

**TOWN COUNCIL OF DEWEY-HUMBOLDT
REGULAR MEETING NOTICE AND AGENDA - AMENDED**

Tuesday, November 17, 2020, 6:30 P.M.

**DEWEY-HUMBOLDT TOWN HALL
COUNCIL CHAMBERS
2735 S. HWY 69, SUITE 10
HUMBOLDT, ARIZONA 86329**

NOTICE OF MEETING OF THE DEWEY-HUMBOLDT TOWN COUNCIL

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Dewey-Humboldt Town Council and to the general public that the Town Council will hold a public meeting (see notes about public participation below) on **Tuesday, November 17, 2020, at 6:30 p.m.**, at the **Dewey-Humboldt Town Hall Council Chambers, 2735 S. Highway 69, Suite 10, Humboldt, Arizona 86329**. Members of the Town Council will attend by audio/video conference call.

THIS MEETING WILL BE HELD BY REMOTE PARTICIPATION ONLY

Due to the federal government's declaration of a COVID-19 pandemic and the resulting Executive Orders from Arizona Governor Ducey to limit events of people in personal contact and Mayor Nolan's declaration of an emergency based on the COVID-19 pandemic, the following accommodations are provided for public participation at the Council Meeting:

- Viewing live streaming audio only on the Town's website, at:
<http://az-deweyhumboldt.civicplus.com/2164/Town-Meeting-Documents-and-Videos>
- Viewing and potentially participating in the meeting via Join Zoom Meeting:
 - Computer: <https://zoom.us/j/87647637781>
 - Telephone: (301) 715-8592
 - Meeting ID: 876 4763 7781
- Submitting comments via email to the Interim Town Clerk at BethEvans@dhaz.gov. Comments should be submitted no later than 3:30 p.m. on the day of the meeting. Please identify the agenda item and your first and last name.

DEWEY-HUMBOLDT TOWN COUNCIL REGULAR MEETING AGENDA - AMENDED

The issues that come before the Town Council are often challenging and potentially divisive. To make sure we benefit from the diverse views to be presented, the Council believes public meetings to be a safe place for people to speak, and asks that everyone refrain from clapping, heckling and any other expressions of approval or disapproval. Council may vote to go into Executive Session for legal advice regarding any matter on the open agenda pursuant to A.R.S. § 38-431.03(A)(3), which will be held immediately after the vote and will not be open to the public. Upon completion of the Executive Session, the Council may resume the meeting, open to the public, to address the remaining items on the agenda. Agenda items may be taken out of order. Please turn off all cell phones. Council Meetings are broadcast via live streaming video on the internet in both audio and visual formats. One or more members of the Council may attend either in person or by telephone, video or internet conferencing. **NOTICE TO PARENTS:** Parents and legal guardians have the right to consent before the Town of Dewey-Humboldt makes a video or voice recording of a minor child. A.R.S. § 1-602.A.9. Dewey-Humboldt Council Meetings are recorded and may be viewed on the Dewey-Humboldt website. If you permit your child to participate in the Council Meeting, a recording will be made. You may exercise your right not to consent by not permitting your child to participate or by submitting your request to the Town Clerk that your child not be recorded.

1. Call To Order

2. Roll Call Town Council Members: Karen Brooks, Lynn Collins, John Hughes, Mark McBrady, Victoria Wendt, Vice Mayor Amy Lance and Mayor Terry Nolan.

3. Pledge of Allegiance

4. Moment of Silence

5. Announcements regarding Town Current Events; Guests; Appointments; and Proclamations

Announcements of items brought to the attention of the Mayor not requiring legal action by the Council. Guest Presentations, Appointments, and Proclamations may require Council discussion and action. Pursuant to the Arizona Open Meeting Law, the Town Council may present a brief summary of current events; however, the Council may not discuss, deliberate, or take legal action on any matter in the summary.

A. Council announcements about outside meetings and committees

- 6. Public Comment on Non-agendized Items** The Council wishes to hear from Citizens at each meeting. Those wishing to address the Council need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Council. Individuals may address the Council on any issue within its jurisdiction. According to the Arizona Open Meeting Law, Councilmembers may respond to criticism made by those who have addressed the public body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Councilmembers are forbidden from discussing or taking legal action on matters raised during Public Comment unless the matters are properly noticed for discussion and legal action. A **3 minute** per speaker limit shall be imposed. Everyone is asked to please be courteous and silent while others are speaking.

7. Consent Agenda

All those items listed below are considered to be routine and may be enacted by one motion. Any Councilmember may request to remove an item from the Consent Agenda to be considered and discussed separately.

- 8. Town Manager's Report** Update on Current Events. The Town Council may ask clarifying questions about any item listed on the agenda under Town Manager's Report or ask that any item listed on the agenda under Town Manager's Report be placed on a future agenda for Council deliberation and action. No legal action will be taken on items listed under Town Manager's Report. From time to time, as authorized by A.R.S. § 38-431.02(K), the Town Manager may present a brief summary of a current event that, due to its timeliness, is not listed on the agenda. In such cases, the Town Council shall not propose, discuss, deliberate or take legal action on the matter.

A. Update from the Town Manager on meeting with local business owners; Town Manager Hanks previously reported he was meeting with local business owner about the CARES Act. (CAARF Mayor Nolan)

- 9. General Business** Discussion and possible legal action may be taken. Agenda language may vary from that in CAARFs for Open Meeting Law purposes.

A. Discussion and possible action relating to a request from Victor Hambrick to vacate a portion of Town-owned right-of-way along Antelope Way, generally located at the intersection of River Drive and Antelope Way (Staff CC)

B. Canvass the results of the General Election held on November 3, 2020, for the purpose of electing a candidate to the office of Town Councilmember (Staff CC)

C. Discussion and possible action to direct staff relating to issue a Request for Proposals (RFP) to potentially retain a new certified public accounting firm for the Town's annual audit (CAARF Mayor Nolan)

Page 5 **D. Discussion and possible action on contract with Municipal Solution for recruitment services for an Interim Town Manager and an Interim Town Clerk (Attorney Memo) (Material added)**

21 **E. Discussion and possible action for changing Town staff hours to better cover Town functionality prior to Town's retention of Interim Town Manager (Staff CC) (Material added)**

- 10. Consideration of additional Special Session(s)** Whether to hold and, if so, set the date

11. Adjourn.

Persons with a disability may request reasonable accommodations by contacting the Town Hall at (928) 632-7362 at least 24 hours in advance of the meeting.

Certification of Posting

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the _____ day of _____, 2020, at _____ a.m./p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt.

By: _____, Town Clerk's Office.

For Your Information:

Next Town Council Regular Meeting: Tuesday, December 1, 2020 at 6:30 p.m.

Next Town Council Study Session: Tuesday, December 8, 2020, at 6:30 p.m.

Next Planning & Zoning Meeting: Thursday, January 7, 2021, at 6:00 p.m.

If you would like to receive Town Council agendas via email, please sign up at AgendaList@dhaz.gov and type Subscribe in the subject line, or call (928) 632-7362 and speak with Beth Evans, Interim Town Clerk.

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COUNCIL COMMUNICATION

Regular Council Meeting Date: November 17, 2020

Agenda Item: 9.D.

Submitted by: Kay Bigelow, Town Attorney

Subject:

Discussion and possible action on contract with Municipal Solution for recruitment services for an Interim Town Manager and an Interim Town Clerk

Background:

Town Council met and approved retaining the professional recruitment services of Municipal Solutions for recruitment of an Interim Town Manager and Interim Town Clerk. Municipal Solutions principal submitted a template of the contract for retention with his proposal and another amended for the use with Dewey Humboldt is attached for the Town Council's approval to start the actual services.

Financial Impact:

TBD Interim

Direction Requested:

Approval of professional services contract with Municipal Solutions in order to effectuate Town Council's two motions on November 13, 2020 to retain Municipal Solutions for recruitment of Interim Town Manager and Interim Town Clerk

Suggested Motion:

I move to approve the attached professional services contract with Municipal Solutions for recruitment of an Interim Town Manager and an Interim Town Clerk.

Attachments:

Municipal Solutions' Professional Services Agreement with Town of Dewey Humboldt

PROFESSIONAL SERVICES AGREEMENT

for Interim Professional Management services for Town Clerk & Town Manager

THIS **PROFESSIONAL SERVICES AGREEMENT** (the "agreement") is entered into this 16th day of November, 2020, by and between the Town of Dewey-Humboldt, a municipal corporation in the State of Arizona ("Town"), acting through its Mayor, Town Manager or designee, and Municipal Solutions, LLC an Arizona limited liability corporation ("Firm"), to provide various professional executive level consultants on an as needed basis.

RECITALS

WHEREAS, the Code and Ordinances of the Town, Town's policies and/ or Town Council empowers the Mayor, Town Manager or designee to enter into contracts on behalf of Town for professional services; and

WHEREAS, Town is in need of professional interim staffing services, at this time and possibly in the future; and

WHEREAS, Town desires to retain firm to furnish professional interim services and to make payment for the same in accordance with the terms and conditions set forth in this Agreement, including all attachments and addenda, which are appended hereto by mutual agreement of the parties; and

WHEREAS, the Firm desires to provide the Services upon the terms and conditions set forth herein; and

WHEREAS, Town desires to enter into this Agreement for Firm to provide professional services to the Town upon the terms and conditions set forth herein and to agree to terms and conditions that will govern other such related services as may be requested by the Mayor, Town Manager or designee from time to time (the "Services");

AGREEMENT

NOW, THEREFORE, Town agrees to retain and does hereby retain the Firm, and the Firm agrees to provide the services required according to the terms and conditions and for the consideration hereinafter set forth:

1. FIRM'S DUTIES

Firm agrees to provide executive level interim professionals on an *as needed* basis, as more specifically set forth in each Exhibit A, which are attached hereto and incorporated herein by reference ("Services").

For each engagement hereunder, a description of the services to be provided, the expected start date, fees and expenses, and other details regarding the services shall be set forth in a schedule to this Agreement signed by the Mayor, permanent Town Manager or designee

and Municipal Solutions. Each of the individuals to be provided by Firm to perform services shall be referred to herein as an "Interim Professional" and as "Interim Professionals."

If the Town is not satisfied with any Interim Professional, the Town may request that the Firm replace such Consultant.

2. COMPENSATION

In accordance with the terms and conditions of this Agreement, Town shall compensate Firm for its services as follows (see attached Exhibit A):

- a. Should the Town request additional services beyond those specified in Section 1, the Firm shall charge, and the Town shall pay, a rate as mutually agreed upon in writing prior to Firm performing the additional services. Costs caused by delays or by improperly timed activities shall be borne by the party responsible thereof. Unless otherwise included in this Agreement, the Firm shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Services.
- b. If at any time during the term of this Agreement, applicable Exhibits, Schedules or Contract Amendment terms and within one (1) year thereafter the Town hires, contracts with or engages in any way, directly or indirectly, with any consultant who has been recommended to or provided by Firm to provide Services to the Town under the Agreement or any Schedule or Contract Amendment thereto to perform any services for or for the benefit of the Town (other than through the Firm), the Town hereby agrees to pay the Firm an Engagement Fee equal to 20% of the agreed upon equivalent annualized salary, fees or other compensation to be paid to or for the benefit of such individual, payable to Firm at the time of such engagement of such individual's services begin.

3. TERM

This Agreement shall be effective upon approval by the Town and the Firm. THIS Agreement shall remain in effect for one (1) year or until terminated pursuant to the provisions provided hereunder, however SEPARATE engagements detailed in separate individual Exhibit A's to be entered into for each Interim candidate during the term of this contract shall be subject to approval of both parties, and there shall be no obligation on either party to enter into a particular engagement, Contract Amendment, or Schedule during the contract term. If the duration of this Agreement is found to be unlawful, then the duration of THIS Agreement shall continue to extend for one (1) additional year or until terminated.

4. BILLING / INVOICING

Firm shall invoice Town bi-monthly on a time basis. Town shall pay such billings within fifteen (15) days of the date of receipt of the Firm's invoice.

5. TOWN'S PERFORMANCE STANDARDS

While receiving the services, Town employees and elected officials shall exercise the reasonable professional care and skill, and shall use reasonable diligence and good judgment in their working relationship with the Interim(s). The Town shall comply with the provisions of Town

Ordinances / Code, the policies and procedures adopted and used by the Town, the laws of the State of Arizona, #17 of this agreement, and all other applicable laws and regulations. Failure to do so may constitute breach, and Town shall furnish the Firm with all data, information and other supporting services necessary for Firm to provide the services provided for herein.

6. FIRM'S PERFORMANCE STANDARDS

While performing the services, Firm and any Interim Professional shall exercise the reasonable professional care and skill customarily exercised by reputable members of Firm' s or Interim Professional' s profession, and shall use reasonable diligence and best judgment while exercising its professional skill and expertise. The Firm and the Interim Professional shall comply with the provisions of the laws of the State of Texas, the Ordinances of the Town, the policies and procedures adopted and used by the Town, and any formal actions of the Town Council / Commission and all other applicable laws and regulations.

Firm shall be responsible for all errors and omissions Firm or any Interim Professional commits in the performance of this Agreement that are a breach of this standard.

7. CONFIDENTIALITY

The Firm, and any Interim Professional or individuals hired by Firm, agree not to disclose to any other person or entity (unless required by law) any confidential information concerning Town matters during and after this Agreement. Interim Professionals will refrain from activities that are harmful to the image of the Town and the Firm. In the implementation of the assignment the expert will adhere to "*The values and policies or Municipal Solutions*" which are an integral part of this agreement (see Exhibit B).

8. NOTICES

All notices to the other party required under this Agreement shall be in writing and sent by first class certified mail, postage prepaid, return receipt requested, addressed to the following personnel:

To the Town: Town: Dewey -Humboldt
 Mayor / Town Manager: _____
 Address: _____
 City, State, Zip: _____

To the Firm: Municipal Solutions, LLC
 Attn: David A. Evertsen, CEO & Principal
 875 So. Estrella Parkway #5038
 Goodyear, AZ 85338

9. TERMINATION

This Agreement may be terminated by either party upon thirty (30) days written notice. If this Agreement is terminated, Firm shall be paid for services performed to the date of receipt of such termination notice. In the event of such termination, Firm shall deliver to Town all work in any state of completion at the date of effective termination.

10. SUBCONSULTANTS

Firm agrees that it is fully responsible to Town for the acts and omissions of its subconsultants and of persons either directly or indirectly employed by them as it is for the acts and omissions of persons directly employed by Firm. Nothing contained in the Agreement shall create any contractual relations between any Firm, Interim Professionals and Town.

11. RECORDS

Records of Firm's labor, payroll, and other costs pertaining to this Agreement shall be kept on a generally recognized accounting basis and made available to Town for inspection on request. Firm shall maintain records for a period of at least two (2) years after termination of this Agreement, and shall make such records available during that retention period for examination or audit by Town personnel during regular business hours.

12. INSURANCE

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Firm, its agents, representatives, or employees.

Minimum Scope and Limits of Insurance

Consultant shall maintain limits no less than:

- *\$1,000,000 General Liability (including operations, products and completed operations) per occurrence for bodily injury, personal injury and property damage at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage (occurrence Form CG 00 01).*
- *\$1,000,000 Automobile Liability per accident for bodily injury or property damage at least as broad as ISO Form CA 00 01 covering Automobile Liability, code 1 (any auto).*
- *\$1,000,000 Employer's Liability per accident for bodily injury or disease.*
- *\$1,000,000 Errors & Omissions Liability appropriate to the consultant's profession. Architect's and Engineer's coverage is to be endorsed to include contractual liability.*

If the Firm maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by the Firm.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the entity.

Other Insurance Provisions

The general liability policy and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- The entity (Town), its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the consultant; and with respect to liability arising out of work or operations performed by or on behalf of the Firm.
- For any claims related to this project, the Firm's insurance coverage shall be primary

- insurance as respects the entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the entity, its officers, officials, employees or volunteers shall be excess of the Firm's insurance and shall not contribute with it.
- Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the entity.
 - Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under state law.

Acceptability of Insurers

Insurance is to be placed with admitted insurers with a current AM Best's rating of no less than A:VII, unless otherwise acceptable to the entity.

Verification of Coverage

Firm shall furnish the entity with copies of original certificates and endorsements, including amendatory endorsements, effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the entity before work commences; however, failure to do so shall not operate as a waiver of these insurance requirements. The entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

Subcontractors

The Firm shall include all Interim Professionals as insureds under its policies or shall furnish separate certificates and endorsements for each subcontract Interim Professional. All coverages for subcontract Interim Professional shall be subject to all of the requirements stated herein.

13. EXCLUSIVITY / NON-EXCLUSIVITY

Nothing in this Agreement shall imply Town is obligated to obtain the services described herein with only this particular Firm.

14. UNCONTROLLABLE FORCES

Town and the Firm shall exert all efforts to perform their respective responsibilities under this Agreement. However, neither party shall hold the other party responsible for inability to render timely performance if such inability is a direct result of a force beyond its control, including but not limited to the following: strikes, lockouts, embargoes, failure of carriers, inability to obtain transportation facilities, acts of God or the public enemy, or other events beyond the control of the other or the other's employees and agents.

15. MUTUAL INDEMNIFICATION:

15.1 By the Firm: Firm waives all rights to claim, assert or recover from the Town, its representatives, agents, officers, employees, and any other individual(s), firm(s),

organization(s), or entities associated with the Town for any claims, liability, or actions which may result, in whole or in part, from the acts or omissions of the Town, its representatives, agents, officers, employees, and/or any other individual(s), firm(s), organization(s), or entities associated with the Town, other than for the other Parties' nonperformance pursuant to this Agreement. Further, the Firm agrees to defend, hold harmless and indemnify the Town, its officers, agents and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs and attorney's fees, for injury or death to any person, arising in whole or in part from the gross negligence, fraud or willful misconduct of the Firm and / or Consultant, their agents or representatives, in the execution or performance of this Agreement. This indemnification shall be binding on the Firm and Firm's Consultants, agents, successors, and approved assignees.

15.2 By the Town: To the fullest extent permitted by law, and except as otherwise provided herein, Town shall defend, indemnify, and hold Firm, its officers and its employees, agents and subconsultant Interim Professionals harmless from any and all loss, damage, claim for damage, liability, expense, or cost, including reasonable attorneys' fees, which arise out of, or are in any way connected with any act or omission of Town, or its employees, agents or representatives in implementing the terms of or undertaken in fulfillment of the Town's obligations under this Agreement. The Town shall also defend, indemnify, and hold Firm, its officers and its employees, agents and subconsultant Interim Professionals harmless from any and all loss, damage, claim for damage, liability, expense, or cost, including reasonable attorneys' fees, which arise out of, or are in any way connected with the acts of Firm or its employees, agents, or subconsultants while acting within the course and scope of providing services to Town under this Agreement; provided, however, that this indemnification shall not apply to any grossly negligent acts or omissions, willful misconduct or grossly negligent conduct whether active or passive, on the part of Firm. This section shall survive the expiration or early termination of the Agreement.

16. WAIVER OF TERMS AND CONDITIONS

The failure of the Town or the Firm to insist in any one or more instances on performance of any of the terms or conditions of this Agreement or to exercise any right or privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.

17. INDEPENDENT FIRM

It is expressly agreed and understood by and between the Town and the Firm that Interim Professionals are independent contractors working for the Firm and, as such, the Interim Professionals are not Town employees, and are not entitled to payment or compensation from the Town or to any fringe benefits to which other Town employees are entitled (other than as set forth herein). As an Independent Contractor to the Firm, the Interim Professionals are fully aware that they are solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, health insurance, disability insurance, life insurance, workers compensation insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an Independent Contractor, Interim Professional

will not make any claim, demand of application to or for any right or privilege applicable to any officer or employee of the Town, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit (other than as set forth herein).

Notwithstanding the foregoing, if applicable Town shall be responsible to pay any alternative pension contributions as required by state law that arise as a result of the Services provided hereunder; Town agrees that it shall otherwise pay no wages, salary or other forms of direct or indirect compensation, including employee benefits, to any employee of the Firm.

18. ARBITRATION

In the event that there is a dispute hereunder which the parties cannot resolve between themselves, the parties agree to attempt to settle the dispute by nonbinding arbitration before commencement of litigation. The arbitration shall be held under the rules of the American Arbitration Association. The matter in dispute shall be submitted to an arbitrator mutually selected by Firm and the Town. In the event that the parties cannot agree upon the selection of an arbitrator within seven (7) days, then within three (3) days thereafter, the Town and the Firm shall request the presiding judge of the Superior Court in and for Maricopa_County, State of Arizona, to appoint an independent arbitrator. The cost of any such arbitration shall be divided equally between the Town and the Firm. The results of the arbitration shall be nonbinding on the parties, and any party shall be free to initiate litigation subsequent to the final decision of the arbitrator. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.

19. GOVERNING LAW AND VENUE

The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either party for the purpose of enforcing a right or rights provided for in this Agreement, shall be tried in a court of competent jurisdiction in Maricopa_County, State of Arizona. In the event either party shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition in this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs including: all litigation and appeal expenses, collection expenses, reasonable attorneys' fees, necessary witness fees and court costs to be determined by the court in such action.

20. OWNERSHIP OF RECORDS AND REPORTS

All of the files, reports, documents, information and data prepared or assembled by Firm under this Agreement shall be and remain the property of Town and shall be forwarded to Town at any time Town requires such papers.

21. LICENSES AND PERMITS

Firm represents and warrants that any license or permit necessary to perform Services under this Agreement is current and valid. The Firm understands that the activity described herein may constitute "doing business in the Town of..." and the Firm agrees to obtain any necessary business tax license of the Town, Town's Town Code and keep such license current during the term of this Agreement. Any activity by subconsultants within the corporate Town limits, will invoke the same business tax regulations on any subconsultants, and Firm ensures its subconsultant will obtain any required business tax license. Failure of Firm to obtain said permits prior to the commencement of its work shall mean breach of this agreement.

22. NONASSIGNMENT

This Agreement has been entered into based upon the personal reputation, expertise and qualifications of Firm. Neither party to this Agreement shall assign its interest in the Agreement, either in whole or in part. Firm shall not assign any monies due or to become due hereunder without the prior written consent of Town.

23. ENTIRE AGREEMENT

This Agreement and any attachments represent the entire agreement between Town and Firm and supersede all prior negotiations, representations or agreements, either express or implied, written or oral. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the parties hereto. Written and signed amendments shall automatically become part of the Supporting Documents, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

24. SEVERABILITY

The invalidity in whole or in part of any provision hereof shall not affect the validity of any other provision hereof and this Agreement shall remain in full force and effect except as to such invalid provision.

25. CONFLICTS OF INTEREST

Municipal Solutions' employees, agents, consultants, analysts and Interim Professional adhere to the International Town / County Managers Association (ICMA) Code of Ethics, and company policy (Exhibit B), to represent the company using the highest professional standards. The Town understands that the Firm has ongoing commitments, contracts and personal interests outside the terms of this Agreement. Pursuant to State Statute, the Firm agrees to avoid and or disclose any potential conflicts which might prohibit the Firm or Consultant from performing the duties as assigned. In the foregoing event, the Town may terminate this Agreement as described in Section 9.

26. AMERICANS WITH DISABILITIES ACT

This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S. C. 1.2101-12213) and all applicable federal regulations under the Act, including 28 CFF Parts 35 and 36. (Non-Discrimination: The Firm shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex,

age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws, rules and regulations, including the Americans With Disabilities Act. The Firm shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.)

27. STATEMENT OF NON-SUSPENSION OR DISBARMENT

Non-Federal entities are prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Firm acknowledges, by signature to this agreement, that:

- Firm is not currently suspended or debarred from contracting with the federal government, any of its agencies or any state or any of their political subdivisions;
- Firm's principals, agents, and consultants are not currently suspended or debarred from contracting with the federal government, any of its agencies or any state or any of their political subdivisions;

28. UNDOCUMENTED WORKERS

Firm understands and acknowledges the applicability to it of the Immigration Reform and Control Act of 1986. Under the provisions of appropriate state laws, Firm hereby warrants to the Town that the Firm and each of its subconsultants ("subconsultants") will comply with, and are contractually obligated to comply with, all Federal and Immigration laws and regulations that relate to their employees and applicable State Statutes (Arizona Revised Statutes A.R.S.) (hereinafter "Immigration Warranty"). A breach of the Immigration Warranty shall constitute a material breach of this Agreement and shall subject the Firm to penalties up to and including termination of this Agreement at the sole discretion of the Town. The Town retains the legal right to inspect the papers of any Firm or subconsultant employee who works on this Agreement to ensure that the Firm or subconsultant is complying with the Immigration Warranty. Firm agrees to assist the Town in regard to any such inspections. The Town may, at its sole discretion, conduct random verification of the employment records of the Firm and any of subconsultant to ensure compliance with Immigration Warranty Firm agrees to assist the Town in regard to any random verification(s) performed.

Neither the Firm nor any subconsultant shall be deemed to have materially breached the Immigration Warranty if they establish that it has complied with the employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by Arizona Revised Statutes A.R.S.. The provisions of this paragraph must be included in any contract the Firm enters into with any and all of its subconsultant who provide services under this Agreement or any subcontract. "Services are defined as furnishing labor, time or effort in the State of Arizona by a subconsultant of the Firm.

29. NON-COLLUSION / NO KICK-BACK CERTIFICATION

Firm warrants that it has not colluded with any individual or company, and that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee. For breach or violation of this warranty, the Town shall have the right to annul this Agreement without

liability, or at its discretion to deduct from the compensation to be paid Firm hereunder, the full amount of such commission, percentage, brokerage or contingent fee.

Town warrants that no member of the Town Council/ Town Commission or any employee of the Town has an interest, financially or otherwise, in the Firm or it’s officers, agents, consultants, analysts or Interim Professionals other than under this Agreement. For breach or violation of this warranty, the Firm shall have the right to annul this Agreement without liability, or at its discretion to add additional compensation to be paid Town hereunder, the full amount of such commission, percentage, brokerage or contingent fee.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized representatives as of the day and year first above written.



Municipal Solutions, LLC

Town of _____, a municipal corporation in the State of _____.

David A. Evertsen, CEO & Principal
875 So. Estrella Parkway #5038
Goodyear, AZ 85338

Mayor, Town Manager or Designee

ATTEST or APPROVED AS TO FORM

Town Clerk / Town Attorney

EXHIBIT A TO FIRM AGREEMENT*To be discussed and completed with for Interim Assignment***Town:** Town of _____**Services:** _____**Expected Commencement Date for Engagement:****Expected Work Performance:***(i.e. Four-ten days per week, typically Monday through Thursday or Five-eights, Monday through Friday).***Fees:** Town shall pay to our Firm the Fees set forth below, in consideration of the Services rendered by our Firm detailed below:

Compensation	Payment
Rate of Pay	The Town shall pay Municipal Solutions the following fee for each week during which the Consultant or other Municipal Solutions representatives provide Services to the Town: \$_____per Consultant or other Municipal Solutions resource.
Lodging	The Town shall provide the Firm housing, or housing allowance, for each Interim Professional at a not to exceed rate of \$_____per Interim.
Mileage Reimbursement	Town shall reimburse the Firm the consultant's mileage to and from Town' s place of business at a rate of \$.55 per mile.
Air Travel	Town shall reimburse the Firm for the consultant's air travel expenses including but not limited to \$_____
Business-related Expenses	Town shall reimburse the Firm for consultant's business-related expenses including but not limited to....
Other...	

The Services Fees set forth above shall increase by five percent (5%) on 1 January 2020 annually thereafter. Services Fees may be prorated by the Firm as appropriate. If Town expressly approves or requests that a consultant's work overtime hours, and if the Firm is required to pay such Consultant overtime rates for such work, Town hereby agrees that its rates for such Consultant with respect to such overtime hours shall be 1.5 times the Services Fees rates set forth above.

Term: This Schedule shall commence upon its stated Commencement Date and shall continue until <date> and shall continue month to month after said date if mutually agreed upon in writing. After, this date, the schedule may be extended by:

- a. by the Town in the event that services are requested for a longer period of time;
- b. rate shall be a simple extension of the existing agreement and expected completion date reduced to writing and approved by both the Town and Firm (or unless otherwise agreed in writing); and
- c. availability and approval of the Interim Professional.

Schedule may be terminated either:

- a. by either party without cause by providing the other party 30 days' prior written notice of termination; or
- b. by either party with cause by providing the other party at least fifteen (15) days' prior written notice of termination for cause, provided that if the party giving such notice agrees that such cause has been cured during the first seven (7) days of such notice period then such notice of termination shall have no force or effect. It is understood and agreed that if for any reason the Consultant originally appointed cannot perform his duties, the Town, in its sole discretion, may terminate this Agreement or request that Firm provide a substitute. Should the Town terminate this agreement without cause before, Town shall pay to the Firm as a termination fee of fifty percent (50%) of the Services Fee set forth above for each week remaining between the date of Town' s early termination.

IN WITNESS WHEREOF the parties have executed this Schedule, effective on the Effective Date described above.

Town: Town of _____, _____

ATTEST:

Town Manager / Mayor _____

Date: _____

Town Clerk _____

Date: _____

Agreed to and accepted by Municipal Solutions, LLC:

By: David A. Evertsen, CEO

Date: _____

EXHIBIT B: THE VALUES AND POLICIES OF MUNICIPAL SOLUTIONS LLC

Municipal Solutions is committed to strengthening local government worldwide. With this mission in mind MS has formulated values and policies that steer the operation of our organization.

- I. **Code of Conduct.** Wherever we operate we aim for the highest standards of performance and behavior in everything we do, according to certain principles that shall govern the conduct of every employee and expert of Municipal Solutions. (See Code of Conduct below). We are aware that statements on paper are not sufficient to avoid condemnable behavior so we see the Code of Conduct as an instrument which is only useful if we discuss the mentioned values when we are confronted with dilemma's in the daily practice of our work. The management will review annually our attention for the values expressed in the Code of Conduct.*
- II. **Human Resources.** Our Analysts, Senior Analysts, Consultants and Board Members are central to everything we do. Municipal Solutions will invest in skills and talents of their employees through ongoing training and development.*
- III. **Security and Safety.** We take security and safety very seriously. That is why we have a well elaborated security and safety policy to protect our employees and experts on assignments around the world.*
- IV. **Sustainable Entrepreneurship.** We want to contribute to sustainable growth that is why we operate in a way that minimizes negative environmental impact and maximizes positive social impact.*

Code of Conduct Municipal Solutions

1. We are dedicated to the concepts of effective, efficient local government service delivery and strive to assist local governments globally to fulfill their stewardship to the residents of the communities served.
2. We affirm the dignity and worth of the services rendered by democratic government and maintain a constructive, creative, and practical attitude to local government affairs and a deep sense of social responsibility.
3. We know that we are the ambassadors of Municipal Solutions. We are dedicated to the highest ideals of honor, integrity and trustworthiness in all public and personal relationships, which means amongst other things that the use of illegal drugs, excessive consumption of alcohol, sexual harassment and bribery are prohibited in all circumstances. We are fair and do not discriminate.
4. We strive to achieve the highest quality, effectiveness and dignity in both the process and the products of our professional work. We only accept an assignment if we are able to offer the know-how and qualifications to fulfill. We are straight and clear in our accountability for the results and failures of our work. We are open for criticism and see that as a stimulus for improving the quality of work.
5. We acquire and maintain professional competence, share information with our colleagues, and accept and provide appropriate professional review.

6. We listen carefully to our clients, partners and contracting agents in order to be able to understand and address their real needs.
7. We know that we are doing our work on the request of our clients. We respect cultural values, sensitivities and national laws of the country in which we work. We stick to contracts, agreements, and assigned responsibilities.
8. We honor property rights including copyrights and patent and give proper credit for intellectual property. We respect the privacy of others and honor confidentiality.
9. We are aware that we sometimes work under difficult or dangerous circumstances and we fully comply with the 'Security and Safety Policy' of Municipal Solutions.
10. We uphold and promote the principles of this Code.

When becoming aware of a possible violation of the Municipal Solutions Code of Conduct by staff or experts of the organization, people are encouraged to report the matter to Municipal Solutions. In reporting the matter people may choose to go on record as the complainant or report the matter on a confidential basis. Reports of violation can be sent to our CEO and Principal, David Evertsen: 623 207-1309 via Email: devertsen@municipalsolutions.org

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COUNCIL COMMUNICATION

Regular Council Meeting Date: **November 17, 2020**

Agenda Item: **9.E.**

Submitted By: Edward L. Hanks, Jr., Town Manager

Subject:

Bring forward to Council the need to temporarily close Town Hall on Fridays and amend Administrative Regulation AR No 17-02.

Background:

Staff is currently working under a Non-Traditional, compressed work schedule, which entails four 10-hour days with a staggered work schedule. Due to the recent developments with Staff, the office will be very short-handed leaving only two full-time employees working on this schedule. Staff would like to remain on the compressed work schedule but remove the staggered portion of the schedule. Town Hall hours will be Monday through Thursday 8:00 a.m. to 6:00 p.m. Public Works staff will also work on this amended work schedule and will designate one employee to be on-call on Fridays. Staff is requesting to amend AR No 17-02 to temporarily close Town Hall on Fridays.

Financial Impact:

None.

Direction Requested:

Staff is seeking Council approval of the request to close Town Hall on Fridays.

Suggested Motion:

I move to approve the request to close Town Hall on Fridays.

Attachments:

Administrative Regulation AR No 17-02 Office Hours and Non-Traditional Work Schedule, Council Approval Date August 1, 2017.



**TOWN OF DEWEY-HUMBOLDT
ADMINISTRATIVE REGULATION**

AR № 17-02

Subject: *Office Hours and Non-Traditional Work Schedule*

Council Approval Date: August 1, 2017

1. Scope: This policy applies to non-contract full-time employees in all Town programs, agencies and authorities except the Court.
2. Purpose. This policy repeals Administrative Regulation 08-03 Flexible Work Scheduling and its amendments.
3. Definitions. For purposes of this Policy, the following words and phrases shall have the meanings set forth below:

Traditional office hours: Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding holidays on which Town offices are closed.

Traditional work schedule: Monday through Friday from 8:00 a.m. to 5:00 p.m., excluding paid holidays with 1 hour off during each workday.

Non-Traditional work schedule: Any full-time employee work schedule that is not a Traditional Work Schedule.

Workweek: Forty (40) hours during any seven-day period.

Compressed work schedule: A work schedule in which the total number of work hours are conducted in less than five workdays; i.e., four 10-hour workdays per week.

Staggered work schedule: Employees are divided into two or more groups in order to provide full coverage while the Town's office is open. Staggered works schedule does not alter the total number of hours worked in a workweek. Typically it means - Group I: Monday through Thursday 8:00 a.m. to 6:00 p.m. and Group II: Tuesday through Friday 8:00 a.m. to 6:00 p.m.; or Group I: Monday through Friday 8:00 a.m. to 4:00 p.m. and Group II: Monday through Friday 10:00 a.m. through 6:00 p.m.

4. Background:

The Town recognizes that its primary focus is customer service and the convenience of the residents of Dewey-Humboldt and wishes to maintain or increase the level of services provided to the residents. Office hours that are extended from the traditional 8:00 a.m. to 5:00 p.m., Monday through Friday schedule has been determined to be an effective means to better serve our citizens. Town employees proposed that the Office be open 8 a.m. to 6 p.m. Monday through Friday excluding holidays during the formulation of town staff's mission statement formulation.

Further, many studies have shown that a non-traditional work schedule has many benefits for an organization and its employees. The Town recognizes the benefits and wishes to attract and retain talented employees, lead our employees to seek work-life balance and become the employer of choice in the region. A compressed and staggered work schedule is desirable to town staff.

5. Policy:

Considering needs of the team and the customer, the Town has decided to implement a non-traditional work schedule within a workweek. With the Council's approval, the Town Manager has implemented the following:

5.1. Town office hours are 8 a.m. to 6 p.m., Monday through Friday, excluding holidays. This was implemented in October 2016.

5.2. Eligible full time employees can choose a compressed and staggered work schedule within the following parameters:

- a. Compressed and staggered work schedules may only be implemented as approved by the Town Manager based upon the needs of the organization both without compromising level of service.
- b. No compressed and staggered schedule may result in a shortage of staff on duty wherein there are fewer than two staff members in the office during office hours from 8 am to 6 pm.
- c. Staggered schedules shall be observed with consistency.
- d. Any change to an employee's work schedule shall be requested in writing by the employee, submitted on a "Schedule Change Form" at least five days before the requested change and shall not be effective until approved by the Town Manager.
- e. Employees who work a compressed work schedule remain subject to all Town policies regarding attendance, hours of work, holidays and various forms of leave.
- f. Two rest periods of fifteen minutes each will be provided for all employees. Break times will be scheduled and monitored by the Supervisors.
- g. Employees can lunch at desk so long as consuming food at desk does not negatively impact work. The immediate supervisor is responsible to monitor employee's performance and productivity when employee eats at desk or worksite. Employees who desire, or are required, by his/her immediate supervisor to take a longer than 15 minutes for lunch break each day will resume a five-work day schedule in order to accommodate the time off for lunch.
- h. Each observed holiday is calculated at the rate of eight hours per day off. When an observed holiday falls within a workweek, all employees shall observe an eight-hour work day schedule.
- i. The Town Accountant or his/her designee shall coordinate and draft a weekly schedule for all employees at least five days in advance. Once the Town Manager or designee approves the schedule, it will be posted in a conspicuous place in the office and distributed to each Department Head.
- j. Employees who are within the first year of employment are not eligible for the compressed work schedule and are expected to work a five (5) day, eight (8) hour schedule unless both the Town Manager and the immediate supervisor deem it is necessary for the employee to participate in the compressed schedule arrangement.

5.3. The 8 a.m. – 6 p.m. extended office hours and the availability to employees of the compressed work schedule and other flexible work schedule arrangements are subject to ongoing review and may be revised or terminated at any time by the Town Manager or the Town Council.

5.4. In the case of a conflict between this policy and a written agreement or legal requirement, the written agreement or legal requirement shall prevail.

TOWN MANAGER APPROVAL

Initial: 

Notes: _____