

RESOLUTION NO. 2012 - 028

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AUTHORIZING AND AGREEMENT WITH C.A.P. GOVERNMENT, INC. FOR BUILDING INSPECTION AND PLAN REVIEW SERVICES; DIRECTING THE APPROPRIATE TOWN OFFICIALS TO EXECUTE THE AGREEMENT; PROVIDING FOR REPEAL OF ANY CONFLICTING RESOLUTION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on July 30, 2006, the Town, in compliance with the Town's procurement procedures, published a Request for Proposals ("RFP") seeking Plans Review and Building Inspection Services; and

WHEREAS, on September 7, 2006, pursuant to Resolution No. 2006-096 the Town Council approved the ranking of the CSA Southeast, Inc. and authorized the Town Administrator to negotiate an agreement with CSA Southeast, Inc.; and

WHEREAS, on September 1, 2006 CSA Southeast, Inc. changed their name through the Florida Department of State to C.A.P. Government, Inc. (hereinafter "CAP"); and

WHEREAS, on October 5, 2006, pursuant to Resolution No. 2007-001, the Town Council approved an Agreement with CSA Southeast, Inc. for plans review and building inspection services; and

WHEREAS, the Town has extended the contracts with CAP for building department services via Resolutions 2010-009, 2010-031, 2010-036, 2011-045, 2011-038, 2012-10; and

WHEREAS, it has been determined that providing contractual services for building permit services provides the most cost effective methods for the residents of Southwest Ranches; and

WHEREAS, it has been determined that the fees charged for building plans and inspection services should be reasonable and account for, at a minimum, the time staff spent reviewing and issuing permits; and

WHEREAS, it has been determined that there are certain intangible costs related to administrative overhead, staff training, and use of technology in the processing of permits that are not being recovered by the Town and charging an administrative fee that reflects the complexity of the project is reasonable; and

WHEREAS, CAP and the TOWN desire to enter into an Agreement for the provision of Plans Review and Building Inspection Services by CAP under the terms and conditions set forth hereinafter.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1. The above recitals are true and correct and are incorporated herein by reference.

Section 2. The appropriate Town Officials are hereby authorize to execute the Agreement between C.A.P. Government Inc. and the Town of Southwest Ranches Providing for plans review and building inspection services (hereinafter referred to as "Agreement"), in the form attached hereto as Exhibit "A" with such non-material changes as may be approved by the Town Administrator and Town Attorney.

Section 3. As specified in the Town Code of Ordinances adopting the fee schedule, the Town shall be provided a twenty-five percent (25%) administrative fee from this Agreement. All fees recovered by the Town above CAP'S required compensation amounts and the administrative fee shall be designated as reserve funds.

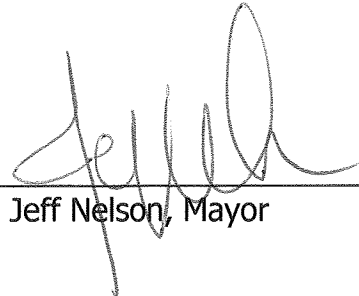
Section 4. Effective Date. This Agreement shall become effective on March 1, 2012 (the Effective Date), and shall continue in full force and effect for thirty six (36) months, with one (1) additional three (3) year extension, as may be modified, to be approved by the TOWN and CAP, unless earlier terminated in accordance with paragraph 3.2 of the Agreement.

Section 5. Severability. If any word, phrase, clause, sentence, or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

Section 6. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 8th day of March, 2012, on a motion made by Vice Mayor McKay and seconded by Council Member Fisikelli.

Nelson	<u>YES</u>	Ayes	<u>5</u>
McKay	<u>YES</u>	Nays	<u>0</u>
Breitkreuz	<u>YES</u>	Absent	<u>0</u>
Fisikelli	<u>YES</u>	Abstaining	<u>0</u>
Jablonski	<u>YES</u>		


Jeff Nelson, Mayor

ATTEST:


Erika Gonzalez-Santamaria, CMC, Town Clerk

Approved as to Form and Correctness:


Keith M. Poliakoff, J.D., Town Attorney
Active: 3610472v1

AGREEMENT
BETWEEN
C.A.P. GOVERNMENT, INC.
AND
THE TOWN OF SOUTHWEST RANCHES
Providing for

PLANS REVIEW AND BUILDING INSPECTION SERVICES

This Agreement is made by and between C.A.P. GOVERNMENT, INC. a Florida corporation (hereinafter referred to as "CAP") and the TOWN OF SOUTHWEST RANCHES, a municipal corporation of the State of Florida (hereinafter referred to as "TOWN").

WHEREAS, on July 30, 2006, the Town, in compliance with the Town's procurement procedures, published a Request for Proposals ("RFP") seeking Plans Review and Building Inspection Services; and

WHEREAS, on September 7, 2006, pursuant to Resolution No. 2006-096 the Town Council approved the ranking of the CSA Southeast, Inc. and authorized the Town Administrator to negotiate an agreement with CSA Southeast, Inc.; and

WHEREAS, on September 1, 2006 CSA Southeast, Inc. changed their name through the Florida Department of State to C.A.P. Government, Inc. (hereinafter "CAP"); and

WHEREAS, on October 5, 2006, pursuant to Resolution No. 2007-001, the Town Council approved an Agreement with CSA Southeast, Inc. for plans review and building inspection services; and

WHEREAS, the Town has extended the contracts with CAP for building department services via Resolutions 2010-009, 2010-031, 2010-036, 2011-045, 2011-038, 2012-10; and

WHEREAS, it has been determined that providing contractual services for building permit services provides the most cost effective methods for the residents of Southwest Ranches; and

WHEREAS, it has been determined that the fees charged for building plans and inspection services should be reasonable and account for, at a minimum, the time staff spent reviewing and issuing permits; and

WHEREAS, it has been determined that there are certain intangible costs related to administrative overhead, staff training, and use of technology in the processing of permits that are not being recovered by the Town and charging an administrative fee that reflects the complexity of the project is reasonable; and

WHEREAS, CAP and the TOWN desire to enter into an Agreement for the provision of Plans Review and Building Inspection Services by CAP under the terms and conditions set forth hereinafter.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, and conditions set forth herein, and other good and valuable consideration, CAP and TOWN do hereby agree as follows:

ARTICLE 1 BACKGROUND, PURPOSE AND INTENT

1.1 The above recitals are true and correct and incorporated herein as if set forth in full hereunder.

1.2 It is the purpose and intent of this Agreement for CAP to provide plans review and building inspection services, in compliance with the Florida Statutes, the Florida Building Code, Broward County Amendments, and in furtherance of the TOWN'S commitment to preserve its rural lifestyle.

1.3 The TOWN and CAP find that the method of delivery of plans review and building inspection services set forth in this Agreement is in the best interest of the public and can be best accomplished through coordination of the provisions of such services as set forth herein.

ARTICLE 2 SCOPE OF SERVICES

2.1 CAP agrees to provide plans review and building inspection services, as identified in the Request for Proposals, and as specifically delineated herein as Exhibit "A" attached (hereinafter referred to as "Scope of Services", "Services", or "Work").

2.2 TOWN hereby appoints CAP as the Building Official for the TOWN and authorizes the Official to perform the required duties, as requested by the TOWN pursuant to Schedule "A"

attached hereto and made a part thereof. The Town reserves the right, in its sole discretion, to appoint an alternate Building Official.

2.3 CAP agrees that all plan reviewers and inspectors must be specifically state certified to perform their designated tasks, including but not limited to maintaining a valid state and county license when appropriate. CAP'S employees credentials must be kept up to date and a copy shall remain on file with the Town. CAP shall also designate a specific staff to maintain all of the TOWN'S files. CAP shall retain electronic as well as hard copies of all permits and plans reviewed for the TOWN including those from prior Agreements.

2.4 As it relates to this Agreement, CAP designates Robert Clarke as its Building Official. CAP may not remove Robert Clarke as the TOWN'S Building Official without the written consent of the Town Administrator.

2.5 CAP'S staff shall be available upon request, at no additional compensation, for staff support services at meetings of the Town Council or its boards. CAP shall be available if necessary, at no additional compensation, to provide testimony at all code enforcement hearings. CAP shall also be available as necessary to provide testimony at all other legal proceedings at no additional cost to the Town.

2.6 CAP shall maintain daily office hours, as necessary, at a designated location, agreed to by both CAP and the Town Administrator, to provide a one stop shop for permits. At the time of this Agreement CAP agrees that the designated location will be C.A.P. Government, Inc. 3265 Meridian Parkway, Suite 100, Weston, FL 33331. If the Town later determines to relocate the building services function to a new location, this agreement shall be modified to include staff as may be necessary, at no additional cost to the Town. CAP shall work with the Town to determine the most efficient use of staff to serve the needs of the public. Unless extended, reduced, or modified in writing by the Town Administrator, the office hours shall be between 7:30 a.m. to 4:00 p.m. Monday through Friday, as necessary, to support the volume of counter service to ensure that no wait will exceed one half hour. In addition, all calls to CAP shall be returned within 24 hours unless on weekend and holidays.

2.7 All permit issuance activities will be performed by CAP staff on software applications provided by the CAP. CAP staff will be responsible for processing, monitoring and tracking all permit applications, including issuance. Certificates of Occupancy and Certificates of Completion will be prepared by the CAP staff for the approval of the TOWN designated CAP Building Official. CAP'S software application shall provide for online viewing and tracking permit data and scheduling and canceling inspections. CAP shall work with the Town in the placement of the building permit link to ensure ease of use by the residents. In addition, CAP shall secure for the Town additional licenses for its software system at CAP'S actual costs.

2.8 All goods, materials and equipment necessary for the performance of its Scope of Services, including but not limited to, vehicles, cellular telephones, uniforms, office materials, and reference materials shall be provided for the CAP inspectors, plan reviewers and Building Official by CAP. The Town shall not be responsible for any additional CAP costs.

2.9 Inspections will be performed within twenty four (24) hours of request or the next business day when called in before a weekend or holiday. Inspection requests must be made no later than 3:30 p.m. on the business day prior to the date requested. Plan review and turn around will be based on a six (6) business day cycle. In certain rare instances, plan review turn around time may be extended in writing upon request by CAP to the Town Administrator. Such request may be unreasonably withheld. CAP staff will be available to respond to permit holder questions and requests at CAP'S office from 7:30 a.m. to 4:00 p.m., Monday through Friday.

ARTICLE 3 TERMS OF AGREEMENT

3.1 This Agreement shall become effective on March 1, 2012 (the Effective Date), and shall continue in full force and effect for thirty six (36) months, with an additional three (3) year extension, as may be modified, to be approved by the TOWN and CAP, unless earlier terminated in accordance with paragraph 3.2 hereof.

3.2 Notwithstanding any other provision of this Agreement, this Agreement is terminable at will by either party, with or without cause. Notice of termination shall be provided in accordance with the "NOTICE" section of this Agreement. Either party may terminate this Agreement upon providing ninety (90) days written notice. In the event that this Agreement is terminated, CAP shall solely be paid for any Work performed up to the date of termination and CAP shall not be entitled to any additional compensation, of any kind or in any amount, from TOWN as a result of being terminated. CAP specifically waives any and all rights to seek any additional sums or damages from TOWN due to being terminated other than CAP'S sole right to be paid for any Work performed up to the date this Agreement is terminated. Upon termination, CAP shall immediately refrain from performing further Work for the TOWN or incurring additional expenses.

3.4 In the event of termination or expiration of this Agreement, in the TOWN'S sole discretion, CAP shall complete plans review and inspections services previously started by CAP. Furthermore, CAP shall tender to the TOWN in electronic format and in paper format, if requested by the Town Administrator, all records within thirty (30) days of termination or expiration of Agreement.

ARTICLE 4 COMPENSATION

4.1 CAP shall be compensated for its services by receiving seventy-five (75%) percent of actual revenue received by the TOWN for permit applications (net of refunds) according to the TOWN'S records and as specifically delineated by Resolution (hereinafter referred to a "Building Permit Fees). Upon CAP reaching five-hundred thousand dollars (\$500,000.00) in actual revenues, CAP shall be compensated for its services by receiving sixty percent (65%) percent of actual revenue received by the TOWN for permit applications (net of refunds) according to the TOWN'S records. Upon CAP reaching one million two-hundred and fifty

thousand dollars (\$1,250,000.00) in revenues, CAP shall be compensated for its services by receiving sixty percent (60%) of actual revenue received by the TOWN for permit applications (net of refunds) according to the TOWN'S records. It is acknowledged and agreed by CAP that these amounts are the maximum payable and constitute a limitation upon TOWN'S obligation to compensate CAP for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CAP'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.

4.2 The Town Council, at its own discretion, may modify the rate schedule by Resolution. Said Resolution shall include the fees paid to CAP as well as the TOWN'S administrative fee, which shall be determined by TOWN in its sole discretion.

4.3 CAP shall recover for the Town all fees charged for the performance of its services directly from those utilizing its services. The Town shall not incur any additional fees or charges in excess of that which is collected by CAP. By way of illustration, all permits fees are paid to the Town, the TOWN, less the administrative fees or as otherwise stated herein, provide monthly payments to CAP. CAP shall be compensated based only on the actual permits issued by TOWN, according to the TOWN'S records, and based upon the payment schedule for each permit. The TOWN shall process the payment to CAP on a monthly basis, paying all amounts that become due for the prior month in arrears subject to all funds being cleared and deposited into the Town's accounts. CAP shall input the time entries into the permitting system.

Payments shall be made for projects as follows: for all permits, one hundred percent (100%) of the fee shall be paid upon submittal of the application. If the estimated permit fee is later determined to require an adjustment, said adjustment shall occur prior to the issuance of a Certificate of Occupancy. The Building Official shall for residential permits only, have the discretion to modify the initial submittal amount of permit application fee. For example half the permit fee at time of submittal and the second half at time of permit issuance. Such discretion shall be limited to situations of extenuating circumstances and shall be provided for in writing. The total fee amount is still required.

All plan review and inspections of TOWN projects shall be performed at a negotiated flat rate, which shall be determined in writing prior to commencement of review.

For projects valued in excess of twenty-five million dollars (\$25,000,000.00), the Town and the applicant have the right to negotiate a fee schedule specific to the project. The Town, at its sole discretion, may utilize the services of CAP or of another provider, on a case by case basis, but shall be required to utilize the services of the Building Official.

4.4 CAP shall provide, within ninety (90) days of the effective date of this agreement, an Inspections Procedures Manual to all its plan reviewers and a copy of this plan shall be provided to the TOWN. A link to the plan shall be made on the TOWN'S website and a hard copy shall be provided to residents upon their request. The Manual shall detail when and if additional re-inspection and/or re-submittal fees shall be assessed. In instances wherein a penalty fee is imposed, the TOWN shall be entitled to the entire amount of the penalty fee, and CAP shall not be entitled to such penalty fee. A re-inspection fee shall not be considered a penalty.

CAP shall be required to keep track of all re-inspection fees and why they were required and provide to the TOWN on a monthly basis. If it is determined that re-inspections are exceeding 25% of the active permits then, as may be determined by the Town Administrator, any re-inspection fees over 25% shall be retained by the Town.

For plan review, the first re-submittal shall be at no additional cost and CAP shall be required to provide for a full review of the permit application at that first submittal and shall provide all comments as required to correct said permit.

4.5 TOWN shall pay CAP monthly in accordance with the Florida Prompt Payment Act. Additionally, payment may be withheld by the Town Administrator, for failure of CAP to comply with a term, condition or requirement of this Agreement.

4.6 Notwithstanding any provision of this Agreement to the contrary, the Town Administrator may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work of CAP which has not been remedied or resolved in a manner satisfactory to the Town Administrator. The amount withheld shall not be subject to payment of interest by TOWN.

4.7 TOWN and CAP agree that CAP, if requested, will participate in drafting codes relating to plans review and building inspection services at no additional cost to the TOWN.

4.8 CAP shall be provided for a \$30.00 processing fee for each Fire Permit it processes on behalf of the TOWN. Said fee shall be included within the permit fee and not a separate fee in addition to the existing fire fees.

4.9 Upon termination of this Agreement, CAP shall refund to TOWN all unearned permit fees.

4.10 CAP shall only utilize hourly rates for projects upon written approval by the Town Administrator.

ARTICLE 5 INDEMNIFICATION, LIABILITY AND INSURANCE

5.1 To the fullest extent permitted by law CAP shall indemnify, and hold harmless the TOWN and the TOWN'S officers and employees from liabilities, damages, losses and costs, including but not limited to, reasonable attorney's fees and costs at all tribunal levels, including but not limited to, the trial level and all appeals, to the extent caused by the malfeasance, negligence, recklessness, or wrongful misconduct of CAP and persons employed or utilized by CAP in the performance of the Work pursuant to this Agreement. TOWN and CAP agree that 1% of the compensation due to CAP from TOWN pursuant to this Agreement is offered and accepted as sufficient separate consideration for CAP'S agreement to indemnify TOWN and TOWN'S officers and employees as provided for in this paragraph. This specific consideration for CAP'S agreement to indemnify is already incorporated in the rate agreed to between TOWN

and CAP. CAP agrees to be fully responsible for acts and omissions of their respective agents or employees. Nothing herein is intended to serve as a waiver of sovereign immunity by the TOWN to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter, whether arising out of this Agreement or any other contract.

Notwithstanding the aforesaid and to the extent permitted by law, should a cause arise out of the performance of code compliance services as to the normal course of business and provided to the extent that such cause was not brought about by the malfeasance, negligence, recklessness, or wrongful misconduct of CAP and persons employed or utilized by CAP in the performance of the Work pursuant to this Agreement, TOWN shall defend, save harmless and indemnify CAP.

5.2 Without limiting any of the other obligations or liabilities of CAP, CAP shall provide, pay for, and maintain in force all insurance specified herein. The TOWN shall be named as an additional insured of all the insurance policies to be acquired by CAP for the Work provided by CAP pursuant to this Agreement and shall also be identified as the certificate holder on all certificates of insurance. The insurance required by this Agreement shall be written by a company licensed in Florida and the company must reasonably be acceptable to the TOWN. The insurance required by this Section shall also cover all Work performed by CAP'S employees, independent contractors, subcontractors and/or subconsultants pursuant to this Agreement. This insurance shall be primary and other insurance of the TOWN shall not be contributory. The insurance coverages to be acquired and maintained by CAP are as follows:

5.3 Workers' Compensation Insurance, if required, to apply to employees in compliance with the "Worker's Compensation Law" of the State of Florida; and

5.4 Comprehensive General Liability Insurance: CAP to provide comprehensive general liability insurance with minimum limit of coverage of One Million (\$1,000,000) Dollars per occurrence. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include coverage for:

- (a) Premises and/or Operations;**
- (b) Independent Contractors;**
- (c) Broad Form Property;**
- (d) Contractual;**
- (e) Personal injury; and**
- (f) Products/Completed.**

5.5 Automobile Liability Insurance, CAP to provide automobile liability insurance to cover any auto with a limit of coverage of at least Three Hundred Thousand (\$300,000) Dollars per occurrence.

5.6 CAP shall provide to TOWN a certificate of Insurance and a copy of required insurance policies as required by this Section. All certificates and endorsements required herein shall state that TOWN shall be given thirty (30) days notice prior to expiration or cancellation of said policy.

5.7 If the initial insurance expires prior to the completion of the Work, renewal copies of Policies shall be furnished at least thirty (30) days prior to the date of their expiration.

ARTICLE 6 RELATIONSHIP

6.1 CAP shall perform all of the Work enumerated in this Agreement solely as an independent contractor, and not as an employee of the TOWN. CAP shall be responsible for directing its efforts to the manner and means of accomplishing the Work to be performed hereunder by CAP.

6.2 Neither CAP nor TOWN intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

ARTICLE 7 AUDIT RIGHTS AND RETENTION OF RECORDS

7.1 TOWN shall have the right to audit the books, records, computer records, electronic stored data, and accounts of CAP that are related to this Agreement. CAP shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. CAP shall preserve and make available, at reasonable times for examination and audit by TOWN, all financial records, supporting documents, statistical records and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes) if applicable, or, if the Florida Public Records Act is not applicable, of a minimum period of five (5) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period of five (5) years, whichever is longer, the books, records and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by TOWN to be applicable to CAP'S records, CAP shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirements of either federal or state law shall be violated by CAP. Any incomplete or incorrect entry in such books, records and accounts shall be a basis for TOWN'S disallowance and recovery of any payment upon such entry.

ARTICLE 8 REPORTS

8.1 By the Tenth (10th) day of each month, CAP shall provide the TOWN Administrator, the Town Attorney, and the Town Council, with a report delineating the previous month's activity. Said monthly information shall be provided to the TOWN through an electronic medium, in a form and format acceptable by the Town Administrator, via a system that is accessible by the intranet. If the Town Administrator determines that CAP'S system is not compatible, or that another system should be utilized, the desired system shall be implemented and utilized by CAP at no additional cost to the TOWN. In addition to the monthly report, CAP shall provide daily, through an electronic medium accessible from the internet, clear and concise tracking information, which shall include the status of all matters including answers to questions and responses to complaints. This system shall be designed to allow residents to track the status of their plans review and inspection results. Report requirements will also include provisions of Section 2.7 of this Agreement.

ARTICLE 9 ASSIGNMENT AND PERFORMANCE

9.1 Assignment and Performance. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CAP. In addition, CAP shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the Town Administrator, which shall be in his sole and absolute discretion. A list of all such subcontractors shall be included in the Proposal. If additional subcontractors are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subcontractors shall be provided to the Town Administrator, subject to his approval.

CAP represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFP and to provide and perform such services to TOWN'S satisfaction for the agreed compensation.

CAP shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner.

ARTICLE 10 OWNERSHIP RIGHTS

10.1 CAP agrees that all documents, programs, work product and documentation (hereinafter referred to as "Documentation") prepared by CAP pursuant to this Agreement shall be the property of TOWN, and CAP hereby assigns all of that Documentation to TOWN.

ARTICLE 11
NON-DISCRIMINATION AND PUBLIC ENTITY CRIME ACT

11.1 CAP shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. CAP shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, CAP shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

11.2 CAP's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin.

11.3 Public Entity Crime Act. CAP represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to TOWN, may not submit a bid on a contract with TOWN for the construction or repair of a public building or public work, may not submit bids on leases of real property to TOWN, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with TOWN, and may not transact any business with TOWN in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from TOWN'S competitive procurement activities. In addition to the foregoing, CAP further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CAP has been placed on the convicted vendor list.

ARTICLE 12
ENTIRE AGREEMENT

12.1 This Agreement incorporates and includes all prior negotiations and understandings applicable to the matters contained herein. The parties agree that this Agreement constitutes the entire understanding and agreement between the parties and supersedes previous Agreements and representations whether written or oral.

ARTICLE 13
CONSTRUCTION

13.1 This Agreement has been a joint effort of the parties, and the resulting documents, solely as a matter of judicial construction, shall not be construed more severely against one of the parties than the other.

ARTICLE 14 FURTHER ASSURANCE

14.1 TOWN and CAP agree to execute, acknowledge, and deliver, and cause to be done, executed, acknowledged, and delivered, all such further documents and perform such acts as shall be requested of it to carry out this Agreement and give effect hereto solely consistent with applicable Federal, State and local laws, rules or regulations. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate with each other in effecting the terms of this Agreement.

ARTICLE 15 COUNTERPARTS

15.1 This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute the same Agreement.

ARTICLE 16 NO AMENDMENT OR WAIVER

16.1 This Agreement may not be changed, altered or modified except by an instrument in writing signed by all parties hereto, with the same formality and of equal dignity as the execution of this Agreement, prior to the initiation of any Work reflecting such change.

ARTICLE 17 SEVERABILITY

17.1 In the event any term or provision of this Agreement shall be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed to be in full force and effect. In case any one or more of the provisions of this Agreement shall be determined by appropriate judicial authority to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions of this Agreement shall be in no way affected, prejudiced, or disturbed thereby.

ARTICLE 18

PROFESSIONAL ASSURANCE

18.1 CAP shall perform all services under this Agreement in accordance with the highest standard of care used by similar professional code enforcement officers in Broward County, Florida, under similar circumstances and shall exercise a reasonable degree of skill and care, as determined by the degree of skill and care ordinarily employed by others of the same profession.

ARTICLE 19 NOTICE

19.1 Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present the parties designate the following as the respective places for giving of notice:

For TOWN: Town of Southwest Ranches
Kenneth Fields, Town Administrator
13400 Griffin Road
Southwest Ranches, FL 33330

Copy to: Keith M. Poliakoff, Esq.
Becker & Poliakoff, P.A.
3111 Stirling Rd.
Ft. Lauderdale, FL 33312

For CAP: Carlos A. Penin, P.E., President
C.A.P. Government, Inc
8350 NW 52nd Terrace, Suite 209
Doral, FL. 33166

ARTICLE 20 RESOLUTION OF DISPUTES

20.1 To prevent litigation, it is agreed by the parties hereto that TOWN Administrator shall decide all questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Agreement and fulfillment of this Agreement as to the character, quality, amount and value of any work done and materials furnished, or proposed, to be done or furnished under or, by reason of, the Agreement. The Town Administrator's decision shall be reduced to writing and a copy furnished to CAP within a reasonable time following submission to the TOWN of the question, claim, difficulty or dispute as referenced above. The TOWN Administrator's decision shall be final and conclusive unless determined by a court of competent jurisdiction to be

fraudulent, capricious, arbitrary, so grossly erroneous as to necessarily imply bad faith, or not supported by competent evidence.

20.2 To further prevent litigation, the parties shall endeavor to resolve any and all claims arising from this Contract by mediation. A request for mediation shall be filed, in writing, with the other party to the Contract. To the extent litigation is permitted under this Contract, the request shall be made prior to the filing of a legal or equitable proceeding, which shall not be filed prior to the outcome of mediation which will be completed within sixty (60) consecutive calendar days from the date a request for mediation is submitted to the other party unless the parties agree to an extension. The statute of limitations of any claim shall be tolled from the date mediation is requested until completed. To the extent the parties cannot mutually select a mediator, within fifteen (15) consecutive calendar days, from the date a request for mediation has been submitted, either party can request the American Arbitration Association to appoint a mediator with experience to serve as mediator. The mediator selected to serve shall be certified by the Florida Supreme Court. The mediation shall be conducted in Broward County, Florida.

ARTICLE 21 APPLICABLE LAW AND VENUE; WAIVER OF JURY TRIAL

21.1 This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the exclusive jurisdiction and venue of an appropriate Court of competent jurisdiction in the Seventeenth Judicial Circuit of Broward County, Florida.

BY ENTERING INTO THIS AGREEMENT, CAP AND TOWN HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT.

ARTICLE 22 ENFORCEMENT; ATTORNEY'S FEES

22.1 The TOWN and CAP are the beneficiaries of this Agreement and as such, may enforce this Agreement by action at law or in equity. In the event of any litigation between the TOWN and CAP resulting from and/or arising out of this Agreement, it is hereby acknowledged and agreed that the prevailing party shall be entitled to recover any and all reasonable attorney's fees and costs from the non-prevailing party in any such litigation, including attorneys fees and costs incurred at the trial level and on appeal.

ARTICLE 23

REPRESENTATION OF AUTHORITY

23.1 The individuals executing this Agreement on behalf of any entity do hereby represent and warrant that they are, on the date of this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of their principal.

ARTICLE 24 SURVIVABILITY

24.1 ARTICLE 5 of this Agreement entitled "INDEMNIFICATION, LIABILITY & INSURANCE"; ARTICLE 7 of this Agreement entitled "AUDIT RIGHT AND RETENTION OF RECORDS"; ARTICLE 10 of this Agreement entitled "OWNERSHIP RIGHTS"; ARTICLE 14 of this Agreement entitled "FURTHER ASSURANCES"; ARTICLE 20 of this Agreement entitled "RESOLUTION OF DISPUTES"; ARTICLE 21 of this Agreement entitled "APPLICABLE LAW & VENUE; WAIVER OF JURY TRIAL"; and ARTICLE 22 of this Agreement entitled "ENFORCEMENT; ATTORNEY'S FEES" shall survive the termination, cancellation, or expiration of this Agreement for any reason whatsoever.

ARTICLE 25 COMPLIANCE WITH LAWS

25.1 CAP shall comply with all federal, state, and local laws, codes, ordinances, rules and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

ARTICLE 26 MISCELLANEOUS

26.1 Performance: CAP represents that all persons performing the services required under this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth herein in a skillful and respectable manner.

26.2 Materiality and Waiver of Breach: CAP and TOWN agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

Either party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

26.3 Conflicts: Neither party nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with that party's loyal and conscientious exercise of judgment related to its performance under this Agreement.

The parties agree that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against the other in any legal or administrative proceeding related to performance under this Agreement in which he or she is not a party, unless compelled by court process. Further, the parties agree that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of the other party or in connection with any such pending or threatened legal or administrative proceeding related to the performance under this Agreement. The limitations of this section shall not preclude either party or any other persons from representing themselves in any action or in any administrative or legal proceeding related to the performance under this Agreement.

In the event CAP is permitted to utilize subcontractors to perform any services required by this Agreement, CAP agrees to prohibit such subcontractors, by written contract, from having any conflicts within the meaning of this section.

26.4 CAP warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CAP, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CAP, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, TOWN shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

26.5 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless TOWN or CAP elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

26.6 No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.

26.7 Prior Agreements. This Agreement and its attachments constitute the entire Agreement between CAP and TOWN, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

26.8 Drug-Free Workplace. CAP shall maintain a drug-free workplace.

26.9 Multiple Originals. This Agreement may be fully executed in three (3) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.

26.10 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

26.11 Truth-in-Negotiation Certificate. Signature of this Agreement by CAP shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: C.A.P. Government, INC., through its President Carlos A. Penin, authorized to execute same, and TOWN OF SOUTHWEST RANCHES, signing by and through its Mayor duly authorized to execute same by Council action on the 12th day of ^{April} March, 2012.

WITNESSES:

Cheryl Williams

Juanita Romane

C.A.P. GOVERNMENT, INC.

By: Carlos A. Penin

Carlos A. Penin, President

02 day of ^{April} March, 2012 (SEAL)

WITNESSES:

Cheryl Williams

Juanita Romane

TOWN OF SOUTHWEST RANCHES

By: Jeff Nelson

Jeff Nelson, Mayor

12th day of ^{April} March, 2012

By: Stan Morris

Stan Morris, Interim Town Administrator

ATTEST:

Erika Gonzalez-Santamaria

Erika Gonzalez-Santamaria, CMC, Town Clerk

APPROVED AS TO FORM:

By: Keith M. Poliakoff

Keith M. Poliakoff, J.D., Town Attorney

EXHIBIT "A"

PLANS REVIEW AND INSPECTION SERVICES

Scope of Service

Plans review and building inspection services shall be provided based upon conformance with the standard procedural requirements presently employed and in conformity with the Florida Statutes and the Florida Building Code, Broward Amendments, as may be amended from time to time. Such services shall consist of, but not be limited by, the following:

1. Plans review and building inspections shall be available a minimum of forty (40) hours per week.
2. CAP shall intake and process all building plans from residents or officials of the TOWN. The intake reports shall be specifically and clearly logged in an electronic medium that can be accessible via the internet.
3. CAP's software shall enable online viewing and tracking permit data and scheduling and cancelling inspections.
4. CAP will provide permit records to the TOWN and such records will be archived by CAP at CAP's expense.
5. Full review of all building plans shall be completed within six (6) business days of plan submittal. Day one shall entail an initial review for completeness, compliance, and to ensure professional standards. Plans may be returned if inadequacies are found during the initial review. Said inadequacies shall be specifically delineated in writing to the applicant.
6. Inspections will be performed within twenty four (24) hours of request or the next business day when called in before a weekend or holiday. Inspection requests must be made no later than 3:30 p.m. on the business day prior to the date requested.
7. CAP shall provide the monthly progress reports as specified in Article 8 of this Agreement.
8. CAP shall regularly communicate with the Town Attorney and the Town Administrator regarding the prosecution of building code compliance matters and shall be available to testify at code enforcement hearings, at no further compensation, on the TOWN'S behalf.
9. CAP'S files shall be well organized, thorough and complete.
10. CAP shall promptly respond to all requests by title companies, or otherwise, seeking to determine if violations exist on specified properties. CAP may charge a reasonable fee,

comparable to fees charged by neighboring municipalities or by the County, for this service and said fee shall go directly to CAP.

11. CAP shall attend Council Workshops and Meetings and HOA meetings, if necessary, to provide input on Code issues at no additional compensation.