



CITY OF MORROW, GEORGIA

October 9, 2012

Regular Meeting

7:30 pm

CALL TO ORDER: Mayor Burke
PLEDGE OF ALLEGIANCE: All
INVOCATION: Mayor Burke

1. **ROLL CALL**

2. **APPROVAL OF MEETING AGENDA:**

To add or remove items from the Agenda:

3. **CONSENT AGENDA:**

1. Approval of the September 25, 2012 Regular and Work Session Minutes.
2. Approval of Fincher, Denmark, Williams invoice in the amount of \$5,219.14.
3. Approval of Henderson & Hundley invoice in the amount of \$21,619.89.

4. **REPORTS AND PRESENTATIONS:**

1. Presentation on Walk for Obesity program - *(Presented by Debra Brown)*
2. Financial Update *(Presented by Dan Defnall)*

5. **FIRST PRESENTATION:** None

6. **OLD BUSINESS:**

1. Approval of a Resolution to Deny a Fence Variance Request.
(Presented by Brecca Johnson, Senior Planner)

7. **NEW BUSINESS:**

1. Approval of a Master Services Agreement between American Facility Services, Inc. and the City of Morrow for services to be provided to the Morrow Center located at 1180 Southlake Circle, Suite 100, Morrow, GA.
(Presented by Stephen Sullivan)
2. Approval of a Resolution to Extend the Moratorium on the Issuance of Occupational Tax Certificates to Pain Management Clinics; To Repeal Conflicting Laws and Resolutions; To provide for Severability; and for other purposes.
(Presented by Jeff Eady, City Manager)

3. Approval for the Morrow Fire Department to declare the following vehicles as surplus and authorize Chief Herendeen or his designated representative to dispose of the property in keeping with applicable laws.
(Presented by Fire Chief Herendeen)
 - a. 2008 Ford E350 Super Duty Type II Ambulance, GVWR 6,084 lbs, 6 liter diesel engine with 64,048 miles
(VIN #1FDSE35P68DA35207)
 - b. 2003 Ford E350 Super Duty Type I Ambulance, GVWR 12,500 lbs, 6 liter diesel engine with 258,087 miles
(VIN #1FDWF36P63EC87720)
 - c. 1997 Ford F350 Regular Cab 1-ton pick-up truck with dual wheels, GVWR 10,000 lbs. 7.3 diesel engine with 57,431 miles
(VIN # 1FTJF35F2VEC39545)
4. Approval for the Public Works Department to declare the following items surplus and authorize Anou Sothsavath, Director of Public Works, or his designated representative to dispose of the property in keeping with applicable laws.
(Presented by Anou Sothsavath, Public Works Director)
 - a. 1996 F-Series Dump Truck (VIN# 1FDNF80C6SVA21773)
 - b. 1996 721 Grasshopper (Serial# 5056127)
 - c. 1 - Onan Generator 15KW (Serial# D860817420)

8. **GENERAL COMMENTS:**

Citizens-
City Manager-
Mayor and Council –

9. **ADJOURNMENT:**

A RESOLUTION TO DENY A SIGN VARIANCE REQUEST

WHEREAS, Windrose Southlake Properties, LLC requested a variance to allow an existing chain link fence to remain on the property located at 6635-6651 Lake Drive, Morrow, GA 30260; and

WHEREAS, The subject property is zoned General Business (BG), which prohibits chain link fences, but allows for masonry, wrought iron, or cast iron aluminum fences in the BG zoning district along with a landscape plan; and

WHEREAS, fence variances are considered where special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same district; where literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Code; and where special conditions and circumstances do not result from the actions of the applicant. A variance may be granted by the Mayor and Council upon application and where certain conditions exist; and

WHEREAS, the special conditions and circumstances that prompted the variance are the result of the actions of the applicant and the subject property is out of compliance with the City Code requirements for fencing prohibited by the Code and currently does not have a permit for the recently installed chain link fence; and

WHEREAS, the Planning + Economic Development staff has reviewed and evaluated the request based on the criteria and has recommended denial of the request; and

WHEREAS, the Morrow Planning + Zoning Board heard the fence variance on August 21, 2012 where a 2-1 vote to deny the request was made; and

WHEREAS, the Mayor and Council of the City of Morrow heard the fence variance request on September 25, 2012 where a unanimous motion and vote to deny the variance request was made.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Morrow denies the requested fence variance.

Be it Resolved this 9th day of October, 2012.

J.B. Burke, Mayor

ATTEST:

Evyonne Browning, City Clerk
(Seal)

MASTER SERVICES AGREEMENT

1. Parties, Effective Date

The parties to this Contractor Services Agreement (the "Agreement") are American Facility Services, Inc., a Georgia corporation ("Contractor") with offices located at 1325 Union Hill Industrial Court, Suite A, Alpharetta, GA 30004 and the City of Morrow, Georgia ("Customer") for services to be provided to the Morrow Center located at 1180 Southlake Circle, Suite 100, Morrow, GA 30260. Contractor and Customer shall collectively be referred to as the "Parties." The effective date for this Agreement is ____ Day of October, 2012, ("Effective Date").

2. Purpose

Customer desires to engage Contractor to perform certain services (the "Services"), as described in one or more Statement of Work ("SOW") attached hereto as Exhibit A. Contractor agrees to perform the Services under the terms and conditions set forth in this Agreement. Customer agrees to perform its obligations as set forth in the SOW. Any change in the scope of the Services in any SOW must be agreed to in writing by the Parties and pursuant to an amended SOW.

3. Term

The term of this Agreement shall begin on the Effective Date and shall continue for Yearly renewals up to 3 years or until terminated by either Party pursuant to any of the following:

- a. No Outstanding SOW. At any time that there is no uncompleted SOW outstanding, either Party may terminate this Agreement for any or no reason upon 30 days advance written Notice to the other Party.
- b. Termination for Breach. Either Party may terminate this Agreement for material breach upon sixty days' prior written Notice to the other Party, as set forth in Section 11.a. of this Agreement, provided that any such breach is not cured within the sixty-day Notice period. The Notice shall identify with specificity the basis of such Notice.
- c. Termination on annual review. The Customer may elect to terminate this Agreement at the end of each 12 month term of the Agreement by providing Contractor with notice of intent to terminate at least 60 days prior to the end of the contract year. Such termination is within the sole discretion of the City.

Termination of this Agreement shall not affect any rights or obligations which shall have accrued prior to the effective date of the termination.

4. Compensation; Payment Terms

Customer agrees to pay Contractor for the performances of the Services, in accordance with the rates and schedule set forth in the SOW (the "Fees"). All Fees invoiced shall be fully earned as of the invoice date.

5. Warranty

Contractor warrants that it shall provide the Services in a professional and workmanlike manner.

6. Indemnification

Each Party (the "Indemnifying Party") shall indemnify the other Party (the "Indemnified Party"), including all employees, officers and directors of the Indemnified Party against, and hold the Indemnified Party, including all employees, officers and directors of the Indemnified Party harmless from any and all third party claims, suits, actions or proceedings ("Claim") against the Indemnified Party, where such Claims arise out of or related the Indemnifying Party's use or performance of the Services, provided that: (a) the Indemnified Party promptly notifies the Indemnified Party in writing of such Claim; (b) the Indemnifying Party has sole control over the defense or settlement of the Claim; and (c) the Indemnified Party cooperates fully in the defense or settlement of the Claim. This indemnification shall include the Indemnified Party's reasonable attorney's fees incurred in the defense of the action giving rise to any damages which are indemnifiable under this section.

7. Force Majeure

Contractor shall not be liable for failure or delay in performing the Services under this Agreement if such failure or delay is due to circumstances beyond its reasonable control, including, without limitation fire, flood, snowstorm, terrorist action, strike or other labor disturbance.

8. Limitation of Liability

In no event shall Contractor be liable for punitive damages arising in any way out of this agreement under any cause of action if Contractor has not been advised of the possibility of such damages.

9. Insurance

Contractor shall, at its sole expense, maintain general commercial liability insurance coverage in the forms and amounts of _____. Contractor shall, at Customer's request, deliver Certificates of Insurance, as evidence that policies providing such coverage are in full force and effect and shall name the Customer as a loss insured under the policy or policies.

10. Dispute Resolution

Both Parties agree that it is in their mutual interest to resolve any disputes as rapidly, inexpensively and amicably as possible. To that end, in the event of a dispute between the Parties, either Party may give the other Party written Notice that it desires to invoke a dispute resolution mechanism involving Senior Executives. Within fifteen (15) days of delivery of such Notice, the Senior Executives shall hold a meeting to receive information and shall negotiate in good faith with the Customer toward resolution of the dispute. If the dispute cannot be resolved in this matter after this meeting, then either Party may pursue its other available legal remedies.

11. General Provisions

- a. Notices. All notices, demands or requests (“Notices”) that are required or permitted to be given pursuant to this Agreement shall be in writing. Notices shall be delivered personally, by commercial carrier, by email transmission or by registered or certified mail, postage prepaid, addressed to the Party as stated below:

American Facility Services, Inc.
1325 Union Hill Industrial Court, Suite A
Alpharetta, GA 30004
Attn: Kevin McCann
Title: President

Morrow Center
1180 Southlake Circle, Suite 100
Morrow, GA 30260
Attn: Stephen Sullivan
Title: Director

With copy to City Manager
1500 Morrow Road
Morrow, GA 30260

Notice given personally, by commercial carrier, and by email transmission will be effective upon Delivery, provided all persons indicated are noticed.

- b. Amendment. This Agreement may not be modified except by a written agreement signed by all of the Parties.
- c. Severability. If any provision of this Agreement is found to be invalid or unenforceable by any court with proper jurisdiction, only that provision will be ineffective, unless its validity or unenforceability will defeat an essential business purpose of this Agreement.
- d. Governing Law. This Agreement shall be construed and enforced according to the laws of the State of Georgia, without regard to conflicts of law principals. The Parties agree to submit to the exclusive jurisdiction of the courts within the State of Georgia.
- e. Incorporation of Exhibits and SOW. Any Exhibits or SOW referencing this Agreement are an integral part of this Agreement and are attached to this Agreement.
- f. Survival. Sections 7, 8, and 9 shall survive the termination of this Agreement.
- g. Independent Contractor. Contractor’s relationship to Client is as an independent contractor and nothing in this Agreement or in that relationship shall be deemed to cause an agency, joint venture, or partnership between the parties, or act to create or establish the relationship of employer and employee between Customer and Contractor. Neither Party has the authority to bind the other to any third party.

- h. Assignment. This Agreement may not be assigned by Contractor without prior written consent of Customer.

- i. Attorneys' Fees. In the event of any dispute regarding the interpretation or enforcement of this Agreement, the prevailing Party in such dispute shall be entitled to recover its reasonable attorneys' fees and costs.

- j. Entire Agreement. This Agreement embodies the entire understanding of the Parties and supersedes all prior agreements and understandings, both oral and written regarding the subject matter of this Agreement.

- k. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, when at least one counterpart has been executed by each of the Parties.

Contractor

By: _____

Name: _____

Title: _____

Date: _____

Customer

By: _____

Name: _____

Title: _____

Date: _____

STATEMENT OF WORK

Janitorial & Set-up/Break-down Service at Morrow Center

This document is a Statement of Work ("SOW") as defined in the Master Services Agreement ("Agreement"), dated as of _____ Day of October, 2012 between American Facility Services, Inc. ("Contractor") and Morrow Center ("Customer") and is subject to and incorporates by reference the provisions of the Agreement. The date of this Statement of Work is _____ October, 2012.

A. Purpose

This Plan applies to the custodial maintenance activities Contractor will provide. These efforts include resource conservation, routine custodial services, special custodial project work, and emergency cleaning.

B. Responsibility/Authority

The Custodial Maintenance Supervisor will be responsible for implementing and coordinating the operations and support of the custodial maintenance teams. Custodial maintenance team leaders will receive their work assignments from the Custodial Maintenance Supervisor and manage their respective custodial maintenance teams. These teams will be organized by specialties and assigned area responsibility.

These teams will have specific responsibilities and the resources to complete their tasks. The technicians and the laborers have the authority to use the assets at their disposal and call upon any team member to ensure that the job is done right and quickly.

C. General

The Custodial Maintenance Branch will directly support the majority of the team's workload in support of the specific deliverables. Workload requirements will be centrally managed and accounted for by Contractor's managers. Work tickets (copy to "Customer") will be used by the Contractor for the purposes of tracking work completed and time associated with billable hours. All work tickets must be signed by the Customer prior to the initiation of work and when work is completed.

Custodial maintenance requires the use of noisy machinery, thus our maintenance teams will make every effort to minimize the impact of daily operations and quality of life of personnel assigned to the Morrow Center. Routine, special projects, or emergency custodial maintenance will be performed during hours defined by the Morrow Center Director. Service orders and emergency custodial

maintenance work may occur at any time. Every effort will be made to respond to service orders as efficiently and expeditiously as possible while minimizing the impact on the Morrow Center.

All work performed will be conducted in accordance with generally accepted industry standards and follow the tenets of good quality management. Our workers are trained on safe and proper use of equipment, to include the use of personal safety equipment and protection devices. Our teams receive training on proper use and handling of chemicals and practice good environmental stewardship.

D. Communication

All Contractor personnel at the Project Manager level or higher are equipped with cellular phones.

E. Fees

Fees associated with supplying custodial maintenance work are shown in the following fee schedule. Start and stop times for projects paid on an hourly basis will be noted on the work ticket and signed by the Supervisor/Team Lead and the Customer. Partial man hours are billed in 15-minute increments.

TASK	DESCRIPTION	FEES
GENERAL SERVICES (2 CREW)	<ul style="list-style-type: none"> Restroom cleaning Vacuuming of full area -spot clean up to 2 sq. ft on carpet Low dusting -72" or lower Auto scrubbing of 2 lobbies and VTC hallway Cleaning of Glass doors and interior Lounge windows 	\$15.85 per hour
SET-UP OR BREAK-DOWN (3 CREW MINIMUM)	<ul style="list-style-type: none"> Set-up or Break-down of tables & chairs according to diagram Storage areas kept clean 	\$16.67 per hour
CLEAN UPHOLSTERY/WALLS	<ul style="list-style-type: none"> Other than spot cleaning for chairs/bench/sofa/walls 	.18 per sq. ft.
CARPET CLEANING -WOOL	<ul style="list-style-type: none"> Spot Treatment and Extractor Machine 	.18 per sq. ft.
BURNISH VTC FLOORING	<ul style="list-style-type: none"> Burnishing of VTC Hallway 	(under general services)
STRIP/WAX VTC FLOORING	<ul style="list-style-type: none"> Stripping of floors and application of wax 	.18 per sq. ft.
KITCHEN CLEAN UP/WINDOWS	<ul style="list-style-type: none"> Wipe down over/dishwasher Wipe down all surfaces Polish all Stainless Steel Hose floor & Squeegee Interior/Exterior Windows 	\$14.00 per hour
HOLIDAY SET-UP/BREAK-DOWN	<ul style="list-style-type: none"> Set-up or Break-down of Holiday Trees & Decorations in proper storage areas 	\$15.85 per hour

REPAIR SCUFFS ON HARDWOOD	<ul style="list-style-type: none"> • Spot cleaning/repair of nicks 	\$15.85 per hour
SEAL MARBLE SURFACES	<ul style="list-style-type: none"> • Marble areas in Bathrooms, Lounge, Main Desk and Pre-function areas 	\$14.00 per hour
ICE MACHINE	<ul style="list-style-type: none"> • 6 month flushing of water lines and clean out of machine 	\$14.00 per hour

F. Payment Terms

1. Payment Terms.

- a. Customer agrees to pay invoices within 30 days of the invoice date (must be emailed on same date).
- b. Invoices not paid within 30 days of the invoice date (must be email on same date) will accrue late fee at the rate of 1.5% per month unless there is a dispute on invoice.

Contractor

By: _____

Name: _____

Title: _____

Date: _____

Customer

By: _____

Name: _____

Title: _____

Date: _____

STATE OF GEORGIA
COUNTY OF CLAYTON

RESOLUTION NO. 2012-10-__

**A RESOLUTION TO EXTEND THE MORATORIUM ON THE ISSUANCE OF
OCCUPATIONAL TAX CERTIFICATES TO PAIN MANAGEMENT CLINICS; TO
REPEAL CONFLICTING LAWS AND RESOLUTIONS; TO PROVIDE FOR
SEVERABILITY; AND FOR OTHER PURPOSES.**

WHEREAS, prescription drug abuse is becoming a major problem in Georgia and according to the Georgia Drug and Narcotics Agency deaths due to prescription drug overdoses have surpassed those of all other illicit drugs;

WHEREAS, information received from law enforcement officials in several States indicate that criminal activity increases in areas where Pain Management Clinics operating as no more than “pill mills” are located;

WHEREAS, the City of Morrow has been made aware of numerous news reports describing a “pipeline” of trafficking drugs from pain management clinics in South Florida to users in States such as Kentucky, West Virginia and Ohio;

WHEREAS, the City of Morrow recently experienced the effects of such a “pill mill” with “patients” being seen from Kentucky, West Virginia, Ohio, and other states;

WHEREAS, investigation by local law enforcement established many of the practices identified in an interim Report issued on November 19, 2009, by a Broward County, Florida, Grand Jury on the Proliferation of Pain Clinics in South Florida coincided with Morrow’s experience;

WHEREAS, based on this report, other research, and extensive factual findings, the City of Morrow adopted on November 22, 2011, Resolution No. 2011-11-36 establishing a one year moratorium on the issuance and renewal of Occupation Tax Certificates to Pain Management Clinics in order to further study the impact of Pain Management clinics and to determine if further regulation was required;

WHEREAS, the City of Morrow has worked diligently throughout the moratorium period and continues to work diligently to complete its study and analysis the impact of Pain Management Clinics and consider whether further regulation of such Pain Management Clinics is necessary;

WHEREAS, the State of Georgia also considered legislation that would regulate Pain Management Clinics as the state level, and the final version of such legislation may preclude further local regulation, thereby requiring the City to continue to monitor the State’s efforts in that regard;

WHEREAS, the moratorium adopted on November 22, 2011, is set to expire on November 22, 2012;

WHEREAS, the City of Morrow has determined that additional time is needed for the City to complete its study and analysis of Pain Management Clinics and to prepare any necessary regulations as well as to continue to monitor efforts of the State legislature in this area;

THEREFORE, BE IT RESOLVED that the Governing Authority of the City of Morrow approves the following Resolution concerning extension of the moratorium on the issuance of Occupational Tax Certificates to Pain Management Clinics within the City of Morrow.

1. **Definitions.** As used within this Resolution, the following terms, when capitalized, shall have the meanings set forth here:
 - 1.1 “Pain Management Clinic” shall mean an entity or business which fulfills at least four of the following criteria:
 - 1.1.1 A privately owned clinic, business, or office;
 - 1.1.2 That is not affiliated with: any facility for the treatment of the terminally ill; or any facility for the treatment of drug addiction; or any hospice; or any hospital; and,
 - 1.1.3 Which employs one or more physicians who are primarily engaged in the treatment of pain by prescribing Pain Medications;
 - 1.1.4 Which fills or dispenses those Pain Medications either at the same or a different location; and/or
 - 1.1.5 Accepts only cash payments and refuses to accept insurance coverage.
 - 1.2 “Pain Medicine” shall mean any medicine requiring a prescription and which contains narcotic analgesics or opioids, including, but not limited to, fentanyl, hydrocodone, morphine, or oxycodone.
 - 1.3 A physician is primarily engaged in the treatment of pain by prescribing any Pain Medication when the majority of the patients seen by that physician are written prescriptions for one or more Pain Medications.
2. **Moratorium Extended.** The City of Morrow declares that the moratorium on the issuance or renewal of Occupation Tax Certificates to Pain Management Clinics adopted on November 22, 2011, shall be extended for an additional one year period to begin on the date of expiration of the previous moratorium period. Any

person who wishes to open a business or medical practice which will both prescribe Pain Medicines and fill those prescriptions either on or off site must provide a signed, notarized statement and submit it with the application for an Occupational Tax Certificate to the effect that the business is not a Pain Management Clinic as that term is defined in this Resolution. No Occupational Tax Certificate shall be issued or renewed unless and until this signed, notarized statement is submitted to the City of Morrow. Should the signed, notarized statement prove to be false, the business tax certificate shall be revoked.

2. **Purpose of Moratorium Extension.** It is the purpose and intent of this Resolution to promote the health and general welfare of the residents and businesses of the City of Morrow. This moratorium is being extended to provide the City of Morrow with the additional time needed to continue to analyze the impact of Pain Management Clinics and to continue to consider whether further regulation of such Pain Management Clinics is necessary.

BE IT FURTHER RESOLVED that this extension of the moratorium period shall become effective immediately upon expiration of the original moratorium period and shall expire no later than November 22, 2013, unless otherwise terminated by adoption of an ordinance by the City Council addressing the issue.

SO RESOLVED, this 9th day of October, 2012.

JB Burke, Mayor

ATTEST:

Evyonne Browning, City Clerk

(Seal)

City of Morrow

FIRE DEPARTMENT

1500 MORROW ROAD, MORROW, GA 30260-1654
PHONE: (770) 961-4008 • FAX: (770) 960-1631
www.cityofmorrow.com



MARK W. HERENDEEN
Fire Chief

To: Mayor JB Burke and Council Members

Date: October 9, 2012

Subject: Surplus Vehicles Disposal Request

The City of Morrow Fire Department requests permission to declare the following vehicles as surplus and authorize Chief Herendeen, or his designated representative, to dispose of the property in keeping with applicable laws. The vehicle will be auctioned on govedeals.com.

2008 Ford E350 Super Duty Type II Ambulance, GVWR 6,084 lbs, 6 liter diesel, 64,048 miles
V.I.N. #1FDSE35P68DA35207

2003 Ford E350 Super Duty Type I Ambulance, GVWR 12,500 lbs, 6 liter diesel, 258,087 miles
V.I.N. #1FDWF36P63EC87720

1997 Ford F350 Regular Cab 1-ton pick-up dual wheels, GVWR 10,000 lbs, 7.3 Diesel,
57,431 miles, V.I.N. #1FTJF35F2VEC39545

Respectfully,

A handwritten signature in cursive script that reads "Mark W. Herendeen".

Mark W. Herendeen
Fire Chief



COVER MEMO

To: Mayor and Council

From: Anou Sothsavath
Public Works Director

Re: Public Works surplus items for Mayor and Council approval

Date: October 4, 2012

Issue: Approval by Mayor and Council for the Public Works Department to declare the following items surplus and authorize Anou Sothsavath, Director of Public Works, or his designated representative to dispose of the property in keeping with applicable laws. Both of these items are no longer in use by the department.

1. 1996 F-Series Dump Truck (VIN# 1FDNF80C6SVA21773)
2. 1996 721 Grasshopper (Serial# 5056127)
3. Onan Generator 15KW (Serial# D860817420)

Recommendation: Staff recommends approval to declare these items surplus for disposal. If you have any questions please contact Anou Sothsavath at 770.968.5497.