contractor shall provide the City with executed copies of all subcontracts.

SECTION 9: ASSIGNABILITY.

The Contractor shall not sublet, assign, or transfer any interest in this Agreement, or claims for the money due or to become due out of this Agreement to a bank, trust company, or other financial institution without written City approval. When approved by the City, written notice of such assignment or transfer shall be furnished promptly to the City.

SECTION 10: COMMENCEMENT / IMPLEMENTATION SCHEDULE OF AGREEMENT.

- (a). The Contractor shall commence the provision of services as described in this Agreement immediately upon execution of this Agreement.
- (b). The Contractor and the City agree to make every effort to adhere to the schedules established for the various Work Orders as described in each Work Order. However, if the Contractor is delayed at any time in the provision of services by any act or omission of the City, or of any employee of the City, or by any other Contractor employed by the City, or by changes ordered by the City, or by strikes, lock outs, fire, unusual delay in transportation, unavoidable casualties, or any other causes of Force Majeure not resulting from the inactions or actions of the Contractor and beyond the Contractor's control which would not reasonably be expected to occur in connection with or during performance or provision of the services, or by delay authorized by the City pending a decision, or by any cause which the City shall decide to justify the delay, the time of completion shall be extended for such reasonable time as the City may decide in its sole and absolute discretion. It is further expressly understood and agreed that the Contractor shall not be entitled to any damages or compensation, or be reimbursed for any losses on account of any delay or delays resulting from any of the aforesaid causes or any other cause whatsoever.

SECTION 11: LENGTH OF AGREEMENT.

- (a). The term of this Contract is three (3) year commencing on the date of full execution of this Contract by the parties.
- (b). The CONTRACTOR services shall begin upon written notification to proceed by the CITY.

- (c). CONTRACTOR services shall be on a work order basis and may include matters such as serving as an expert witness.
- (d). Subsequent to the conclusion of the initial three (3) year term, this Contract may be renewed by the City Manager for one (1) each year for total of an additional two (2) years. Should the CITY wish to not have this Contract renewed for any year, the CITY shall provide written notice to the CONTRACTOR thirty (30) days prior to the ending date.

SECTION 12: DESCRIPTION OF SERVICES.

- (a). The Contractor agrees to perform diverse planning services for the City relating to various projects of the City. The Description of Services is further and more specifically outlined in Exhibit A.
- (b). The Contractor shall diligently and in a professional and timely manner perform and provide the services outlined herein or as included in each subsequently entered Work Order. Unless modified in writing by the parties hereto, the duties of the Contractor shall not be construed to exceed the provision of the services pertaining to this Agreement.
- (c). The City and Contractor agree that there may be certain additional services required to be performed by the Contractor during the performance of the Work Orders that can not be defined sufficiently at the time of execution of this Agreement. Such services shall be authorized in writing as a Change Order in accordance with Section 21. The Work Orders may contain additional instructions or provide specifications upon certain aspects of this Agreement pertinent to the work to be undertaken. Such supplemental instructions or provisions shall not be construed as a modification of this Agreement.

SECTION 13: CONTRACTOR RESPONSIBILITIES.

- (a). The Contractor shall be responsible for the professional quality, accepted standards, technical accuracy and the coordination of all services furnished by the Contractor under this Agreement as well as the conduct of its staff, personnel, employees, and agents. The Contractor shall work closely with the City on all aspects of the provision of the services. With respect to services, the Contractor shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy, and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by the Contractor under this Agreement. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature.
- (b). The Contractor shall furnish a Contractor Designated Representative to administer, review, and coordinate the provision of services under this Agreement and each Work Order.
- (c). Neither City review, approval, or acceptance of, nor payment for, any of the services required under this Agreement shall be construed to operate as a waiver of any rights or of any cause of action arising out of the performance of this Agreement. The Contractor shall be and shall remain liable to the City in accordance with applicable law for all damages to the City caused by the Contractor's negligent or improper performance or failure to perform any of the services furnished under this Agreement.
- (d). The rights and remedies of the Contractor, provided for under this Agreement, are in addition to any other rights and remedies provided by law.
- (e). In the event the Contractor fails to comply with the terms and conditions of this Agreement, the City shall notify the Contractor's Designated Representative in writing so that the Contractor may take remedial action.
- (f). Time is of the essence in the performance of all services provided by the Contractor under the terms of this Agreement and each and every Work Order.

SECTION 14: CITY RIGHTS AND RESPONSIBILITIES.

- (a). The City shall reasonably cooperate with the Contractor in a timely fashion at no cost to the Contractor as set forth in this Section.
- (b). The City shall furnish a City Designated Representative to administer, review, and coordinate the provision of services under each Work Order.
- (c). The City shall make City personnel available where, in the City's opinion, they are required and necessary to assist the Contractor. The availability and necessity of said personnel to assist the Contractor shall be determined solely at the discretion of the City.
- (d). The City shall furnish the Contractor with existing data, records, maps, plans, specifications, reports, fiscal data, and other planning information that is available in the City's files that is necessary or useful to the Contractor for the performance of the Work. All such documents conveyed by the City shall be, and remain the property of, the City and shall be returned to the City upon completion of the Work to be performed by the Contractor.
- (e). The City shall examine all Contractor reports, sketches, drawing, estimates, Qualifications, and other documents presented to the City and indicate the City's approval or disapproval within a reasonable time so as not to materially delay the provisions of the services of the Contractor.
- (f). The City shall provide access to and make provisions for the Contractor to enter upon public and private lands as required for the Contractor within a reasonable time to perform work as necessary to complete the Work Order.
- (g). The City shall transmit instructions, relevant information, and provide interpretation and definition of City policies and decisions with respect to any and all materials and other matters pertinent to the services covered by this Agreement.
- (h). The City shall give written notice to the Contractor whenever the City designated representative knows of a development that affects the services provided and performed under this Agreement, timing of the Contractor's provision of services, or a defect or change necessary in the services of the Contractor.
- (i). The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law; the City may assert its right of recovery by any appropriate means including, but not limited to, set-off, suit, withholding, recoupment, or counterclaim, either during or after performance of this Agreement.
- (j). The City shall be entitled to recover any and all legal costs including, but not limited to, attorney fees and other legal costs that it may incur in any legal actions it may pursue in the enforcement of the terms and conditions of this Agreement or the responsibilities of the Contractor in carrying out the duties and responsibilities deriving from this Agreement.
- (k). The failure of the City to insist in any instance upon the strict performance of any provision of this Agreement, or to exercise any right or privilege granted to the City hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.
- (l). Neither the City's review, approval or acceptance of, nor payment for, any of the services required shall be construed to operate as a waiver of any rights under this Agreement nor or any cause of action arising out of the performance of this Agreement and the Contractor shall be and always remain liable to the City in accordance with applicable law for any and all damages to the City caused by the Contractor's negligent or wrongful provision or performance of any of the services furnished under this Agreement.
- (m). All deliverable analysis, reference data, survey data, plans and reports, or any other form of written instrument or document that may result from the Consultant's services or have been created

during the course of the Contractor's performance under this Agreement shall become the property of the City after final payment is made to the Contractor.

- (n). In the event the City fails to comply with the terms and conditions of this Agreement, the Contractor shall notify the City's Designated Representative in writing so that the City may take remedial action.

SECTION 15: WAIVER.

The failure of the City to insist in any instance upon the strict performance of any provision of this Agreement, or to exercise any right or privilege granted to the City hereunder, shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.

SECTION 16: FORCE MAJEURE.

Neither party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations, or any of them, is delayed or prevented by Force Majeure.

SECTION 17: STANDARDS OF CONDUCT.

- (a). The Contractor warrants that it has not employed or retained any company or person, other than a Bona Fide employee working solely for the Contractor, to solicit or secure this Agreement and that the Contractor has not paid or agreed to pay any person, company, corporation, individual, or firm other than a Bona Fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award of making this Agreement.
- (b). If the City determines that any employee or representative of the Contractor is not satisfactorily performing his or her assigned duties or is demonstrating improper conduct pursuant to any assignment or work performed under this Agreement, the City shall so notify the Contractor, in writing. The Contractor shall immediately remove such employee or representative of the Contractor from such assignment.
- (c). The Contractor hereby certifies (in writing) that no undisclosed conflict of interest exists with respect to the Agreement, including, but not limited to, any conflicts that may be due to representation of other clients, customers or vendees, other contractual relationships of the Contractor, or any interest in property that the Contractor may have. The Contractor further certifies that any conflict of interest that arises during the term of this Agreement shall be immediately disclosed in writing to the City. Violation of this Section shall be considered as justification for immediate termination of this Agreement.
- (d). The Contractor shall not engage in any action that would create a conflict of interest for any City employee or other person during the course of performance of, or otherwise related to, this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.
- (e). The City shall not intentionally award publicly-funded contracts to any Contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) Section 274A(e) of the Immigration and Nationality Act (INA)]. The City shall consider the employment by the Contractor of unauthorized aliens, a violation of Section 274A (e) of the INA. Such violation by the Contractor of the employment provisions contained in Section 274A (e) of the INA shall be grounds for immediate termination of this Agreement by the City.
- (f). The Contractor shall comply with the requirements of the Americans with Disabilities Act (ADA), and any and all related Federal or State laws which prohibits discrimination by public and private entities on the basis of disability.

- (g). The Contractor shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement or violate any laws pertaining to civil rights, equal protection, or discrimination.
- (h). If the Contractor or an affiliate is placed on a discriminatory vendor list, such action may result in termination by the City. The Contractor shall certify, upon request by the City that it is qualified to submit a bid under Section 287.134, Discrimination, (2) (c), Florida Statutes.
- (i). If the Contractor or an affiliate is placed on the convicted vendor list following a conviction for a public entity crime, such action may result in termination by the City. The Contractor shall certify, upon request by the City, that is qualified to submit a bid under Section 287.133, Public Entity Crime, (2)(a), Florida Statutes.
- (j). The Contractor shall certify, upon request by the City, that the Contractor maintains a drug free workplace policy in accordance with Section 287.0878, Florida Statutes. Failure to submit this certification may result in termination.
- (k). The Contractor agrees to comply with Federal, State, and local environmental, health, and safety laws and regulations applicable to the services provided to the City. The Contractor agrees that any program or initiative involving the work that could adversely affect any personnel involved, citizens, residents, users, neighbors or the surrounding environment shall ensure compliance with any and all employment safety, environmental and health laws.
- (l). If applicable, in accordance with Section 216.347, Florida Statutes, the Contractor shall not use funds provided by this Agreement for the purpose of lobbying the Legislature, the Judicial Branch, or State Agency.
- (m). The Contractor shall not publish any documents or release information regarding this Agreement to the media without prior approval of the City.
- (n). The Contractor shall ensure that all services are provided to the City after the Contractor has obtained, at its sole and exclusive expense, any and all permits, licenses, permissions, approvals or similar consents.
- (o). The Contractor shall ensure that all taxes due from the Contractor are paid in a timely and complete manner including, but not limited to, occupational license tax.

SECTION 18: NOTICES.

(a). Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section.

(b). For the present, the parties designate the following as the representative places for giving of notice, to-wit:

(1). For the City:

James A. McCroskey
City Manager
City of Holly Hill
1065 Ridgewood Avenue
Holly Hill, Florida 32117
(386)248-9440

(2). For the Contractor:

Thomas A. Harowski
President

TMH Consulting, Inc.
 97 Saint Andrews Drive
 Ormond Beach, FL 32174-3840
 Telephone Number: (386)316-8426
 E-mail Address: tmhconsulting@cfl.rr.com

(c). Written notice requirements of this Agreement shall be strictly construed and such requirements are a condition precedent to pursuing any rights or remedies hereunder. The Contractor agrees not to claim any waiver by City of such notice requirements based upon City having actual knowledge, implied, verbal or constructive notice, lack of prejudice, or any other grounds as a substitute for the failure of the Contractor to comply with the express written notice requirements herein. Computer notification (e-mails and message boards) shall not constitute proper written notice under the terms of the Agreement.

SECTION 19: DESIGNATED REPRESENTATIVES.

(a). The City Manager, or his designated representative, represents the City in all matters pertaining to and arising from the work and the performance of this Agreement.

(b). The City Manager or his designated representative shall have the following responsibilities:

(1). Examination of all work and rendering, in writing, decisions indicating the City's approval or disapproval within a reasonable time so as not to materially delay the work of the Contractor;

(2). Transmission of instructions, receipt of information, and interpretation and definition of City's policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement;

(3). Giving prompt written notice to the Contractor whenever the City knows of a defect or change necessary in the project; and

(c). Until further written notice, the City's Designated Representative for this Agreement is:

City Manager
 City of Holly Hill
 1065 Ridgewood Avenue
 Holly Hill, Florida 32117
 Telephone Number: (386) 248-9440

(d). Prior to start of any work under this Agreement, the Contractor shall submit to the City detailed resumes of key professional personnel that will be involved in performing services described in the work. The City hereby acknowledges its acceptance of such personnel to perform services under this Agreement. At any time hereafter that the Contractor desires to change key professional personnel in an active assignment, it shall submit the Qualifications of the new professional personnel to the City for prior approval. Key professional personnel shall include the principal-in-charge, project managers, and others interfacing with City personnel.

(e). Until further written notice, the Contractor's Designated Representative for this Agreement is:

Thomas A. Harowski
 President
 TMH Consulting, Inc.
 97 Saint Andrews Drive
 Ormond Beach, FL 32174-3840
 Telephone Number: (386)316-8426
 E-mail Address: tmhconsulting@cfl.rr.com

SECTION 20: WORK ORDERS.

- (a). The provision of services to be performed under this Agreement may commence immediately upon the execution of this Agreement or a Work Order as directed and determined by the City. Services to be provided by the Contractor to the City shall be negotiated between the Contractor and the City. Each Work Order shall reference this agreement by title and date, include a detailed description of quantities, services, and a completion schedule, and will be provided on Contractor letterhead. Services described in said Work Order will commence upon the issuance of a City Notice-To-Proceed.
- (b). If the services required to be performed by a Work Order is clearly defined, the Work Order shall be issued on a "Fixed Fee" basis. The Contractor shall perform all services required by the Work Order but in no event shall the Contractor be paid more than the negotiated Fixed Fee amount stated therein.
- (c). The Contractor and the City agree to make every effort to adhere to the schedule established for the various Work Orders described in the Work Order.
- (d). If the services are not clearly defined, the Work Order may be issued on a "Time Basis Method" and contain a Not-to-Exceed amount. If a Not-to-Exceed amount is provided, the Contractor shall perform all work required by the Work Order; but in no event shall the Contractor be paid more than the Not-to-Exceed amount specified in the applicable Work Order.
- (e). For Work Orders issued on a "Fixed Fee Basis," the Contractor may invoice the amount due based on the percentage of total Work Order services actually performed and completed; but in no event shall the invoice amount exceed a percentage of the Fixed Fee amount equal to a percentage of the total services actually completed.
- (f). For Work Orders issued on a "Time Basis Method" with a Not-to-Exceed amount, the Contractor may invoice the amount due for actual work hours performed; but in no event shall the invoice amount exceed a percentage of the Not-to-Exceed amount equal to a percentage of the total services actually completed.
- (g). Each Work Order issued on a "Fixed Fee Basis" or "Time Basis Method" with a Not-to-Exceed amount shall be treated separately for retainage purposes. If the City determines that work is substantially complete and the amount retained, if any, is considered to be in excess, the City may, at its sole and absolute discretion, release the retainage or any portion thereof.
- (h). For Work Orders issued on a "Time Basis Method" with a Limitation of Funds amount, the Contractor may invoice the amount due for services actually performed and completed. The City shall pay the Contractor one hundred percent (100%) of the approved amount on Work Orders issued on a "Time Basis Method" with a Limitation of Funds amount.

SECTION 21: CHANGE ORDERS.

- (a). The City may revise the Description of Services set forth in any particular Work Order.
- (b). Revisions to any Work Order shall be authorized in writing by the City as a Change Order. Each Change Order shall include a schedule of completion for the services authorized. Change Orders shall identify this Agreement and the appropriate Work Order number. The Change Orders may contain additional instructions or provisions specific upon certain aspects of this Agreement pertinent to the services to be provided. Such supplemental instructions or provisions shall not be construed as a modification of this Agreement. An Agreement between the parties on and execution of any Change Order shall constitute a final settlement and a full accord and satisfaction of all matters relating to the change and to the impact of the change on unchanged goods and/or work, including all direct and indirect costs of whatever nature, and all adjustments to the Contractor schedule.
- (c). If instructed by the City, the Contractor shall change or revise work that has been performed, and if such work is not required as a result of error, omission or negligence of the Contractor, the Contractor may be entitled to additional compensation. The Contractor must submit for City approval a

revised Qualification with a revised fee quotation. Additional compensation, if any, shall be agreed upon before commencement of any such additional work and shall be incorporated into the work by Change Order to the Work Order.

SECTION 22: COMPENSATION.

- (a). Compensation to the Contractor for the services performed on each Work Order shall be as set forth the Work Order/Change Order or as set forth in Exhibit C which enumerates hourly rates and other charges of the Contractor. The initial fee for the subject Project shall be as subsequently negotiated by the parties.
- (b). The City shall not pay for reimbursable items such as gas, tolls, mileage, meals, etc. and other items not directly attributable to items produced for each Work Order.
- (c). Work performed by the Contractor without written approval by the City's Designated Representative shall not be compensated. Any work performed by the Contractor without approval by the City is performed at the Contractor's own election.
- (d). In the event the City fails to provide compensation under the terms and conditions of this Agreement, the Contractor shall notify the City's Designated Representative in order that the City may take remedial action.
- (e). Pricing has been calculated based on the current prices for the goods and/or services that are the subject of the RFQ. However, the market for the goods and/or services that pertain to this RFQ may be volatile on the basis of fuel costs and sudden and substantial price increases could occur. The CONTRACTOR agrees to use its best efforts to obtain the lowest possible prices from fuel suppliers, but should there be a substantial and prejudicial increase in fuel prices for fuel that is purchased after execution of this Agreement which fuel prices directly and materially relate to the pricing of the goods and/or services provided for in this Agreement, the CITY agrees, upon written request from the CONTRACTOR, to consider a reasonable adjustment to the prices set forth in this Agreement based upon the following index: Engineering News Record, Construction Cost Index, etc.. Any claim by the CONTRACTOR for a price increase, as provided above, shall state, with specificity, the increased cost, the product in question, and the source of supply, and shall be supported by invoices or bills of sale and such other information as may be required by the CITY. Only one (1) such request from the CONTRACTOR will be considered in each calendar year period. The decision of the CITY shall be final and non-appealable.

SECTION 23: INVOICE PROCESS.

- (a). Payments shall be made by the City to the Contractor when requested as work progresses for services furnished, but not more than once monthly. Each Work Order shall be invoiced separately. The Contractor shall render to the City, at the close of each calendar month, an itemized invoice properly dated, describing all services rendered as Exhibit B, the Project Status Report, the cost of the services, the name and address of the Contractor, Work and/or Purchase Order Number, Contract Number and all other information required by this Agreement.
- (b). Invoices which are in an acceptable form to the City and without disputable items will be processed for payment within thirty days of receipt by the City.
- (c). The Contractor will be notified of any disputable items contained in invoices submitted by the Contractor within fifteen days of receipt by the City with an explanation of the deficiencies.
- (d). The City and the Contractor will make every effort to resolve all disputable items contained in the Contractor's invoices.
- (e). Each invoice shall reference this Agreement, the appropriate Work Order and Change Order if applicable, the billing period, and include the Project Status Report for the period being billed. A Project Status Report form is attached as Exhibit B.

- (f). The Florida Prompt Payment Act shall apply when applicable.
- (g). Invoices are to be forwarded directly to:

Finance Director
City Hall
City of Holly Hill
1065 Ridgewood Avenue
Holly Hill, Florida 32117

SECTION 24: TERMINATION OF AGREEMENT.

- (a). The City may terminate this Agreement or any Work Order for convenience at any time for one or more of the reasons as follows:

- (1). If, in the City's opinion, adequate progress under a Work Order is not being made by the Contractor; or

- (2). If, in the City's opinion, the quality of the services provided by the Contractor is/are not in conformance with commonly accepted professional standards, standards of the City, the requirements of Federal or State regulatory agencies, and the Contractor has not corrected such deficiencies in a timely manner as reasonably determined by the City; or

- (3). The Contractor or any employee or agent of the Contractor is indicted or has a direct charge issued against him for any crime arising out of or in conjunction with any work that has been performed by the Contractor; or

- (4). The Contractor becomes involved in either voluntary or involuntary bankruptcy proceedings, or makes an assignment for the benefit of creditors; or

- (5). The Contractor violates the Standards of Conduct provisions herein or any provision of State or local law or any provision of the City Code of Conduct.

- (b). In the event of any of the causes described in this Section, the City's Designated Representative may send a certified letter requesting that the Contractor show cause why the Agreement or any Work Order should not be terminated. If assurance satisfactory to the City of corrective measures to be made within a reasonable time is not given to the City within fourteen calendar days of the receipt of the letter, the City may consider the Contractor to be in default, and may immediately terminate this Agreement or any Work Order in progress under this Agreement.

- (c). In the event that this Agreement or a Work Order is terminated for cause and it is later determined that the cause does not exist, then this Agreement or the Work Order shall be deemed terminated for convenience by the City and the City shall have the right to so terminate this Agreement without any recourse by the Contractor.

SECTION 25: TERMINATION BY CONTRACTOR FOR CAUSE.

- (a). The Contractor may terminate this Agreement if:

- (1). The City materially fails to meet its obligations and responsibilities as contained in Section 14; City Rights and Responsibilities; or

- (2). The City fails to pay the Contractor in accordance with this Agreement.

- (b). In the event of either of the causes described in Subsection (a), the Contractor shall send a certified letter requesting that the City show cause why the Agreement should not be terminated. If adequate assurances are not given to the Contractor within fourteen calendar days of the receipt of said show cause notice, the Contractor may consider the City to be in default, and may immediately terminate this Agreement.

SECTION 26: TERMINATION BY THE CITY WITHOUT CAUSE.

- (a). Notwithstanding any other provision of this Agreement, the City Manager shall have the right at any time to terminate this Agreement in its entirety without cause, or terminate any specific Work Order without cause, if such termination is deemed by the City to be in the public interest, provided that thirty (30) calendar days prior written notice is given to the Contractor of the City's intent to terminate.
- (b). In the event that this Agreement is terminated, the City shall identify any specific Work Order(s) being terminated and the specific Work Order(s) to be continued to completion pursuant to the provisions of this Agreement.
- (c). This Agreement will remain in full force and effect as to all authorized Work Order(s) that is/are to be continued to completion.

SECTION 27: PAYMENT IN THE EVENT OF TERMINATION.

In the event this Agreement or any Work Order is terminated or canceled prior to final completion payment for the unpaid portion of the services provided by the Contractor to the date of termination and any additional services shall be paid to the Contractor.

SECTION 28: ACTION FOLLOWING TERMINATION.

Upon receipt of notice of termination, given by either party, the terminated party shall promptly discontinue the provision of all services, unless the notice provides otherwise.

SECTION 29: SUSPENSION.

- (a). The performance or provision of the Contractor services under any Work Order under this Agreement may be suspended by the City at any time.
- (b). In the event the City suspends the performance or provision of the Contractor's services hereunder, the City shall so notify the Contractor in writing. Such suspension becoming effective upon the date stated in the notice. The City shall pay to the Contractor within thirty days all compensation which has become due to and payable to the Contractor to the effective date of such suspension. The City shall thereafter have no further obligation for payment to the Contractor for the suspended provision of services unless and until the City's designated representative notifies the Contractor in writing that the provision of the services of the Contractor called for hereunder are to be resumed by the Contractor.
- (c). Upon receipt of written notice from the City that the Contractor's provision of services hereunder are to be resumed, the Contractor shall continue to provide the services to the City.

SECTION 30: ALTERNATIVE DISPUTE RESOLUTION (ADR).

- (a). In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust any alternative dispute resolution procedures reasonably imposed by the City prior to filing suit or otherwise pursuing legal remedies.
- (b). The Contractor agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration to the City in alternative dispute resolution procedures or which the Contractor had knowledge and failed to present during the City procedures.
- (c). In the event that City procedures are exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

SECTION 31: SEVERABILITY.

- (a). If any term, provision or condition contained in this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby, and each term, provision, and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law when consistent with equity and the public interest.
- (b). All provisions of this Agreement shall be read and applied in Pari Materia with all other provisions hereof.
- (c). Violation of this Agreement by the Contractor is recognized by the parties to constitute irreparable harm to the City.

SECTION 32: CONTROLLING LAWS/VENUE / INTERPRETATION.

- (a). This Agreement is to be governed by the laws of the State of Florida.
- (b). Venue for any legal proceeding related to this Agreement shall be in the Seventh Judicial Circuit Court in and for Volusia County, Florida.
- (c). This Agreement is the result of bona fide arms length negotiations between the City and the Contractor and all parties have contributed substantially and materially to the preparation of the Contract. Accordingly, this Agreement shall not be construed or interpreted more strictly against any one party than against any other party.

SECTION 33: INDEMNITY

- (a). The CONTRACTOR shall indemnify and hold harmless the CITY, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR and other persons employed by the CONTRACTOR in the performance of the contract.
- (b). Nothing herein shall be deemed to affect the rights, privileges, and immunities of the CITY as set forth in Section 768.28, Florida Statutes.
- (c). In claims against any person or entity indemnified under this Section by an employee of the CONTRACTOR or its agents or subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or its agents or subcontractors, under Workers Compensation acts, disability benefits acts, or other employee benefit acts.
- (d). The execution of this Agreement by the CONTRACTOR shall obligate the CONTRACTOR to comply with the indemnification provision in this Agreement; however, the CONTRACTOR must also comply with the provisions of this Agreement relating to insurance coverage's.

SECTION 34: INSURANCE.

- (a). The Contractor shall obtain or possess and continuously maintain the following insurance coverage, from a company or companies, with a Best Rating of A- or better, authorized to do business in the State of Florida and in a form acceptable to the City and with only such terms and conditions as may be acceptable to the City:

(1). Workers Compensation/Employer Liability: The Contractor shall provide Worker Compensation insurance for all employees engaged in the work under this Agreement in accordance with the laws of the State of Florida. Employers' Liability Insurance at limits not less than the following:

\$500,000 Each Accident

\$100,000 Disease Each Employee

(2). Comprehensive General Liability: The Contractor shall provide coverage for all operations including, but not limited to, contractual, independent Contractor, products and complete operations and personal injury with limits not less than the following:

\$1,000,000 Bodily Injury & Property Damage - each occurrence
 \$1,000,000 Personal & Advertising Injury - each occurrence
 \$2,000,000 General Aggregate

(3). Comprehensive Business Automobile Liability: The Contractor shall provide complete coverage with a combined single limit of not less than \$1,000,000 Bodily Injury and Property Damage in accordance with the laws of the State of Florida, as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles.

(4). Professional Liability: The Contractor shall provide professional liability insurance as well as errors and omission insurance in a minimum amount of \$1,000,000 CSL or its equivalent, with a combined single limit of not less than \$1,000,000, protecting the Contractor against claims of the City for negligence, errors, mistakes, or omissions in the performance of services to be performed and furnished by the Contractor.

(5) Other Required Insurance Coverage: Where unusual operations are necessary to complete the work, such as Longshoremen and Harbor Workers' Exposures, use of aircraft or watercraft, use of explosives, and any high risk circumstances. No aircraft, watercraft or explosives shall be used without the express advance written approval of the City which may, thereupon, required additional insurance coverage's.

(b). All insurance other than Workers Compensation and Professional Liability that must be maintained by the Contractor shall specifically include the City as an additional insured. All insurance minimum coverage's extend to any sub-Contractor, and the Contractor shall be responsible for all subcontractors.

(c). The Contractor shall provide Certificates of Insurance to the City evidencing that all such insurance is in effect prior to the issuance of the first Work Order under this Agreement. These Certificates of Insurance shall become part of this Agreement. Neither approval by the City nor failure to disapprove the insurance furnished by a Contractor shall relieve the Contractor of the Contractor's full responsibility for performance of any obligation including the Contractor's indemnification of the City under this Agreement. If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: (1) lose its Certificate of Authority, (2) no longer comply with Section 440.57, Florida Statutes, or (3) fail to maintain the requisite Best's Rating and Financial Size Category, the Contractor shall, as soon as the Contractor has knowledge of any such circumstance, immediately notify the City and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as the Contractor has replaced the unacceptable insurer with an insurer acceptable to the City, the Contractor shall be deemed to be in default of this Agreement.

(d). The insurance coverage shall contain a provision that requires that prior to any changes in the coverage, except increases in aggregate coverage, thirty days prior notice will be given to the City by submission of a new Certificate of Insurance.

(e). The Contractor shall provide Certificate of Insurance directly to the City's Designated Representative. The certificates shall clearly indicate that the Contractor has obtained insurance of the type, amount, and classification required by this Agreement.

(f). Nothing in this Agreement or any action relating to this Agreement shall be construed as the City waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes.

- (g). The City shall not be obligated or liable under the terms of this Agreement to any party other than the Contractor. There are no third party beneficiaries to this Agreement.
- (h). The Contractor is an independent Contractor and not an agent, representative, or employee of the City. The City shall have no liability except as specifically provided in this Agreement.
- (i). All insurance shall be primary to, and not contribute with, any insurance or self-insurance maintained by the City.

SECTION 35: EQUAL OPPORTUNITY EMPLOYMENT/NON-DISCRIMINATION

The Contractor agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin, or disability and shall take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin, or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or their forms or compensation; and selection for training, including apprenticeship. The Contractor, moreover, shall comply with all the requirements as imposed by the Americans with Disability Act, the regulations of the Federal government issued there under, and any and all requirements of Federal or State law related thereto.

SECTION 36: ACCESS TO RECORDS/AUDIT/PUBLIC RECORDS

- (a). The Contractor shall maintain books, records, documents, time and costs accounts, and other evidence directly related to its provision or performance of services under this Agreement. All time records and cost data shall be maintained in accordance with generally accepted accounting principles.
- (b). The Contractor shall maintain and allow access to the records required under this Section for a minimum period of five years after the completion of the provision or performance services under this Agreement and date of final payment for said services, or date of termination of this Agreement.
- (c). The City reserves the right to unilaterally terminate this Agreement if the Contractor refuses to allow public access to all documents, papers, letters, or other materials subject to provisions of Chapter 119, Florida Statutes, and other applicable law, and made or received by the Contractor in conjunction, in any way, with this Agreement.
- (d). The City may perform, or cause to have performed, an audit of the records of the Contractor before or after final payment to support final payment under any Work Order issued hereunder. This audit shall be performed at a time mutually agreeable to the Contractor and the City subsequent to the close of the final fiscal period in which services are provided or performed. Total compensation to the Contractor may be determined subsequent to an audit as provided for in this Section, and the total compensation so determined shall be used to calculate final payment to the Contractor. Conduct of this audit shall not delay final payment as required by this Section.
- (e). In addition to the above, if Federal, State, County, or other entity funds are used for any services under this Agreement, the Comptroller General of the United States or the Chief Financial Officer of the State of Florida, or the County of Volusia, or any representative, shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to services provided or performed under this Agreement for purposes of making audit, examination, excerpts, and transcriptions.
- (f). In the event of any audit or inspection conducted reveals any overpayment by the City under the terms of the Agreement, the Contractor shall refund such overpayment to the City within thirty days of notice by the City of the request for the refund.
- (g). The Contractor agrees to fully comply with all State laws relating to public records.

(h). The Contractor agrees that if any litigation, claim, or audit is started before the expiration of the record retention period established above, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

SECTION 37: COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same document.

SECTION 38: SUBMITTALS.

The following are items the Contractor must submit to the City as stated in this Agreement:

1. Description of Services; Section 12.
2. Worker compensation insurance for all employees; Section 34, Paragraph (a) (1)
3. Certificates of Liability Insurance; Section 34, Paragraph (c)
4. American with Disabilities Act; Section 17, Paragraph (f)
5. Price Schedule
6. Business Tax Receipt
7. Request for Taxpayer Identification Number and Certification IRS Form W-9

This Agreement describes each item listed above in detail. All provided to the City must be accurate and updated certifying the Contractor is proceeding correctly.

SECTION 39: EXHIBITS.

Each Exhibit referred to and attached to this Agreement is an essential part of this Agreement. The Exhibits and any amendments or revisions thereto, even if not physically attached hereto, shall be treated as if they are part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: the City through its City Commission taking action on the 12th day of, March, 2013, and the Contractor signing by and through its duly authorized corporate officer having the full and complete authority to execute same.

ATTEST:

Authorized Corporate Officer

CONTRACTOR

By: Thomas A. Harowski
Thomas A. Harowski, PresidentDate: 5/7/13

As approved by the City Commission of the City of Holly Hill at its meeting of March 12, 2013.

ATTEST:

Valerie Manning
Valerie Manning, City Clerk

CITY OF HOLLY HILL

By: James A. McCroskey
James A. McCroskey, City ManagerDate: 5/13/13

EXHIBIT A

Description/Scope of Services

GENERAL SCOPE OF SERVICES

The City is seeking sufficient information in the qualification statement to determine if the firm is qualified to provide the City's professional and administrative services within the Planning Department. It is anticipated that the contracting model may include, but not be limited to, the provision of the following services:

Professional Services

- Serve as the City Planner, accountable to the City Manager for all planning functions.
- Availability to provide front counter public assistance.
- Project entitlement processing: Comprehensive Plan and Land Development Code amendments, re-zoning, major and minor subdivisions, conditional use permits, reclamation plans, policy plan overlays, and variances.
- Process and review all development applications and permits. Ensure that new development is of high quality, compatible with the existing environment, and maintains existing community character.
- Zoning administration: Process, investigate and enforce zoning violation complaints. Process all rezoning, variance, special exception and ordinance amendment requests, prepare associated applications and supporting documents. Provide zoning information map designations and technical assistance to citizens and professionals. Implement and enforce various County, State and Federal regulations.
- Transportation Planning: Evaluate traffic circulation and make recommendations for access, mixed use internal capture, circulation, and multi-modal linkages.
- Evaluate funding options including public and private financing opportunities, grant writing and grant administration. Update revenue projections.
- Analyze and perform comprehensive update of the City's Comprehensive Plan and Land Development Code: Assessment, evaluation, drafting and recommendations regarding land development regulations (including "green" building methods and practices, mixed use development, and other methods to implement the Comprehensive Plan Vision); Specific recommendations for the efficient use / redevelopment of City-owned parcels.
- General Comprehensive Plan and Land Development Code Support: Reports to the State, updates and maintenance including Capital Improvements Plan, FEMA, CRS, and NPDES compliance.
- Preparation of new plans, policies, regulations, or amendments relating to the Comprehensive Plan and Land Development Code, zoning and other ordinances.
- Prepare and present staff reports to the Board of Planning and Appeals City Commission, and public hearings.

- Attendance at public hearings, project coordination meetings, agency consultations, and other meetings as necessary including serving as liaison for Board of Planning and Appeals, Development Review Committee, Volusia TPO.
- Records Management.
- Development of recommendations on best practices and policies that will increase the efficiency and effectiveness of the City's planning services.
- As needed support services to other City departments or units and other professional services the City may desire.

Deliverables may include, but not be limited to:

- Final deliverables will include four (4) bound sets of feasibility reports and exhibits, plans and specifications, and as built drawings drawn to scale. All elements of the deliverables shall also be provided on a CD or DVD in applicable format as specified by the City.
 - All text and graphic information will be provided in the City standard MS Office software (MS Word, MS Power Point, etc) and in the Adobe .PDF format, unless otherwise specified.
 - All geo-spatial information including plans, surveys, maps, and aerial photography will be provided in AutoCAD or ESRI Personal Geodatabase format. This data will be referenced by a minimum of three (3) coordinates in the Florida State Plane Coordinate System, East Zone in US Survey Feet. The horizontal datum is NAD83/(1990) HARN and the vertical datum is NAVD 88 Feet, in accordance with Florida Statutes, Chapter 177.151
 - AutoCAD files will follow the City's AutoCAD standard format.
- All plans, drawings, reports, and specifications that result from the Consultant's services shall become the property of the City.
- Additional digital copies of documents shall be provided to the City upon request at no additional fee.
- Consultant shall respond to all requests for additional information at no additional fee to the City.

Each Project will have an expanded Scope of Services tailored to the specific needs of the City. Each project will be negotiated at the time of the development of the specific scope of work.

Exhibit B
Certificate of Liability Insurance

CERTIFICATE OF LIABILITY INSURANCE

01/05/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Leatzow Insurance 500 W. Madison St. - Suite 3000 Chicago, IL 60661	CONTACT NAME	Karen Bronson	
	PHONE	(312) 930-5556	FAX (866) 741-2778
	EMAIL ADDRESS	karen@leatzowinsurance.com	
INSURED TMH Consulting, Inc. 97 N. Saint Andrews Dr. Ormand Beach, FL 32174	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: New Hampshire Insurance Company		23841
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC			DOES NOT APPLY			EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL AND ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/PO/AGG \$ \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ Scheduled Autos ☐ ALL OWNED AUTOS ☐ Non-owned Autos ☐ Hired Autos			DOES NOT APPLY			COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$			DOES NOT APPLY			EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N/A			DOES NOT APPLY			WC STATU-TORY LIMITS ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	PROFESSIONAL LIABILITY			020452353	3/9/2014	3/9/2015	1,000,000 each occurrence 1,000,000 aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

City of Holly Hill, Florida
 Attn: Valerie Satallante
 1065 Ridgewood Avenue
 Ormond Beach, FL 32117

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Karen Bronson LEATZOW INSURANCE

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THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Leatzow Insurance 300 S. Riverside Plaza, Suite 2100 Chicago, IL 60606	CONTACT NAME	Karen Bronson	
	PHONE	(312) 930-5556	FAX (866) 741-2778
INSURED TMH Consulting, Inc. 97 N. Saint Andrews Dr. Ormand Beach, FL 32174	EMAIL ADDRESS	karen@leatzowinsurance.com	
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A:	New Hampshire Insurance Company	23841
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY ☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC			DOES NOT APPLY			EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL AND ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/OP AGG \$ COMBINED SINGLE LIMIT (Ea accident) \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ Scheduled Autos ☐ ALL OWNED AUTOS ☐ Non-owned Autos ☐ Hired Autos			DOES NOT APPLY			BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$			DOES NOT APPLY			EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐			DOES NOT APPLY			WC STATU-TORY LIMITS ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	PROFESSIONAL LIABILITY			012295805	3/9/2013	3/9/2014	1,000,000 each claim 1,000,000 aggregate

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER City of Holly Hill Attn: Jacki Maswary 1065 Ridgewood Avenue Holly Hill, FL 32117	CANCELLATION
	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Karen Bronson</i> LEATZOW INSURANCE

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INSURANCE COMPANY
6101 ANACAPRI BLVD., LANSING, MI 48917-3999

TAILORED PROTECTION POLICY DECLARATION

Renewal Effective 08-01-20

AGENCY HAYWARD BROWN INC
12-0337-00 MKT TERR 051 (386) 252-5546

POLICY NUMBER 062382-72686259-

INSURED TMH CONSULTING INC

ADDRESS 97 N SAINT ANDREWS DR
ORMOND BEACH, FL 32174-3840

Company
Bill

POLICY TERM
12:01 a.m. 12:01 a.m.
08-01-2012 to 08-01-2013

In consideration of payment of the premium shown below, this policy is renewed. Please attach this Declaration and attachments to your policy. If you have any questions, please consult with your agent.

COMMON POLICY INFORMATION

BUSINESS DESCRIPTION: Consulting Firm

ENTITY: Corporation

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PART(S).

PREMIUM

THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

COMMERCIAL GENERAL LIABILITY COVERAGE
MINIMUM PREMIUM ADJUSTMENT (GL)
FLORIDA HURRICANE CATASTROPHE FUND ASSESSMENT

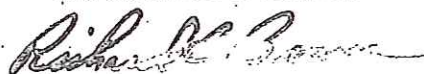
\$137.00
101.00
2.00

TOTAL \$240.00

PREMIUM SHOWN ABOVE FOR COMMERCIAL GENERAL LIABILITY COVERAGE IS AN ADVANCED PREMIUM DEPOSIT AND MAY BE SUBJECT TO AUDIT.

FORMS THAT APPLY TO ALL COVERAGE PART SHOWN ABOVE (EXCEPT GARAGE LIABILITY, DEALER'S BLANKET, COMMERCIAL AUTOMOBILE, IF APPLICABLE)
55000 (01-87)

HAYWARD BROWN, INC.



10/20/11

Countersigned By: _____

AGENCY HAYWARD BROWN INC
12-0337-00 MKT TERR 051

Company POLICY NUMBER 062382-72686259-1
Bill

INSURED TMH CONSULTING INC

Term 08-01-2012 to 08-01-2012

COMMERCIAL GENERAL LIABILITY COVERAGE

LIMITS OF INSURANCE

General Aggregate (Other Than Products-Completed Operations)	\$2,000,000
Products-Completed Operations Aggregate	1,000,000
Personal Injury And Advertising Injury	1,000,000
Each Occurrence	1,000,000

Commercial General Liability Plus Endorsement

Damage to Premises Rented to You (Fire, Lightning, Explosion, And Water Damage)	300,000 Any One Premises
Medical Payments	10,000 Any One Person
Hired Auto & Non-Owned Auto	1,000,000 Each Occurrence

Expanded Coverage Details See Form:

Extended Watercraft
Personal Injury Protection
Broadened Supplementary Payments
Broadened Knowledge Of Occurrence
Additional Products-Completed Operations Aggregate

Twice the "General Aggregate Limit", shown above, is provided at no additional charge for each 12 month period in accordance with form 55300.

AUDIT TYPE: Annual Audit

FORMS THAT APPLY TO THIS COVERAGE: CG2404 (10-93) 59350 (01-08) 55146 (06-04)
IL0021 (11-85) 55300 (07-05) IL0017 (11-85) 55091 (08-05) 55202 (12-04)
55296 (09-09) 55376 (04-11)

LOCATION OF PREMISES YOU OWN, RENT OR OCCUPY

LOC 001 BLDG 001 97 N Saint Andrews Dr
Ormond Beach, FL 32174-3840

TERRITORY: 006 COUNTY: Volusia

Classification	Subline	Premium Basis	Rates	Premium
CODE 00501 Commercial General Liability Plus Endorsement Included At 7% Of The Premises Operation Premium	Prem/Op	Prem/Op Prem Inc	Inc	Inc
CODE 47366 Sales, Service Or Consulting Organizations Noc Including Products And Or Completed Operations	Prem/Op	Payroll 31,800	Each 1000 2.908	\$92.00

INSURANCE COMPANY

6101 ANACAPRI BLVD., LANSING, MI 48917-3999

TAILORED PROTECTION POLICY DECLARATION

Renewal Effective 08-01-20

AGENCY HAYWARD BROWN INC

12-0337-00

MKT TERR 051

(386) 252-5546

POLICY NUMBER 062382-72686259-

INSURED TMH CONSULTING INC

ADDRESS 97 N SAINT ANDREWS DR

ORMOND BEACH, FL 32174-3840

Company
Bill

POLICY TERM

12:01 a.m. 12:01 a.m.

08-01-2012^{to} 08-01-2013

In consideration of payment of the premium shown below, this policy is renewed. Please attach this
 Declarations and attachments to your policy. If you have any questions, please consult with your agent.

COMMERCIAL GENERAL LIABILITY COVERAGE

CODE 49950

Additional Interests

Sched Add'l Ins-Excl Prod/Cops

City Of Holly Hill

Prem/Op

Flat Charge

\$22.0

Cph Engineers Inc

Prem/Op

Flat Charge

\$22.0

TERRORISM - CERTIFIED ACTS

SEE FORM 59350

\$1.00

LOCATION 001 PREMIUM

\$137.00

Exhibit C
WORK ORDER FORM



WORK ORDER-SERVICES# _____

Encumbrance PO Number: _____

City of Holly Hill (Buyer)

Resolution #: _____

Vendor Name:	Date:
Address:	Bid #:
City, State & Zip:	Project: Commission Approval Date:

Budgeted/Existing: _____ New: _____ Continuing Service: _____

Mail Invoices in duplicate to:

City of Holly Hill

Total Cost: \$ _____

Holly Hill, Florida 321 _____

ATTACHMENTS TO THIS WORK ORDER:

- () Description of Services
- () Drawings/Plans/Specifications
- () Special Conditions
- () Rate Schedule

METHOD OF COMPENSATION:

- () Fixed Fee Basis
- () Not To Exceed
- () Unit Price

TIME FOR COMPLETION: The obligation of the Vendor to provide services to the City shall commence upon execution of this Work Order (WO) by the parties and services shall be completed by _____. Failure to meet the completion date may be grounds for termination of this WO and the underlying contract for default. Time is of the essence.

WITNESS WHEREOF, the parties hereto have made and executed this Work Order on this _____ day of _____, 20____, for the purposes stated herein.

(THIS SECTION TO BE COMPLETED BY THE CITY)

ATTEST:

Vendor

_____, Attesting Officer

_____, Officer with Corporate Signatory Authority

Date: _____

WITNESSES:

Department Head approved RAP on _____.

CITY OF HOLLY HILL

_____, Authorized Signatory

WORK ORDERS TERMS AND CONDITIONS

- Execution of this Work Order (WO) by the City shall serve as authorization for the Vendor to provide for the stated services as set out in this WO. It is expressly understood by the Vendor that this WO, until executed by the City, does not authorize the Vendor to perform any services for the City.
- This WO shall take effect on the date of its execution by the City and expires upon final completion, inspection and payment unless terminated earlier in accordance with the termination provisions herein. The Vendor shall sign this WO first and the City second. This WO will be forwarded to the Vendor upon execution by the City.
- The Vendor shall provide services pursuant to this WO, its attachments, and the underlying Agreement (as amended, if applicable) which is incorporated herein by reference as if it had been set out in its entirety. In the event that the terms and conditions of this WO are inconsistent with the terms and conditions of an underlying contract which is implemented, in whole or part, by this WO; then the terms and conditions of the underlying contract shall apply.
- Compensation is based on the method indicated on the first page of this WO.
- Payments to the Vendor shall be made by the City in strict accordance with the payment terms and conditions listed below or in the underlying contract.
- By accepting this WO, the Vendor accepts all the terms and conditions included herein.
- The City reserves the right, without liability of any type, to cancel this WO as to any services not yet performed or tendered, and to purchase substitute services and to charge the Vendor for any loss incurred.
- The City may cancel this WO, any outstanding services hereunder, or reschedule in whole or in part, for cause or no cause, upon written notice to the Vendor sent at least fourteen (14) days prior to the completion date specified. The City may cancel this WO in whole or in part at any time for default by written notice to the Vendor.
- The City shall have no liability to the Vendor beyond payment of any balance owing for services completed hereunder and accepted by the City prior to the Vendor's receipt of the notice of termination.
- Prices stated on this WO are firm, all inclusive and consistent with applicable negotiations, bid(s) and/or quotations. The City is exempt from the Florida sales and use taxes and will furnish the Vendor with proof of tax exemption upon written request.
- The City reserves the right to conduct any inspection or investigation to verify compliance of the services with the requirements of this purchase and to reject any delivery not in compliance and, if the deficiency is not visible at the time of acceptance, to take and require appropriate corrective action.
- The Vendor agrees to comply with all Federal, State of Florida, Volusia County and City laws, ordinances, regulations, authority and codes and authority having jurisdiction over the purchase. This WO shall be governed by and interpreted in accordance with the laws of the State of Florida. In any action or proceeding required to enforce or interpret the terms of this Agreement, venue shall be of the Seventh Judicial Circuit in and for Volusia County, Florida.
- The Vendor agrees to indemnify, hold harmless and defend the City: (1) from any loss, expense, claim or damage arising from any claim or action based on any acts or omissions of the Vendor, its employees, servants, agents or subcontractors; (2) with respect to any and all claims, suits, actions, and proceedings of actual or alleged infringements of any letter, patent, register of industrial design, trademark or trade name, trade secret, copyright or other protected right in any country resulting from any sale, use or manufacture of any goods delivered hereunder. The City reserves its right to be represented in any such action by its own counsel. Nothing herein shall be deemed to affect the rights, privileges, and immunities of the City as set forth in Section 768.28, *Florida Statutes*.
- The Vendor shall not assign this WO, any rights under this WO or any monies due or to become due hereunder, nor delegate or subcontract any obligations or work hereunder without the prior written consent of the City.
- The Vendor shall perform the obligations of this WO as an independent contractor and under no circumstances shall it be considered as agent or employee of the City.
- The Vendor ensures that its personnel shall comply with reasonable conduct guidelines and City policies and procedures. A person or affiliate who has been placed on the convicted vendor list may not submit a bid or transact business with the City in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. In compliance with 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act (INA)], the City will not intentionally make an award or upon discovery of a violation will unilaterally cancel this WO with any vendor who knowingly employs unauthorized alien workers.
- If this WO involves the Vendor's performance on the City's premises or at any place where the City conducts operations, the Vendor shall request information from the Purchasing Manager regarding insurance coverage requirements. Noncompliance with this item shall place the Vendor in default and subject to disbarment from the City's Vendor List.
- The failure of the City to enforce any provision of this WO, exercise any right or privilege granted to the City hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.

Exhibit D
AMERICANS WITH DISABILITIES ACT
AFFIDAVIT

The undersigned CONTRACTOR swears that the information herein contained is true and correct and that none of the information supplied was for the purpose of defrauding CITY.

The CONTRACTOR will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The CONTRACTOR agrees to comply with the rules, regulations and relevant orders issued pursuant to the Americans with Disabilities Act (ADA), 42 USC s. 12101 et seq. It is understood that in no event shall the CITY be held liable for the actions or omissions of the CONTRACTOR or any other party or parties to the Agreement for failure to comply with the ADA. The CONTRACTOR agrees to hold harmless and indemnify the CITY, its agents, officers or employees from any and all claims, demands, debts, liabilities or causes of action of every kind or character, whether in law or equity, resulting from the CONTRACTOR's acts or omissions in connection with the ADA.

CONTRACTOR:

Signature:

Printed Name:

Title:

Date:

TMH CONSULTING INC
Thomas A. Harowski
THOMAS A. HAROWSKI
PRESIDENT
MAY 7, 2013

Affix Corporate Seal

STATE OF Florida)
COUNTY OF Volusia) ss

The foregoing instrument was acknowledged before me this 7th day of May, 2013, by Thomas A. Harowski of _____ firm), on behalf of the firm. He She is personally known to me or has produced _____ identification.

Elizabeth M. Nelson
Print Name
Notary Public in and for the County
and State Aforementioned

My commission expires:



Exhibit E
HOURLY PRICE SCHEDULE

April 24, 2013

Ms. Jacki Maswary, Community Services Director
City of Holly Hill
1065 Ridgewood Avenue
Holly Hill, FL 32117

Dear Ms. Maswary:

As we discussed in our contract negotiation session, I am providing this letter to formalize my proposal on fees and other terms. My proposal includes the following items:

My hourly billing rate for FY 2013-14 will be \$75.00 per hour.
My billing rate for FY 2014-15 will be \$85.00 per hour
My billing rate for FY 2015-16 will be \$95.00 per hour
As we have done in the past I will not charge for time and travel for destinations within Volusia County
Any charges for direct expenses in association with work products will be billed at cost and pre-approved by the appropriate staff.

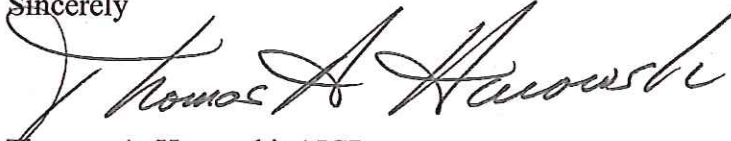
We discussed establishing a base schedule of 12 hours per week when I will be scheduled in City offices or on City work assignments. I am proposing the following:

Monday	10:30 to 12:30
Tuesday	9:00 to 12:00 and 2:00 to 5:00
Wednesday	9:00 to 12:00 and 1:30 to 2:30

We can vary this schedule by prior approval, but the goal will be to be on site or in approved meeting for at least these 12 hours each week. As I have done in the past I expect to be available on other days to address planning and zoning needs. We expect that having fixed hours will allow City staff to schedule appointments with the public as may be necessary.

If you have any questions or require any additional information, please let me know.

Sincerely

A handwritten signature in black ink, reading "Thomas A. Harowski". The signature is fluid and cursive, with the first name "Thomas" and last name "Harowski" clearly legible, and "A." as a middle initial.

Thomas A. Harowski, AICP
President

Exhibit F
BUSINESS TAX RECEIPT

2012/2013

Volusia County Business Tax Receipt

Issued pursuant to F.S. 205 and Volusia County Code of Ordinances Chapter 114-1 by:
Volusia County Revenue Division - 123 W Indiana Ave, Room 103, DeLand, FL 32720 - 386-736-5938



Receipt # 200509120009 Expires: September 30, 2013
Business Location: 97 N ST ANDREWS DR

Business Name: TMH CONSULTING INC
Owner Name: TMH CONSULTING INC
Mailing Address: 97 N ST ANDREWS DR
ORMOND BEACH, FL 32174

BUSINESS TYPE	CODE	COUNT	TAX
Business Service	471	2	\$22.00

- This receipt indicates payment of a tax, which is levied for the privilege of doing the type(s) of business listed above within Volusia County. This receipt is non-regulatory in nature and is not meant to be a certification of the holder's ability to perform the service for which he is registered. This receipt also does not indicate that the business is legal or that it is in compliance with State or local laws and regulations.
- The business must meet all County and/or Municipality planning and zoning requirements or this Business Tax Receipt may be revoked and all taxes paid would be forfeited.
- The information contained on this Business Tax Receipt must be kept up to date. Contact the Volusia County Revenue Division for instructions on making changes to your account.

**THIS PORTION OF THE BUSINESS TAX RECEIPT MUST BE
POSTED CONSPICUOUSLY IN YOUR PLACE OF BUSINESS**

13-18782

CITY OF ORMOND BEACH
P.O. Box 277
Ormond Beach, FL 32175-0277
386-676-3233 or 386-676-3234

Fee: \$52.50
Valid 9/12/12 - 9/30/13

Classification	Comments/Restrictions	Location / Phone
HOME OCCUPATION - TYPE A		97 N SAINT ANDREWS DR
CONSULTING AND PUBLIC RELATIONS		(386) 677-1485
CONSULTING AND PUBLIC RELATIONS		
TMH CONSULTING INC		
97 N SAINT ANDREWS DR		
ORMOND BEACH FL 32174-3840		

BUSINESS TAX RECEIPT

Subject to Code of Ordinances Chapter 12 - This receipt must be posted conspicuously in your place of business. Penalty for failure to do so.

Exhibit F
Request for Taxpayer Identification Number and Certification
(W-9 Form)

Form **W-9**
(Rev. December 2011)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Name (as shown on your income tax return)

TMH Consulting, Inc.

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:

☐ Individual/sole proprietor ☐ C Corporation ☒ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶

☐ Exempt payee

☐ Other (see instructions) ▶

Address (number, street, and apt. or suite no.)

97 North Saint Andrews Drive

City, state, and ZIP code

Ormond Beach, Florida 32174

Requester's name and address (optional)

List account number(s) here (optional)

Print or type
See Specific Instructions on page 2.

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

 - -

Employer identification number

2 0 - 2 4 6 7 5 7 4

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification Instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign
Here

Signature of
U.S. person ▶

Thomas A. Harowski

Date ▶ *May 7, 2013*

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.



**STAFF REPORT
CITY OF HOLLY HILL, FLORIDA**

**City Commission
Agenda Item**

MEETING DATE: April 11, 2017
FROM: Valerie Manning
SUBJECT: Planning Solutions Corp. - Final One Year Extension of Service Agreement
NUMBER: (ID # 1630)
APPLICANT:
PLANNER: Joseph A. Forte

DISCUSSION:

In April 2013, the City entered into a continuing services agreement with Planning Solutions Corp. (Beth Lemke) for a period of three years with two (2) one year renewals.

The City Manager is authorized to extend the contract for each one year period for a total of two years. This agreement was extended for one year and is up for a final one year renewal at the discretion of the City Manager.

FISCAL

ANALYSIS:

This is an as needed, continuing service agreement funded on a negotiated dollar amount based on specific projects to be approved by the City Commission.

STAFF

RECOMMENDATION:

Presented to the City Commission for informational purposes. No action needed.

COMMISSION

GOAL:

Goal #4: Provide proficient public health and safety services in terms of police and fire protection, water, storm water, waste water and solid waste management and disaster preparedness with a focus on intergovernmental collaboration, private sector partnerships, and utilization of technologies and proven innovations.

MOTION:

None

- Planning Solutions Final renewal (PDF)

- Planning Solutions Corp - Beth Lemke - Grant Administration Services (PDF)



CITY OF HOLLY HILL
 The City with a Heart
 1065 Ridgewood Avenue ♥ Holly Hill, Florida 32117
 www.hollyhillfl.org

**Building,
Zoning,
Licensing &
Inspections**

386-248-9442
 Fax 386-248-9498

**City
Clerk**

386-248-9441
 Fax 386-248-9448

**City
Manager**

386-248-9425
 Fax 386-248-9448

**Community
Services**

386-248-9435
 Fax 386-248-9448

**Economic
Development**

386-248-9444
 Fax 386-248-9448

Finance

386-248-9427
 Fax 386-248-9497

**Human
Resources**

386-248-9440
 Fax 386-248-9448

**Information
Technology**

386-248-9459
 Fax 386-248-9448

**Public
Works**

386-248-9463
 Fax 386-248-9499

**Utility
Billing**

386-248-9432
 Fax 386-248-9458

**Mayor & City
Commission**

386-248-9441
 Fax 386-248-9448

Planning Solutions Corp.
 P.O. Box 4036
 Ormond Beach, Florida 32175

March 21, 2017

RE: Final One year extension of Service Agreement for Planning Services with Planning Solutions Corp.

Dear Ms. Lemke,

The original agreement was made and entered into on the 6th day of May, 2013 between the City of Holly Hill and Planning Solutions Corp.

In accordance with **Section 11: LENGTH OF AGREEMENT. (d).** *Subsequent to the conclusion of the initial three (3) year term, this Contract may be renewed by the City Manager for One (1) each year for a total of an additional two (2) years. Should the CITY wish to not have this Contract renewed for any year, the CITY shall provide written notice to the CONTRACTOR ninety (30) days prior to the ending date.*

Therefore, by copy of this letter, the City of Holly Hill is exercising its right to extend the agreement for one final year with a new term expiring on May 6, 2018.

It has been a pleasure working with you.

Thank you

Joseph Forte, City Manager

C. City Commission
 City Clerk



Office: 206 N. Beach St, Suite 205 / Daytona Beach, FL 32114
Mail: P.O. Box 4036 / Ormond Beach, FL 32175-4036
Ph. 407-491-9477

April 3, 2013
REVISED September 10, 2013

James McCroskey
City Manager
City of Holly Hill
1065 Ridgewood Avenue
Holly Hill, FL 32117

RE: On-call Professional Planning Services
Community Redevelopment Area
Grant Administration Services

Dear Jim:

I appreciate the opportunity to provide CRA Grant Administration services to the City of Holly Hill. For purposes of this agreement Planning Solutions Corp will be known as the "Consultant" and the "City of Holly Hill" will be known as the "Client". The "CRA Grant Administration Services" will be known as the project.

This scope of services is to manage, coordinate and otherwise assist the City in administering grants provided to property owners within the City's Community Redevelopment Area.

SCOPE OF SERVICES

Task 1 – Review Grant Application Submittals

The Consultant will review grant applications submitted by property owners to ensure they meet the established guidelines. A pre-application conference will be held with the applicant to review the requirements and ensure the property owner understands the process. Preliminary approval to proceed with bids will be recommended by Planning Solutions and signed off by the City at this stage.

Task 2 – Meetings and Coordination with Property Owners and Consultants

The Consultant will coordinate with Consultants on retainer by the City, the City Manager, City Staff and the property owner, as needed, to administer the grant. The Consultant will ensure appropriate documentation is received for reimbursement of the grant.



Office: 206 N. Beach St, Suite 205 / Daytona Beach, FL 32114
 Mail: P.O. Box 4036 / Ormond Beach, FL 32175-4036
 Ph. 407-491-9477

Fee Summary

This scope of services will be completed on a fixed fee basis at a rate of \$1,000 per grant (vs. per property). The grants will be billed as follows: \$500 upon committee review; \$1,000 upon completion of construction and close-out; if the grant does not proceed to construction after committee review, no additional fee will be due the consultant. If the grant does not proceed to Committee Review, no fee will be due the Consultant.

Schedule

These services will be provided on an on-going, as needed basis, in accordance with applications submitted by property owners. Planning Solutions Corp will begin work immediately upon receipt of a signed, authorized agreement for services, and the City's notice to proceed with administration of a specific grant.

Thank you again for this opportunity to provide grant administration services to the City.

Sincerely,
 PLANNING SOLUTIONS CORP

A handwritten signature in blue ink that reads "Beth G. Lemke".

Beth G. Lemke, AICP, PTP
 President

Planning Solutions Corp

BY: Beth G. Lemke
 NAME: Beth G. Lemke, AICP
 TITLE: President
 ADDRESS: P. O. Box 4036
Ormond Beach, FL 32175-4036
 PHONE: (407) 491-9477

City of Holly Hill

BY: James A. McCroskey
 NAME: James A. McCroskey
 TITLE: City Manager
 ADDRESS: 1065 Ridgewood Avenue
Holly Hill, Florida 32117
 PHONE: (386) 248-9425

9/11/13

CITY OF HOLLY HILL
SERVICES AGREEMENT FOR
Planning Services With **Planning Solutions Corp.**
(REQUEST FOR QUALIFICATION RFQ-PLN-13-01)

THIS AGREEMENT made and entered into the 6th day of May, 2013
by and between the:

City of Holly Hill, Florida
1065 Ridgewood Avenue
Holly Hill, Florida 32117

a municipal corporation of the State of Florida, holding tax exempt status, hereinafter referred to as the "City," and:

Planning Solutions Corp.
PO Box 4036
Ormond Beach, Florida 32175

a corporation, authorized to do business in the State of Florida, hereinafter referred to as the "Contractor".

The City and the Contractor are collectively referred to herein as the "parties".

WITNESSETH:

WHEREAS, the City desires to retain the Contractor for the work identified in the Request For Qualifications (RFQ) and description of services outlined in Exhibit A; and

WHEREAS, the City desires to employ the Contractor for the performance to support the activities, programs, and projects of the City upon the terms and conditions hereinafter set forth, and the Contractor is desirous of performing and providing such services upon said terms and conditions; and

WHEREAS, the Contractor hereby warrants and represents to the City that it is competent and otherwise able to provide professional and high quality services to the City; and

WHEREAS, all submissions submitted by the Contractor in the Qualifications/RFQ submitted to the City are hereby incorporated to the extent not inconsistent with the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by and between the parties hereto as follows:

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SECTION 1: DEFINITIONS.

Ad valorem - In proportion to the estimated value of the goods taxed.

Agreement – This document and all subsequent Work Orders between the City and Contractor. Each Exhibit, as identified below, even if not physically attached, shall be treated as if they were part of this Agreement. The effective date of this Agreement is the date City Commission approves the selection of the Contractor.

Billing Period – The period of time between project commencement to the close of the current period, (inclusive); or from the close of the previous billing period, (exclusive), to the close of the current period, usually concurrent with the month. In no case shall this period be less than one calendar month except for the final Billing Period.

Bona Fide - Made or carried out in good faith; sincere.

City – The City of Holly Hill, a municipal corporation of the State of Florida holding tax exempt status.

Contractor - To include all principals of the Contractor including, but not limited to, full and part time employees, professional or otherwise, and all other agents employed by or for Contractor to perform its obligations hereunder.

Description of Services - Shall be written in paragraph form reasonably describing those services the City can expect the Contractor to provide. The description shall be written in such a manner that the type of service is clearly provided, but broad enough that all services reasonably expected of the Contractor, including services provided by partners, subcontractors, and other supporting professionals, can be provided to the City.

Designated Representative – A person who administers, reviews, and coordinates the provision of services. This definition applies equally to the City and to the Contractor.

Exhibit A -	Description of Services
Exhibit B -	Certificate of Liability Insurance
Exhibit C -	Draft City Work Order Form
Exhibit D -	ADA Form
Exhibit E -	Price Schedule
Exhibit F -	Business Tax Receipt – (City of Holly Hill)
Exhibit G -	W-9

Force Majeure - Force Majeure shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, explosion, any law, proclamation, regulation, or ordinance or other act of government, or any act of God or any cause whether of the same or different nature, existing or future; provided that the cause whether or not enumerated in this Agreement is beyond the control and without the fault or negligence of the party seeking relief under this Agreement.

Law - Said phrase shall include statutes, codes, rules, and regulations of whatsoever type or nature enacted or adopted by a governmental entity of competent jurisdiction.

Pari Materia – of the same matter; on the same subject. Laws pari materia must be construed with reference to each other/together when related to the same matter or subject. The provisions of a contract/agreement are to be construed together with no isolated construction of a particular provision such that it would defeat the overall intent of the contract/agreement.

Submittals – Any item required by this agreement that the Contractor must provide the City either for inclusion as part of this agreement or not.

Type of Service – Planning Services of a professional nature in accordance with the controlling provisions of law,

Work Order - A detailed description of quantities, services, and a completion schedule provided issued by the City on it's approved form which, on occasion, may contain documents published on Contractor letterhead describing all work associated with the service to be provided by the Contractor to the City for an agreed price referencing this Agreement by title and date.

SECTION 2: CAPTIONS.

The Section headings and captions of this Agreement are for convenience and reference only and in no way define, limit, describe the scope or intent of this Agreement or any part thereof, or in any way affect this Agreement or construe any provision of this Agreement.

SECTION 3: EXTENT OF AGREEMENT/INTEGRATION/AMENDMENT.

- (a). This Agreement, together with the Exhibits, constitutes the entire integrated Agreement between the City and the Contractor and supersedes all prior written or oral understandings in connection therewith. This Agreement, and all the terms and provisions contained herein, including without limitation the Exhibits attached, constitute the full and complete agreement between the parties hereto to the date hereof, and supersedes and controls over any and all prior agreements, understandings, representations, correspondence, and statements, whether written or oral.
- (b). This Agreement may only be amended, supplemented, or modified by a formal written amendment.
- (c). Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties.
- (d). The Exhibits made part of this Agreement are as follows:

Exhibit A -	Description of Services
Exhibit B -	Certificate of Liability Insurance
Exhibit C -	Draft City Work Order Form
Exhibit D -	ADA Form
Exhibit E -	Price Schedule
Exhibit F -	Business Tax Receipt – (City of Holly Hill)
Exhibit G -	W-9

SECTION 4: NO GENERAL CITY OBLIGATION.

- (a). In no event shall any obligation of the City under this Agreement be or constitute a general obligation or indebtedness of the City, a pledge of the ad valorem taxing power of the City or a general obligation or indebtedness of the City within the meaning of the Constitution of the State of Florida or any other applicable laws, but shall be payable solely from legally available revenues and funds.
- (b). The Contractor shall not have the right to compel the exercise of the ad valorem taxing power of the City.

SECTION 5: CONTRACTOR UNDERSTANDING OF SERVICES REQUIRED

- (a). Execution of this Agreement by the Contractor is a representation that the Contractor is familiar with local conditions and with the services to be performed. The Contractor shall make no claim for additional time or money based upon its failure to comply with this Agreement. The Contractor has informed the City, and hereby represents to the City, that it has extensive experience in performing and providing the services and/or goods described in this Agreement and to be identified in the Work Orders, and that it is well acquainted with the components that are properly and customarily included within such projects and the requirements of laws, ordinances, rules, regulations, or orders of any public authority or licensing entity having jurisdiction over City Projects. Execution of a Work Order shall be an affirmative and irrefutable representation by the Contractor to the City that the Contractor is fully familiar with any and all requisite work conditions of the provisions of the services.

- (b). The recitals herein are true and correct and form and constitute a material part of this Agreement upon which the parties have relied.
- (c). It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties, or as constituting the Contractor (including, but not limited to, its officers, employees, and agents) the agent, representative, or employee of the City for any purpose, or in any manner, whatsoever. The Contractor is to be and shall remain forever an independent Contractor with respect to all services performed under this Agreement.
- (d). Persons employed by the Contractor in the provision and performance of the services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service or other employee rights or privileges granted to the City's officers and employees either by operation of law or by the City.

SECTION 6: GENERAL PROVISIONS.

- (a). Each party hereto represents to the other that it has undertaken all necessary actions to execute this Agreement, and that it has the legal authority to enter into this Agreement, and to undertake all obligations imposed on it. The person(s) executing this Agreement for the Contractor certifies/certify that he/she/they is/are authorized to bind the Contractor fully to the terms of this Agreement.
- (b). This Agreement is for services pertaining to various Planning and related services needed for the City's operations as set forth herein and as otherwise directed by the City to include all labor and materials that may be required.
- (c). The Contractor acknowledges that the City may retain other Contractor to provide the same types of services for City projects. The City reserves the right to select which Contractor shall provide services for City projects.
- (d). The Contractor acknowledges that the City has retained other Contractors and the coordination between said Contractors and the Contractor may be necessary from time to time for the successful completion of each Work Order. The Contractor agrees to provide such coordination as necessary within the Scope of Services as contained in Section 12; Description of Services.
- (e). The Contractor agrees to provide and ensure coordination between goods / services providers.
- (f). Time is of the essence of the lawful performance of the duties and obligations contained in this Agreement to include, but not be limited to, each Work Order. The parties covenant and agree that they shall diligently and expeditiously pursue their respective obligations set forth in this Agreement and each Work Order.
- (g). Contractor shall maintain an adequate and competent staff or professionally qualified persons throughout the performance of this Agreement to ensure acceptable and timely completion of each Work Order.
- (h). Requirements for signing and sealing plans, reports, and documents prepared by the Contractor shall be governed by the laws and regulations of Volusia County and State Regulatory agencies.
- (i). The Contractor hereby guarantees the City that all material, supplies, services, and equipment as listed on a Purchase Order meet the requirements, specifications, and standards as provided for under the Federal Occupations Safety and Health Act of 1970, from time to time amended and in force on the date hereof.
- (j). No claim for services furnished by the Contractor not specifically provided for herein shall be honored by the City.

SECTION 7: CODES AND DESIGN STANDARDS

- (a). All the services to be provided or performed by the Contractor shall in the minimum be in conformance with commonly accepted industry and professional codes and standards, standards of the City, and the laws of any Federal, State, or local regulatory agencies.
- (b). The Contractor shall be responsible for keeping apprised of any changing laws applicable to the services to be performed under this Agreement.

SECTION 8: SUBCONTRACTORS.

- (a). Any Contractor proposed SubContractor shall be submitted to the City for written approval prior to the Contractor entering into a subcontract. SubContractor information shall include, but not be limited to, State registrations, business address, occupational license tax proof of payment, and insurance certifications.
- (b). The Contractor shall coordinate the provision of services and work product of any City approved SubContractor and remain fully responsible for such services and work under the terms of this Agreement.
- (c). Any subcontract shall be in writing and shall incorporate this Agreement and require the subcontractors to assume performance of the Contractor duties commensurately with the Contractor's duties to the City under this Agreement, it being understood that nothing herein shall in any way relieve the Contractor from any of its duties under this Agreement. The Contractor shall provide the City with executed copies of all subcontracts.

SECTION 9: ASSIGNABILITY.

The Contractor shall not sublet, assign, or transfer any interest in this Agreement, or claims for the money due or to become due out of this Agreement to a bank, trust company, or other financial institution without written City approval. When approved by the City, written notice of such assignment or transfer shall be furnished promptly to the City.

SECTION 10: COMMENCEMENT / IMPLEMENTATION SCHEDULE OF AGREEMENT.

- (a). The Contractor shall commence the provision of services as described in this Agreement immediately upon execution of this Agreement.
- (b). The Contractor and the City agree to make every effort to adhere to the schedules established for the various Work Orders as described in each Work Order. However, if the Contractor is delayed at any time in the provision of services by any act or omission of the City, or of any employee of the City, or by any other Contractor employed by the City, or by changes ordered by the City, or by strikes, lock outs, fire, unusual delay in transportation, unavoidable casualties, or any other causes of Force Majeure not resulting from the inactions or actions of the Contractor and beyond the Contractor's control which would not reasonably be expected to occur in connection with or during performance or provision of the services, or by delay authorized by the City pending a decision, or by any cause which the City shall decide to justify the delay, the time of completion shall be extended for such reasonable time as the City may decide in its sole and absolute discretion. It is further expressly understood and agreed that the Contractor shall not be entitled to any damages or compensation, or be reimbursed for any losses on account of any delay or delays resulting from any of the aforesaid causes or any other cause whatsoever.

SECTION 11: LENGTH OF AGREEMENT.

- (a). The term of this Contract is three (3) year commencing on the date of full execution of this Contract by the parties.
- (b). The CONTRACTOR services shall begin upon written notification to proceed by the CITY.

- (c). CONTRACTOR services shall be on a work order basis and may include matters such as serving as an expert witness.
- (d). Subsequent to the conclusion of the initial three (3) year term, this Contract may be renewed by the City Manager for one (1) each year for total of an additional two (2) years. Should the CITY wish to not have this Contract renewed for any year, the CITY shall provide written notice to the CONTRACTOR ninety (30) days prior to the ending date.

SECTION 12: DESCRIPTION OF SERVICES.

- (a). The Contractor agrees to perform diverse planning services for the City relating to various projects of the City. The Description of Services is further and more specifically outlined in Exhibit A.
- (b). The Contractor shall diligently and in a professional and timely manner perform and provide the services outlined herein or as included in each subsequently entered Work Order. Unless modified in writing by the parties hereto, the duties of the Contractor shall not be construed to exceed the provision of the services pertaining to this Agreement.
- (c). The City and Contractor agree that there may be certain additional services required to be performed by the Contractor during the performance of the Work Orders that can not be defined sufficiently at the time of execution of this Agreement. Such services shall be authorized in writing as a Change Order in accordance with Section 21. The Work Orders may contain additional instructions or provide specifications upon certain aspects of this Agreement pertinent to the work to be undertaken. Such supplemental instructions or provisions shall not be construed as a modification of this Agreement.

SECTION 13: CONTRACTOR RESPONSIBILITIES.

- (a). The Contractor shall be responsible for the professional quality, accepted standards, technical accuracy and the coordination of all services furnished by the Contractor under this Agreement as well as the conduct of its staff, personnel, employees, and agents. The Contractor shall work closely with the City on all aspects of the provision of the services. With respect to services, the Contractor shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy, and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by the Contractor under this Agreement. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature.
- (b). The Contractor shall furnish a Contractor Designated Representative to administer, review, and coordinate the provision of services under this Agreement and each Work Order.
- (c). Neither City review, approval, or acceptance of, nor payment for, any of the services required under this Agreement shall be construed to operate as a waiver of any rights or of any cause of action arising out of the performance of this Agreement. The Contractor shall be and shall remain liable to the City in accordance with applicable law for all damages to the City caused by the Contractor's negligent or improper performance or failure to perform any of the services furnished under this Agreement.
- (d). The rights and remedies of the Contractor, provided for under this Agreement, are in addition to any other rights and remedies provided by law.
- (e). In the event the Contractor fails to comply with the terms and conditions of this Agreement, the City shall notify the Contractor's Designated Representative in writing so that the Contractor may take remedial action.
- (f). Time is of the essence in the performance of all services provided by the Contractor under the terms of this Agreement and each and every Work Order.

SECTION 14: CITY RIGHTS AND RESPONSIBILITIES.

- (a). The City shall reasonably cooperate with the Contractor in a timely fashion at no cost to the Contractor as set forth in this Section.
- (b). The City shall furnish a City Designated Representative to administer, review, and coordinate the provision of services under each Work Order.
- (c). The City shall make City personnel available where, in the City's opinion, they are required and necessary to assist the Contractor. The availability and necessity of said personnel to assist the Contractor shall be determined solely at the discretion of the City.
- (d). The City shall furnish the Contractor with existing data, records, maps, plans, specifications, reports, fiscal data, and other planning information that is available in the City's files that is necessary or useful to the Contractor for the performance of the Work. All such documents conveyed by the City shall be, and remain the property of, the City and shall be returned to the City upon completion of the Work to be performed by the Contractor.
- (e). The City shall examine all Contractor reports, sketches, drawing, estimates, Qualifications, and other documents presented to the City and indicate the City's approval or disapproval within a reasonable time so as not to materially delay the provisions of the services of the Contractor.
- (f). The City shall provide access to and make provisions for the Contractor to enter upon public and private lands as required for the Contractor within a reasonable time to perform work as necessary to complete the Work Order.
- (g). The City shall transmit instructions, relevant information, and provide interpretation and definition of City policies and decisions with respect to any and all materials and other matters pertinent to the services covered by this Agreement.
- (h). The City shall give written notice to the Contractor whenever the City designated representative knows of a development that affects the services provided and performed under this Agreement, timing of the Contractor's provision of services, or a defect or change necessary in the services of the Contractor.
- (i). The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law; the City may assert its right of recovery by any appropriate means including, but not limited to, set-off, suit, withholding, recoupment, or counterclaim, either during or after performance of this Agreement.
- (j). The City shall be entitled to recover any and all legal costs including, but not limited to, attorney fees and other legal costs that it may incur in any legal actions it may pursue in the enforcement of the terms and conditions of this Agreement or the responsibilities of the Contractor in carrying out the duties and responsibilities deriving from this Agreement.
- (k). The failure of the City to insist in any instance upon the strict performance of any provision of this Agreement, or to exercise any right or privilege granted to the City hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.
- (l). Neither the City's review, approval or acceptance of, nor payment for, any of the services required shall be construed to operate as a waiver of any rights under this Agreement nor or any cause of action arising out of the performance of this Agreement and the Contractor shall be and always remain liable to the City in accordance with applicable law for any and all damages to the City caused by the Contractor's negligent or wrongful provision or performance of any of the services furnished under this Agreement.
- (m). All deliverable analysis, reference data, survey data, plans and reports, or any other form of written instrument or document that may result from the Consultant's services or have been created

during the course of the Contractor's performance under this Agreement shall become the property of the City after final payment is made to the Contractor.

- (n). In the event the City fails to comply with the terms and conditions of this Agreement, the Contractor shall notify the City's Designated Representative in writing so that the City may take remedial action.

SECTION 15: WAIVER.

The failure of the City to insist in any instance upon the strict performance of any provision of this Agreement, or to exercise any right or privilege granted to the City hereunder, shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.

SECTION 16: FORCE MAJEURE.

Neither party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations, or any of them, is delayed or prevented by Force Majeure.

SECTION 17: STANDARDS OF CONDUCT.

- (a). The Contractor warrants that it has not employed or retained any company or person, other than a Bona Fide employee working solely for the Contractor, to solicit or secure this Agreement and that the Contractor has not paid or agreed to pay any person, company, corporation, individual, or firm other than a Bona Fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award of making this Agreement.
- (b). If the City determines that any employee or representative of the Contractor is not satisfactorily performing his or her assigned duties or is demonstrating improper conduct pursuant to any assignment or work performed under this Agreement, the City shall so notify the Contractor, in writing. The Contractor shall immediately remove such employee or representative of the Contractor from such assignment.
- (c). The Contractor hereby certifies (in writing) that no undisclosed conflict of interest exists with respect to the Agreement, including, but not limited to, any conflicts that may be due to representation of other clients, customers or vendees, other contractual relationships of the Contractor, or any interest in property that the Contractor may have. The Contractor further certifies that any conflict of interest that arises during the term of this Agreement shall be immediately disclosed in writing to the City. Violation of this Section shall be considered as justification for immediate termination of this Agreement.
- (d). The Contractor shall not engage in any action that would create a conflict of interest for any City employee or other person during the course of performance of, or otherwise related to, this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, Florida Statutes, relating to ethics in government.
- (e). The City shall not intentionally award publicly-funded contracts to any Contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) Section 274A(e) of the Immigration and Nationality Act (INA)]. The City shall consider the employment by the Contractor of unauthorized aliens, a violation of Section 274A (e) of the INA. Such violation by the Contractor of the employment provisions contained in Section 274A (e) of the INA shall be grounds for immediate termination of this Agreement by the City.
- (f). The Contractor shall comply with the requirements of the Americans with Disabilities Act (ADA), and any and all related Federal or State laws which prohibits discrimination by public and private entities on the basis of disability.

- (g). The Contractor shall not discriminate on the grounds of race, color, religion, sex, or national origin in the performance of work under this Agreement or violate any laws pertaining to civil rights, equal protection, or discrimination.
- (h). If the Contractor or an affiliate is placed on a discriminatory vendor list, such action may result in termination by the City. The Contractor shall certify, upon request by the City that it is qualified to submit a bid under Section 287.134, Discrimination, (2) (c), Florida Statutes.
- (i). If the Contractor or an affiliate is placed on the convicted vendor list following a conviction for a public entity crime, such action may result in termination by the City. The Contractor shall certify, upon request by the City, that it is qualified to submit a bid under Section 287.133, Public Entity Crime, (2)(a), Florida Statutes.
- (j). The Contractor shall certify, upon request by the City, that the Contractor maintains a drug free workplace policy in accordance with Section 287.0878, Florida Statutes. Failure to submit this certification may result in termination.
- (k). The Contractor agrees to comply with Federal, State, and local environmental, health, and safety laws and regulations applicable to the services provided to the City. The Contractor agrees that any program or initiative involving the work that could adversely affect any personnel involved, citizens, residents, users, neighbors or the surrounding environment shall ensure compliance with any and all employment safety, environmental and health laws.
- (l). If applicable, in accordance with Section 216.347, Florida Statutes, the Contractor shall not use funds provided by this Agreement for the purpose of lobbying the Legislature, the Judicial Branch, or State Agency.
- (m). The Contractor shall not publish any documents or release information regarding this Agreement to the media without prior approval of the City.
- (n). The Contractor shall ensure that all services are provided to the City after the Contractor has obtained, at its sole and exclusive expense, any and all permits, licenses, permissions, approvals or similar consents.
- (o). The Contractor shall ensure that all taxes due from the Contractor are paid in a timely and complete manner including, but not limited to, occupational license tax.

SECTION 18: NOTICES.

(a). Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section.

(b). For the present, the parties designate the following as the representative places for giving of notice, to-wit:

(1). For the City:

James A. McCroskey
City Manager
City of Holly Hill
1065 Ridgewood Avenue
Holly Hill, Florida 32117
(386)248-9440

(2). For the Contractor:

Beth G. Lemke
President

Planning Solutions Corp.
 PO Box 4036
 Ormond Beach, Florida 32175-4036
 Telephone Number: (407)491-9477
 E-mail Address: blemke@PlanningSolutionsCorp.com

(c). Written notice requirements of this Agreement shall be strictly construed and such requirements are a condition precedent to pursuing any rights or remedies hereunder. The Contractor agrees not to claim any waiver by City of such notice requirements based upon City having actual knowledge, implied, verbal or constructive notice, lack of prejudice, or any other grounds as a substitute for the failure of the Contractor to comply with the express written notice requirements herein. Computer notification (e-mails and message boards) shall not constitute proper written notice under the terms of the Agreement.

SECTION 19: DESIGNATED REPRESENTATIVES.

(a). The City Manager, or his designated representative, represents the City in all matters pertaining to and arising from the work and the performance of this Agreement.

(b). The City Manager or his designated representative shall have the following responsibilities:

(1). Examination of all work and rendering, in writing, decisions indicating the City's approval or disapproval within a reasonable time so as not to materially delay the work of the Contractor;

(2). Transmission of instructions, receipt of information, and interpretation and definition of City's policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement;

(3). Giving prompt written notice to the Contractor whenever the City knows of a defect or change necessary in the project; and

(c). Until further written notice, the City's Designated Representative for this Agreement is:

City Manager
 City of Holly Hill
 1065 Ridgewood Avenue
 Holly Hill, Florida 32117
 Telephone Number: (386) 248-9440

(d). Prior to start of any work under this Agreement, the Contractor shall submit to the City detailed resumes of key professional personnel that will be involved in performing services described in the work. The City hereby acknowledges its acceptance of such personnel to perform services under this Agreement. At any time hereafter that the Contractor desires to change key professional personnel in an active assignment, it shall submit the Qualifications of the new professional personnel to the City for prior approval. Key professional personnel shall include the principal-in-charge, project managers, and others interfacing with City personnel.

(e). Until further written notice, the Contractor's Designated Representative for this Agreement is:

Beth G. Lemke
 President
 Planning Solutions Corp.
 PO Box 4036
 Ormond Beach, Florida 32175-4036
 Telephone Number: (407)491-9477
 E-mail Address: blemke@PlanningSolutionsCorp.com

SECTION 20: WORK ORDERS.

- (a). The provision of services to be performed under this Agreement may commence immediately upon the execution of this Agreement or a Work Order as directed and determined by the City. Services to be provided by the Contractor to the City shall be negotiated between the Contractor and the City. Each Work Order shall reference this agreement by title and date, include a detailed description of quantities, services, and a completion schedule, and will be provided on Contractor letterhead. Services described in said Work Order will commence upon the issuance of a City Notice-To-Proceed.
- (b). If the services required to be performed by a Work Order is clearly defined, the Work Order shall be issued on a "Fixed Fee" basis. The Contractor shall perform all services required by the Work Order but in no event shall the Contractor be paid more than the negotiated Fixed Fee amount stated therein.
- (c). The Contractor and the City agree to make every effort to adhere to the schedule established for the various Work Orders described in the Work Order.
- (d). If the services are not clearly defined, the Work Order may be issued on a "Time Basis Method" and contain a Not-to-Exceed amount. If a Not-to-Exceed amount is provided, the Contractor shall perform all work required by the Work Order; but in no event shall the Contractor be paid more than the Not-to-Exceed amount specified in the applicable Work Order.
- (e). For Work Orders issued on a "Fixed Fee Basis," the Contractor may invoice the amount due based on the percentage of total Work Order services actually performed and completed; but in no event shall the invoice amount exceed a percentage of the Fixed Fee amount equal to a percentage of the total services actually completed.
- (f). For Work Orders issued on a "Time Basis Method" with a Not-to-Exceed amount, the Contractor may invoice the amount due for actual work hours performed; but in no event shall the invoice amount exceed a percentage of the Not-to-Exceed amount equal to a percentage of the total services actually completed.
- (g). Each Work Order issued on a "Fixed Fee Basis" or "Time Basis Method" with a Not-to-Exceed amount shall be treated separately for retainage purposes. If the City determines that work is substantially complete and the amount retained, if any, is considered to be in excess, the City may, at its sole and absolute discretion, release the retainage or any portion thereof.
- (h). For Work Orders issued on a "Time Basis Method" with a Limitation of Funds amount, the Contractor may invoice the amount due for services actually performed and completed. The City shall pay the Contractor one hundred percent (100%) of the approved amount on Work Orders issued on a "Time Basis Method" with a Limitation of Funds amount.

SECTION 21: CHANGE ORDERS.

- (a). The City may revise the Description of Services set forth in any particular Work Order.
- (b). Revisions to any Work Order shall be authorized in writing by the City as a Change Order. Each Change Order shall include a schedule of completion for the services authorized. Change Orders shall identify this Agreement and the appropriate Work Order number. The Change Orders may contain additional instructions or provisions specific upon certain aspects of this Agreement pertinent to the services to be provided. Such supplemental instructions or provisions shall not be construed as a modification of this Agreement. An Agreement between the parties on and execution of any Change Order shall constitute a final settlement and a full accord and satisfaction of all matters relating to the change and to the impact of the change on unchanged goods and/or work, including all direct and indirect costs of whatever nature, and all adjustments to the Contractor schedule.
- (c). If instructed by the City, the Contractor shall change or revise work that has been performed, and if such work is not required as a result of error, omission or negligence of the Contractor, the Contractor may be entitled to additional compensation. The Contractor must submit for City approval a revised Qualification with a revised fee quotation. Additional compensation, if any, shall be agreed

upon before commencement of any such additional work and shall be incorporated into the work by Change Order to the Work Order.

SECTION 22: COMPENSATION.

(a). Compensation to the Contractor for the services performed on each Work Order shall be as set forth the Work Order/Change Order or as set forth in Exhibit C which enumerates hourly rates and other charges of the Contractor. The initial fee for the subject Project shall be as subsequently negotiated by the parties.

(b). The City shall not pay for reimbursable items such as gas, tolls, mileage, meals, etc. and other items not directly attributable to items produced for each Work Order.

(c). Work performed by the Contractor without written approval by the City's Designated Representative shall not be compensated. Any work performed by the Contractor without approval by the City is performed at the Contractor's own election.

(d). In the event the City fails to provide compensation under the terms and conditions of this Agreement, the Contractor shall notify the City's Designated Representative in order that the City may take remedial action.

(e). Pricing has been calculated based on the current prices for the goods and/or services that are the subject of the RFQ. However, the market for the goods and/or services that pertain to this RFQ may be volatile on the basis of fuel costs and sudden and substantial price increases could occur. The CONTRACTOR agrees to use its best efforts to obtain the lowest possible prices from fuel suppliers, but should there be a substantial and prejudicial increase in fuel prices for fuel that is purchased after execution of this Agreement which fuel prices directly and materially relate to the pricing of the goods and/or services provided for in this Agreement, the CITY agrees, upon written request from the CONTRACTOR, to consider a reasonable adjustment to the prices set forth in this Agreement based upon the following index: Engineering News Record, Construction Cost Index, etc.. Any claim by the CONTRACTOR for a price increase, as provided above, shall state, with specificity, the increased cost, the product in question, and the source of supply, and shall be supported by invoices or bills of sale and such other information as may be required by the CITY. Only one (1) such request from the CONTRACTOR will be considered in each calendar year period. The decision of the CITY shall be final and non-appealable

SECTION 23: INVOICE PROCESS.

(a). Payments shall be made by the City to the Contractor when requested as work progresses for services furnished, but not more than once monthly. Each Work Order shall be invoiced separately. The Contractor shall render to the City, at the close of each calendar month, an itemized invoice properly dated, describing all services rendered as Exhibit B, the Project Status Report, the cost of the services, the name and address of the Contractor, Work and/or Purchase Order Number, Contract Number and all other information required by this Agreement.

(b). Invoices which are in an acceptable form to the City and without disputable items will be processed for payment within thirty days of receipt by the City.

(c). The Contractor will be notified of any disputable items contained in invoices submitted by the Contractor within fifteen days of receipt by the City with an explanation of the deficiencies.

(d). The City and the Contractor will make every effort to resolve all disputable items contained in the Contractor's invoices.

(e). Each invoice shall reference this Agreement, the appropriate Work Order and Change Order if applicable, the billing period, and include the Project Status Report for the period being billed. A Project Status Report form is attached as Exhibit B.

(f). The Florida Prompt Payment Act shall apply when applicable.

(g). Invoices are to be forwarded directly to:

Finance Director
City Hall
City of Holly Hill
1065 Ridgewood Avenue
Holly Hill, Florida 32117

SECTION 24: TERMINATION OF AGREEMENT.

(a). The City may terminate this Agreement or any Work Order for convenience at any time for one or more of the reasons as follows:

(1). If, in the City's opinion, adequate progress under a Work Order is not being made by the Contractor; or

(2). If, in the City's opinion, the quality of the services provided by the Contractor is/are not in conformance with commonly accepted professional standards, standards of the City, the requirements of Federal or State regulatory agencies, and the Contractor has not corrected such deficiencies in a timely manner as reasonably determined by the City; or

(3). The Contractor or any employee or agent of the Contractor is indicted or has a direct charge issued against him for any crime arising out of or in conjunction with any work that has been performed by the Contractor; or

(4). The Contractor becomes involved in either voluntary or involuntary bankruptcy proceedings, or makes an assignment for the benefit of creditors; or

(5). The Contractor violates the Standards of Conduct provisions herein or any provision of State or local law or any provision of the City Code of Conduct.

(b). In the event of any of the causes described in this Section, the City's Designated Representative may send a certified letter requesting that the Contractor show cause why the Agreement or any Work Order should not be terminated. If assurance satisfactory to the City of corrective measures to be made within a reasonable time is not given to the City within fourteen calendar days of the receipt of the letter, the City may consider the Contractor to be in default, and may immediately terminate this Agreement or any Work Order in progress under this Agreement.

(c). In the event that this Agreement or a Work Order is terminated for cause and it is later determined that the cause does not exist, then this Agreement or the Work Order shall be deemed terminated for convenience by the City and the City shall have the right to so terminate this Agreement without any recourse by the Contractor.

SECTION 25: TERMINATION BY CONTRACTOR FOR CAUSE.

(a). The Contractor may terminate this Agreement if:

(1). The City materially fails to meet its obligations and responsibilities as contained in Section 14; City Rights and Responsibilities; or

(2). The City fails to pay the Contractor in accordance with this Agreement.

(b). In the event of either of the causes described in Subsection (a), the Contractor shall send a certified letter requesting that the City show cause why the Agreement should not be terminated. If adequate assurances are not given to the Contractor within fourteen calendar days of the receipt of said show cause notice, the Contractor may consider the City to be in default, and may immediately terminate this Agreement.

SECTION 26: TERMINATION BY THE CITY WITHOUT CAUSE.

(a). Notwithstanding any other provision of this Agreement, the City Manager shall have the right at any time to terminate this Agreement in its entirety without cause, or terminate any specific Work Order without cause, if such termination is deemed by the City to be in the public interest, provided that thirty (30) calendar days prior written notice is given to the Contractor of the City's intent to terminate.

(b). In the event that this Agreement is terminated, the City shall identify any specific Work Order(s) being terminated and the specific Work Order(s) to be continued to completion pursuant to the provisions of this Agreement.

(c). This Agreement will remain in full force and effect as to all authorized Work Order(s) that is/are to be continued to completion.

SECTION 27: PAYMENT IN THE EVENT OF TERMINATION.

In the event this Agreement or any Work Order is terminated or canceled prior to final completion payment for the unpaid portion of the services provided by the Contractor to the date of termination and any additional services shall be paid to the Contractor.

SECTION 28: ACTION FOLLOWING TERMINATION.

Upon receipt of notice of termination, given by either party, the terminated party shall promptly discontinue the provision of all services, unless the notice provides otherwise.

SECTION 29: SUSPENSION.

(a). The performance or provision of the Contractor services under any Work Order under this Agreement may be suspended by the City at any time.

(b). In the event the City suspends the performance or provision of the Contractor's services hereunder, the City shall so notify the Contractor in writing. Such suspension becoming effective upon the date stated in the notice. The City shall pay to the Contractor within thirty days all compensation which has become due to and payable to the Contractor to the effective date of such suspension. The City shall thereafter have no further obligation for payment to the Contractor for the suspended provision of services unless and until the City's designated representative notifies the Contractor in writing that the provision of the services of the Contractor called for hereunder are to be resumed by the Contractor.

(c). Upon receipt of written notice from the City that the Contractor's provision of services hereunder are to be resumed, the Contractor shall continue to provide the services to the City.

SECTION 30: ALTERNATIVE DISPUTE RESOLUTION (ADR).

(a). In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust any alternative dispute resolution procedures reasonably imposed by the City prior to filing suit or otherwise pursuing legal remedies.

(b). The Contractor agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration to the City in alternative dispute resolution procedures or which the Contractor had knowledge and failed to present during the City procedures.

(c). In the event that City procedures are exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

SECTION 31: SEVERABILITY.

- (a). If any term, provision or condition contained in this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby, and each term, provision, and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law when consistent with equity and the public interest.
- (b). All provisions of this Agreement shall be read and applied in Pari Materia with all other provisions hereof.
- (c). Violation of this Agreement by the Contractor is recognized by the parties to constitute irreparable harm to the City.

SECTION 32: CONTROLLING LAWS/VENUE / INTERPRETATION.

- (a). This Agreement is to be governed by the laws of the State of Florida.
- (b). Venue for any legal proceeding related to this Agreement shall be in the Seventh Judicial Circuit Court in and for Volusia County, Florida.
- (c). This Agreement is the result of bona fide arms length negotiations between the City and the Contractor and all parties have contributed substantially and materially to the preparation of the Contract. Accordingly, this Agreement shall not be construed or interpreted more strictly against any one party than against any other party.

SECTION 33: INDEMNITY

- (a). The CONTRACTOR shall indemnify and hold harmless the CITY, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONTRACTOR and other persons employed by the CONTRACTOR in the performance of the contract.
- (b). Nothing herein shall be deemed to affect the rights, privileges, and immunities of the CITY as set forth in Section 768.28, Florida Statutes.
- (c). In claims against any person or entity indemnified under this Section by an employee of the CONTRACTOR or its agents or subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or its agents or subcontractors, under Workers Compensation acts, disability benefits acts, or other employee benefit acts.
- (d). The execution of this Agreement by the CONTRACTOR shall obligate the CONTRACTOR to comply with the indemnification provision in this Agreement; however, the CONTRACTOR must also comply with the provisions of this Agreement relating to insurance coverage's.

SECTION 34: INSURANCE.

- (a). The Contractor shall obtain or possess and continuously maintain the following insurance coverage, from a company or companies, with a Best Rating of A- or better, authorized to do business in the State of Florida and in a form acceptable to the City and with only such terms and conditions as may be acceptable to the City:

(1). Comprehensive General Liability: The Contractor shall provide coverage for all operations including, but not limited to, contractual, independent Contractor, products and complete operations and personal injury with limits not less than the following:

\$1,000,000 Bodily Injury & Property Damage - each occurrence

\$1,000,000 Personal & Advertising Injury - each occurrence
 \$2,000,000 General Aggregate

(2). Professional Liability: The Contractor shall provide professional liability insurance as well as errors and omission insurance in a minimum amount of \$1,000,000 CSL or its equivalent, with a combined single limit of not less than \$1,000,000, protecting the Contractor against claims of the City for negligence, errors, mistakes, or omissions in the performance of services to be performed and furnished by the Contractor.

(3) Other Required Insurance Coverage: Where unusual operations are necessary to complete the work, such as Longshoremen and Harbor Workers' Exposures, use of aircraft or watercraft, use of explosives, and any high risk circumstances. No aircraft, watercraft or explosives shall be used without the express advance written approval of the City which may, thereupon, required additional insurance coverage's.

(b). All insurance other than Workers Compensation and Professional Liability that must be maintained by the Contractor shall specifically include the City as an additional insured. All insurance minimum coverage's extend to any sub-Contractor, and the Contractor shall be responsible for all subcontractors.

(c). The Contractor shall provide Certificates of Insurance to the City evidencing that all such insurance is in effect prior to the issuance of the first Work Order under this Agreement. These Certificates of Insurance shall become part of this Agreement. Neither approval by the City nor failure to disapprove the insurance furnished by a Contractor shall relieve the Contractor of the Contractor's full responsibility for performance of any obligation including the Contractor's indemnification of the City under this Agreement. If, during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: (1) lose its Certificate of Authority, (2) no longer comply with Section 440.57, Florida Statutes, or (3) fail to maintain the requisite Best's Rating and Financial Size Category, the Contractor shall, as soon as the Contractor has knowledge of any such circumstance, immediately notify the City and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as the Contractor has replaced the unacceptable insurer with an insurer acceptable to the City, the Contractor shall be deemed to be in default of this Agreement.

(d). The insurance coverage shall contain a provision that requires that prior to any changes in the coverage, except increases in aggregate coverage, thirty days prior notice will be given to the City by submission of a new Certificate of Insurance.

(e). The Contractor shall provide Certificate of Insurance directly to the City's Designated Representative. The certificates shall clearly indicate that the Contractor has obtained insurance of the type, amount, and classification required by this Agreement.

(f). Nothing in this Agreement or any action relating to this Agreement shall be construed as the City waiver of sovereign immunity beyond the limits set forth in Section 768.28, Florida Statutes.

(g). The City shall not be obligated or liable under the terms of this Agreement to any party other than the Contractor. There are no third party beneficiaries to this Agreement.

(h). The Contractor is an independent Contractor and not an agent, representative, or employee of the City. The City shall have no liability except as specifically provided in this Agreement.

(i). All insurance shall be primary to, and not contribute with, any insurance or self-insurance maintained by the City.

SECTION 35: EQUAL OPPORTUNITY EMPLOYMENT/NON-DISCRIMINATION

The Contractor agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin, or disability and

shall take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin, or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or their forms or compensation; and selection for training, including apprenticeship. The Contractor, moreover, shall comply with all the requirements as imposed by the Americans with Disability Act, the regulations of the Federal government issued there under, and any and all requirements of Federal or State law related thereto.

SECTION 36: ACCESS TO RECORDS/AUDIT/PUBLIC RECORDS

(a). The Contractor shall maintain books, records, documents, time and costs accounts, and other evidence directly related to its provision or performance of services under this Agreement. All time records and cost data shall be maintained in accordance with generally accepted accounting principles.

(b). The Contractor shall maintain and allow access to the records required under this Section for a minimum period of five years after the completion of the provision or performance services under this Agreement and date of final payment for said services, or date of termination of this Agreement.

(c). The City reserves the right to unilaterally terminate this Agreement if the Contractor refuses to allow public access to all documents, papers, letters, or other materials subject to provisions of Chapter 119, Florida Statutes, and other applicable law, and made or received by the Contractor in conjunction, in any way, with this Agreement.

(d). The City may perform, or cause to have performed, an audit of the records of the Contractor before or after final payment to support final payment under any Work Order issued hereunder. This audit shall be performed at a time mutually agreeable to the Contractor and the City subsequent to the close of the final fiscal period in which services are provided or performed. Total compensation to the Contractor may be determined subsequent to an audit as provided for in this Section, and the total compensation so determined shall be used to calculate final payment to the Contractor. Conduct of this audit shall not delay final payment as required by this Section.

(e). In addition to the above, if Federal, State, County, or other entity funds are used for any services under this Agreement, the Comptroller General of the United States or the Chief Financial Officer of the State of Florida, or the County of Volusia, or any representative, shall have access to any books, documents, papers, and records of the Contractor which are directly pertinent to services provided or performed under this Agreement for purposes of making audit, examination, excerpts, and transcriptions.

(f). In the event of any audit or inspection conducted reveals any overpayment by the City under the terms of the Agreement, the Contractor shall refund such overpayment to the City within thirty days of notice by the City of the request for the refund.

(g). The Contractor agrees to fully comply with all State laws relating to public records.

(h). The Contractor agrees that if any litigation, claim, or audit is started before the expiration of the record retention period established above, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

SECTION 37: COUNTERPARTS.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same document.

SECTION 38: SUBMITTALS.

The following are items the Contractor must submit to the City as stated in this Agreement:

1. Description of Services; Section 12.
2. Certificates of Liability Insurance; Section 34, Paragraph (c)

3. American with Disabilities Act; Section 17, Paragraph (f)
4. Price Schedule
5. Business Tax Receipt
6. Request for Taxpayer Identification Number and Certification IRS Form W-9

This Agreement describes each item listed above in detail. All provided to the City must be accurate and updated certifying the Contractor is proceeding correctly.

SECTION 39: EXHIBITS.

Each Exhibit referred to and attached to this Agreement is an essential part of this Agreement. The Exhibits and any amendments or revisions thereto, even if not physically attached hereto, shall be treated as if they are part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: the City through its City Commission taking action on the 12th day of, March, 2013, and the Contractor signing by and through its duly authorized corporate officer having the full and complete authority to execute same.

ATTEST:

CONTRACTOR

Beth G. Lemke
Authorized Corporate Officer

By: Beth G. Lemke
Beth G. Lemke, President
Date: 4/30/13

As approved by the City Commission of the City of Holly Hill at its meeting of March 12, 2013.

ATTEST:

CITY OF HOLLY HILL

Jacquelyn Maswary
Valerie Manning, City Clerk
Jacquelyn Maswary,
Community Services
Director

By: James A. McCroskey
James A. McCroskey, City Manager
Date: 5/6/13

EXHIBIT A Description/Scope of Services

GENERAL SCOPE OF SERVICES

The City is seeking sufficient information in the qualification statement to determine if the firm is qualified to provide the City's professional and administrative services within the Planning Department. It is anticipated that the contracting model may include, but not be limited to, the provision of the following services:

Professional Services

- Serve as the City Planner, accountable to the City Manager for all planning functions.
- Availability to provide front counter public assistance.
- Project entitlement processing: Comprehensive Plan and Land Development Code amendments, re-zoning, major and minor subdivisions, conditional use permits, reclamation plans, policy plan overlays, and variances.
- Process and review all development applications and permits. Ensure that new development is of high quality, compatible with the existing environment, and maintains existing community character.
- Zoning administration: Process, investigate and enforce zoning violation complaints. Process all rezoning, variance, special exception and ordinance amendment requests, prepare associated applications and supporting documents. Provide zoning information map designations and technical assistance to citizens and professionals. Implement and enforce various County, State and Federal regulations.
- Transportation Planning: Evaluate traffic circulation and make recommendations for access, mixed use internal capture, circulation, and multi-modal linkages.
- Evaluate funding options including public and private financing opportunities, grant writing and grant administration. Update revenue projections.
- Analyze and perform comprehensive update of the City's Comprehensive Plan and Land Development Code: Assessment, evaluation, drafting and recommendations regarding land development regulations (including "green" building methods and practices, mixed use development, and other methods to implement the Comprehensive Plan Vision); Specific recommendations for the efficient use / redevelopment of City-owned parcels.
- General Comprehensive Plan and Land Development Code Support: Reports to the State, updates and maintenance including Capital Improvements Plan, FEMA, CRS, and NPDES compliance.
- Preparation of new plans, policies, regulations, or amendments relating to the Comprehensive Plan and Land Development Code, zoning and other ordinances.
- Prepare and present staff reports to the Board of Planning and Appeals City Commission, and public hearings.

- Attendance at public hearings, project coordination meetings, agency consultations, and other meetings as necessary including serving as liaison for Board of Planning and Appeals, Development Review Committee, Volusia TPO.
- Records Management.
- Development of recommendations on best practices and policies that will increase the efficiency and effectiveness of the City's planning services.
- As needed support services to other City departments or units and other professional services the City may desire.

Deliverables may include, but not be limited to:

- Final deliverables will include four (4) bound sets of feasibility reports and exhibits, plans and specifications, and as built drawings drawn to scale. All elements of the deliverables shall also be provided on a CD or DVD in applicable format as specified by the City.
 - All text and graphic information will be provided in the City standard MS Office software (MS Word, MS Power Point, etc) and in the Adobe .PDF format, unless otherwise specified.
 - All geo-spatial information including plans, surveys, maps, and aerial photography will be provided in AutoCAD or ESRI Personal Geodatabase format. This data will be referenced by a minimum of three (3) coordinates in the Florida State Plane Coordinate System, East Zone in US Survey Feet. The horizontal datum is NAD83/(1990) HARN and the vertical datum is NAVD 88 Feet, in accordance with Florida Statutes, Chapter 177.151
 - AutoCAD files will follow the City's AutoCAD standard format.
- All plans, drawings, reports, and specifications that result from the Consultant's services shall become the property of the City.
- Additional digital copies of documents shall be provided to the City upon request at no additional fee.
- Consultant shall respond to all requests for additional information at no additional fee to the City.

Each Project will have an expanded Scope of Services tailored to the specific needs of the City. Each project will be negotiated at the time of the development of the specific scope of work.

Exhibit B
Certificate of Liability Insurance



CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
05/06/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Fortress Insurance Partners 555 WINDERLEY PL STE 300 MAITLAND FL 32751-7133		CONTACT NAME: Caron Abbott PHONE (A/C, No, Ext): (407) 261-2340 E-MAIL ADDRESS: caron@fortress-partners.com FAX (A/C, No): (407) 261-2347	
INSURED PLANNING SOLUTIONS CORP PO BOX 4036 ORMOND BEACH FL 32175-4036		INSURER(S) AFFORDING COVERAGE INSURER A: ESSEX INSURER B: United States Liability Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			3DK4087	06/25/2012	06/25/2013	EACH OCCURRENCE
	☒ COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)
	☐ CLAIMS-MADE ☒ OCCUR						MED EXP (Any one person)
							PERSONAL & ADV INJURY
							GENERAL AGGREGATE
							PRODUCTS - COMP/OP AGG
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)
	ANY AUTO						BODILY INJURY (Per person)
	ALL OWNED AUTOS						BODILY INJURY (Per accident)
	HIRED AUTOS						PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB						EACH OCCURRENCE
	EXCESS LIAB						AGGREGATE
	DED						
	RETENTION \$						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						OTH-ER
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT
							E.L. DISEASE - EA EMPLOYEE
							E.L. DISEASE - POLICY LIMIT
B	Professional Liability			SP1552832	05/02/2013	05/02/2014	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

City of Holly Hill is Additional Insured with respects General Liability. Additional insured endorsement provides primary and non-contributory wording in favor of City of Holly Hill.

CERTIFICATE HOLDER

CANCELLATION

City of Holly Hill 1065 Ridgewood Avenue Holly Hill, FL 32117	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	---

Exhibit C
WORK ORDER FORM



WORK ORDER-SERVICES# _____

Encumbrance PO Number: _____

City of Holly Hill (Buyer)

Resolution #: _____

Vendor Name:	Date:
Address:	Bid #:
City, State & Zip:	Project: Commission Approval Date:

Budgeted/Existing: _____ New: _____ Continuing Service: _____

Mail Invoices in duplicate to:

City of Holly Hill

Total Cost: \$ _____

Holly Hill, Florida 321____

ATTACHMENTS TO THIS WORK ORDER:

- () Description of Services
- () Drawings/Plans/Specifications
- () Special Conditions
- () Rate Schedule

METHOD OF COMPENSATION:

- () Fixed Fee Basis
- () Not To Exceed
- () Unit Price

TIME FOR COMPLETION: The obligation of the Vendor to provide services to the City shall commence upon execution of this Work Order (WO) by the parties and services shall be completed by _____. Failure to meet the completion date may be grounds for termination of this WO and the underlying contract for default. Time is of the essence.

WITNESS WHEREOF, the parties hereto have made and executed this Work Order on this _____ day of _____, 20____, for the purposes stated herein.

(THIS SECTION TO BE COMPLETED BY THE CITY)

ATTEST:

Vendor

_____, Attesting Officer

_____, Officer with Corporate Signatory Authority

Date: _____

WITNESSES:

Department Head approved RAP on _____.

CITY OF HOLLY HILL

_____, Authorized Signatory

WORK ORDERS TERMS AND CONDITIONS

- Execution of this Work Order (WO) by the City shall serve as authorization for the Vendor to provide for the stated services as set out in this WO. It is expressly understood by the Vendor that this WO, until executed by the City, does not authorize the Vendor to perform any services for the City.
- This WO shall take effect on the date of its execution by the City and expires upon final completion, inspection and payment unless terminated earlier in accordance with the termination provisions herein. The Vendor shall sign this WO first and the City second. This WO will be forwarded to the Vendor upon execution by the City.
- The Vendor shall provide services pursuant to this WO, its attachments, and the underlying Agreement (as amended, if applicable) which is incorporated herein by reference as if it had been set out in its entirety. In the event that the terms and conditions of this WO are inconsistent with the terms and conditions of an underlying contract which is implemented, in whole or part, by this WO; then the terms and conditions of the underlying contract shall apply.
- Compensation is based on the method indicated on the first page of this WO.
- Payments to the Vendor shall be made by the City in strict accordance with the payment terms and conditions listed below or in the underlying contract.
- By accepting this WO, the Vendor accepts all the terms and conditions included herein.
- The City reserves the right, without liability of any type, to cancel this WO as to any services not yet performed or tendered, and to purchase substitute services and to charge the Vendor for any loss incurred.
- The City may cancel this WO, any outstanding services hereunder, or reschedule in whole or in part, for cause or no cause, upon written notice to the Vendor sent at least fourteen (14) days prior to the completion date specified. The City may cancel this WO in whole or in part at any time for default by written notice to the Vendor.
- The City shall have no liability to the Vendor beyond payment of any balance owing for services completed hereunder and accepted by the City prior to the Vendor's receipt of the notice of termination.
- Prices stated on this WO are firm, all inclusive and consistent with applicable negotiations, bid(s) and/or quotations. The City is exempt from the Florida sales and use taxes and will furnish the Vendor with proof of tax exemption upon written request.
- The City reserves the right to conduct any inspection or investigation to verify compliance of the services with the requirements of this purchase and to reject any delivery not in compliance and, if the deficiency is not visible at the time of acceptance, to take and require appropriate corrective action.
- The Vendor agrees to comply with all Federal, State of Florida, Volusia County and City laws, ordinances, regulations, authority and codes and authority having jurisdiction over the purchase. This WO shall be governed by and interpreted in accordance with the laws of the State of Florida. In any action or proceeding required to enforce or interpret the terms of this Agreement, venue shall be of the Seventh Judicial Circuit in and for Volusia County, Florida.
- The Vendor agrees to indemnify, hold harmless and defend the City: (1) from any loss, expense, claim or damage arising from any claim or action based on any acts or omissions of the Vendor, its employees, servants, agents or subcontractors; (2) with respect to any and all claims, suits, actions, and proceedings of actual or alleged infringements of any letter, patent, register of industrial design, trademark or trade name, trade secret, copyright or other protected right in any country resulting from any sale, use or manufacture of any goods delivered hereunder. The City reserves its right to be represented in any such action by its own counsel. Nothing herein shall be deemed to affect the rights, privileges, and immunities of the City as set forth in Section 768.28, *Florida Statutes*.
- The Vendor shall not assign this WO, any rights under this WO or any monies due or to become due hereunder, nor delegate or subcontract any obligations or work hereunder without the prior written consent of the City.
- The Vendor shall perform the obligations of this WO as an independent contractor and under no circumstances shall it be considered as agent or employee of the City.
- The Vendor ensures that its personnel shall comply with reasonable conduct guidelines and City policies and procedures. A person or affiliate who has been placed on the convicted vendor list may not submit a bid or transact business with the City in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. In compliance with 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act (INA)], the City will not intentionally make an award or upon discovery of a violation will unilaterally cancel this WO with any vendor who knowingly employs unauthorized alien workers.
- If this WO involves the Vendor's performance on the City's premises or at any place where the City conducts operations, the Vendor shall request information from the Purchasing Manager regarding insurance coverage requirements. Noncompliance with this item shall place the Vendor in default and subject to disbarment from the City's Vendor List.
- The failure of the City to enforce any provision of this WO, exercise any right or privilege granted to the City hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in force.

**Exhibit D
AMERICANS WITH DISABILITIES ACT
AFFIDAVIT**

The undersigned CONTRACTOR swears that the information herein contained is true and correct and that none of the information supplied was for the purpose of defrauding CITY.

The CONTRACTOR will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The CONTRACTOR agrees to comply with the rules, regulations and relevant orders issued pursuant to the Americans with Disabilities Act (ADA), 42 USC s. 12101 et seq. It is understood that in no event shall the CITY be held liable for the actions or omissions of the CONTRACTOR or any other party or parties to the Agreement for failure to comply with the ADA. The CONTRACTOR agrees to hold harmless and indemnify the CITY, its agents, officers or employees from any and all claims, demands, debts, liabilities or causes of action of every kind or character, whether in law or equity, resulting from the CONTRACTOR's acts or omissions in connection with the ADA.

CONTRACTOR: Planning Solutions Corp.
 Signature: Beth G. Lemke
 Printed Name: Beth G. Lemke
 Title: President
 Date: 4/30/13

Affix Corporate Seal

STATE OF Florida)
) ss
 COUNTY OF Volusia)

The foregoing instrument was acknowledged before me this 30th day of April, 2013, by _____ of _____ firm), on behalf of the firm. He/She is personally known to me or has produced FL License LS20067675560 identification.

Michele Williams
 Print Name Michele Williams
 Notary Public in and for the County
 and State Aforementioned

My commission expires: _____



Exhibit E
HOURLY PRICE SCHEDULE



P.O. Box 4036 / Ormond Beach, FL 32175-4036
Ph. 407-491-9477

Exhibit A
Standard Hourly Billing Rates
Effective January 1, 2013

<u>Title</u>	<u>Name</u>	<u>Hourly Rate</u>
Manager of Special Projects	Beth G. Lemke	\$ 100.00

Reimbursable expenses, times 1.0 shall be charged as incurred, in addition to the hourly rates noted herein. Reimbursable expenses may include, but are not limited to, printing costs, phone calls, mileage, food, and lodging.

Exhibit F
BUSINESS TAX RECEIPT

**BUSINESS TAX # BT-72496**

THE CITY OF DAYTONA BEACH
301 S. RIDGEWOOD, SUITE # 127
DAYTONA BEACH, FL 32114

PLANNING SOLUTIONS CORP.
206 N BEACH ST 205
BUSINESS SERVICE

DEVELOPMENT SERVICES DEPARTMENT
PERMIT & LICENSING DIVISION
Phone: 386-671-8140

BT-72496	BUSINESS TAX NO.
72496	ACCOUNT NO.
03/01/2013	VALID FROM
09/30/2013	VALID TO
03/05/2013	DATE PAID
\$ 70.00	AMOUNT PAID

0260 BUSINESS SERVICE

BETH GLEMKE
PLANNING SOLUTIONS CORP
P.O.BOX 4036
ORMOND BEACH, FL 32175

DISPLAY AT PLACE OF BUSINESS FOR PUBLIC INSPECTION
THE CITY DOES NOT CERTIFY OR IMPLY COMPETENCE OF BUSINESS

TAX RECEIPT**THE CITY OF DAYTONA BEACH**

Receipt # BL53259

THE CITY OF DAYTONA BEACH
301 S. RIDGEWOOD, SUITE # 127
DAYTONA BEACH, FL 32114

PLANNING SOLUTIONS CORP.
206 N BEACH ST 205

0260	03/01/2013	BUSINESS SERVICE	70.00
ADM	03/01/2013	ADMINISTRATIVE FEES	48.20

Fees Paid: 118.20

Business Tax # BT-72496

Paid By: BETH G.LEMKE

Date Paid: March 05, 2013
Pay Method: CASH XXXX
Collected By: RAM

TAX RECEIPT

2012/ 2013

Volusia County Business Tax Receipt

Issued pursuant to F.S. 205 and Volusia County Code of Ordinances Chapter 114-1 by:
Volusia County Revenue Division - 123 W Indiana Ave, Room 103, DeLand, FL 32720 - 386-736-5938



Receipt # 200711060004 Expires: September 30, 2013
Business Location: 12 TANGLEWOOD CIR

Business Name: PLANNING SOLUTION CORP
Owner Name: BETH G LEMKE
Mailing Address: 12 TANGLEWOOD CIR
ORMOND BEACH, FL 32176

BUSINESS TYPE	CODE	COUNT	TAX
Business Service	471	1	\$22.00

- " This receipt indicates payment of a tax, which is levied for the privilege of doing the type(s) of business listed above within Volusia County. This receipt is non-regulatory in nature and is not meant to be a certification of the holder's ability to perform the service for which he is registered. This receipt also does not indicate that the business is legal or that it is in compliance with State or local laws and regulations.
- " The business must meet all County and/or Municipality planning and zoning requirements or this Business Tax Receipt may be revoked and all taxes paid would be forfeited.
- " The information contained on this Business Tax Receipt must be kept up to date. Contact the Volusia County Revenue Division for instructions on making changes to your account.

**THIS PORTION OF THE BUSINESS TAX RECEIPT MUST BE
POSTED CONSPICUOUSLY IN YOUR PLACE OF BUSINESS**

Volusia County Business Tax Receipt

Revenue Division - 123 W Indiana Ave, Room 103, DeLand, FL 32720 - 386-736-5938

DATE PAID: 07/31/2012

PAYMENT Lockbox-11-00099189
RECEIPT #:

Business Name: PLANNING SOLUTION CORP
Owner Name: BETH G LEMKE
Mailing Address: 12 TANGLEWOOD CIR
ORMOND BEACH, FL 32176

TOTAL TAX: 22.00

PENALTY: 0.00

TOTAL PAID: 22.00

Receipt # 200711060004 Expires: September 30, 2013
Business Location: 12 TANGLEWOOD CIR

PLEASE DETACH THIS PORTION OF THE BUSINESS TAX RECEIPT FOR YOUR RECORDS

13-22185

CITY OF ORMOND BEACH
P.O. Box 277
Ormond Beach, FL 32175-0277
386-676-3233 or 386-676-3234

Fee: \$52.50
Valid 7/26/12 - 9/30/13

Classification Comments/Restrictions

Location / Phone

HOME OCCUPATION - TYPE A

12 TANGLEWOOD CIR

PLANNING & TRANSPORTATION PLANNING
PUBLIC INFORMATION/ FUNDING ASSISTANCE

(407) 491-9477

PLANNING SOLUTIONS CORP.
12 TANGLEWOOD CIR
ORMOND BEACH FL 32176-5746

BUSINESS TAX RECEIPT

Subject to Code of Ordinances Chapter 12 - This receipt must be posted conspicuously in your place of business. Penalty for failure to do so.

Exhibit F
Request for Taxpayer Identification Number and Certification
(W-9 Form)

Form W-9
(Rev. October 2007)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the
requester. Do not
send to the IRS.

Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return)	
Business name, if different from above Planning Solutions Corp	
Check appropriate box: ☐ Individual/Sole proprietor ☒ Corporation ☐ Partnership ☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ ☐ Other (see instructions) ▶	☐ Exempt payee
Address (number, street, and apt. or suite no.) Post Office Box 4036	Requester's name and address (optional)
City, state, and ZIP code Ormond Beach, Florida 32175-4036	
List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number : : :
or
Employer identification number 26 : 0204977

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶ <i>Beth H. Lemke</i>	Date ▶ <i>4/30/2013</i>
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,