

**HALIFAX HARBOR PLAZA PROPERTY MANAGEMENT SERVICES CONTRACT
(CITY CONTRACT NO. 0111-2230)**

This Parties to this Contract are the City of Daytona Beach, a Florida municipal corporation (the "CITY"), and TW Realty, LLC, a Florida limited liability company (the "MANAGER").

WITNESSETH:

WHEREAS, the CITY owns the Halifax Harbor Plaza, a commercial building containing approximately 35,000 square feet of leasable office and retail space located at 125 Basin Street, Daytona Beach, Florida, and the common areas for the Plaza including parking, and adjacent sidewalks and landscaping (collectively the building and common areas are referred to herein as "the Property"), as depicted on the Property Sketch attached hereto and incorporated herein as Exhibit A; and

WHEREAS, the MANAGER has managed the Property since July 1997 under a series of contracts which are now expired, and is familiar with the character and operation of the Property, CITY's ordinances, policies, and procedures, and the local rental property market; and

WHEREAS, in response to the CITY's issuance of RFP # 0111-2230, attached hereto and incorporated herein as Exhibit B, MANAGER submitted a written proposal dated August 15, 2011, attached hereto and incorporated herein as Exhibit C; and

WHEREAS, the Parties desire to enter into a new contractual arrangement for MANAGER's management of the Property pursuant to the RFP.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties agree as follows, effective on the date the last Party hereto has signed below (the "Effective Date"):

Section 1. INCORPORATION. The recitals above are fully incorporated into these terms and conditions as if fully set forth below.

Section 2. TERM. This Contract will be for a Term of three years, beginning on the Effective Date. The Effective Date is the date on which the last Party has signed as shown below. The CITY will have the option to renew this Contract for up to three additional Terms of three year each, by providing MANAGER notice of intent to renew prior to the end of the current Term.

Section 3. APPOINTMENT AND ACCEPTANCE. The Owner appoints MANAGER and MANAGER accept the appointment to manage the Property and administer the leasing program for the Property, subject to the provisions set forth herein.

Section 4. MARKETING. MANAGER will carry out the marketing activities designed to attract quality tenants to rent space within the Property at the highest rental rates that the Property may produce, consistent with zoning restrictions and CITY's operational plan for the Property. These marketing activities will include generic advertising and listing on CoStar, Loopnet, and other commonly-used web sites, as well as on MANAGER's own web site where the Property will be a featured property.

MANAGER will keep abreast of competitive local space market rates and keep CITY informed of such rates.

Section 5. LEASE NEGOTIATIONS. MANAGER will negotiate, subject to the CITY's review and approval, leases with prospective tenants, as well as lease amendments, renewals, and modifications.

Section 6. LEASE ADMINISTRATION. MANAGER will administer all leases on the CITY's behalf. MANAGER's duties, which MANAGER will perform with due diligence, include the following:

(a) Collecting rents and other charges and fees owed pursuant to each lease including utility and common area maintenance (CAM), and turning over such charges and fees to the CITY.

(b) Managing tenant compliance with lease provisions.

(c) Responding to complaints, repair, maintenance, and service calls, and similar calls and requests from tenants.

(d) Acting as the CITY's primary point of contact with all tenants on all landlord-tenant matters.

(e) Maintaining and documenting files and tickler systems as needed to ensure proper administration, including timely payment of rent and other fees, timely adjustments of such fees, and proper enforcement of lease obligations.

(f) Providing the CITY with monthly reports that include an overall summary report for all tenants, individual tenant reports including contact information and monthly summary of activity, and a maintenance and repair log.

(g) Providing the CITY with annual CAM reconciliation reports.

(h) Performing premises inspections with tenants at the beginning of each lease, at such times during the lease term as MANAGER may deem necessary or the CITY may require, and upon expiration of the lease or abandonment of the lease by the tenant.

(i) Notifying the CITY if a tenant abandons the lease.

(j) Coordinating with the CITY as necessary.

MANAGER's duties include issuance of late payment notices but do not include authority to terminate leases or initiate suits for breach of lease, which is reserved to CITY. However, MANAGER will track payment and other lease compliance issues and promptly advise CITY when such actions may be necessary.

MANAGER will generally have one of its key personnel on-site or available to the CITY by cell phone during normal business to help meet MANAGER's responsibilities hereunder.

Section 7. HANDLING OF RECEIPTS. MANAGER will promptly turn over all checks and all other funds received to the CITY for deposit. MANAGER will not deposit any receipts received into MANAGER's own accounts. MANAGER will establish controls to ensure that all sums due to the CITY are paid to the CITY, and will be solely responsible for the willful or

negligent acts or omissions on the part of its officers, employees, or agents, that result in a conversion or other loss of funds due the CITY.

Section 8. CLEANING, MAINTENANCE, AND REPAIR. MANAGER will provide all cleaning, all routine maintenance and minor repairs for the PROPERTY. For purposes herein, a repair is not minor if the cost exceeds \$100.00. MANAGER will diligently and promptly provide the foregoing cleaning, maintenance, and repair services in a manner that ensures that the PROPERTY is a first-class commercial facility. To that end, MANAGER will establish and implement a routine inspection program, and will promptly contact the CITY as to any items of non-routine maintenance or repair that are required. In addition, MANAGER will employ a qualified maintenance person, at commercially reasonable rates, who will be on-site for at least 20 hours per week, Monday through Friday. The CITY will have the right to require MANAGER to increase the hours worked by the maintenance person, to hire additional maintenance persons, or to replace maintenance personnel if the hours worked or the personnel's quality of service are insufficient to meet MANAGER's obligations under this Section.

At all times while on-site the maintenance personnel will be properly attired and carry identification.

Section 9. BOOKS AND RECORDS. MANAGER will locally maintain its books and accounts relating to this Contract, and will make these books and accounts open to inspection by the CITY or its authorized representatives at all times. These books will be maintained for a period of three years after termination of this Contract, and will remain available to CITY or its authorized representatives during this time.

Section 10. FEES. In consideration of the services performed herein, the CITY will pay MANAGER the following:

- (a) A management fee of \$1,225.00 per month.
- (b) An amount sufficient to reimburse MANAGER's actual, direct costs of employing the on-site maintenance personnel described above. This amount will be paid monthly, within 30 days after MANAGER submits an invoice showing the hours worked and the rate of pay for the month.
- (c) An amount sufficient to reimburse MANAGER's actual, direct costs of obtaining and maintaining the performance bond required below. This amount will be paid within 30 days after MANAGER submits an invoice for such costs.
- (d) Reimbursement of any increased cost that MANAGER may hereafter incur after the date of this Contract for enhanced insurance coverage as provided in Section 11. This reimbursement will be made at the end of the within 30 days of the annual CAM reconciliation.
- (e) If MANAGER is a procuring cause of obtaining a tenant, a commission equal to a percentage of gross base rent received by the CITY as follows:
 - (1) If MANAGER is the sole procuring cause, 6% of the gross base rent for the initial lease term and 3% of the gross base rent for each renewal term; and
 - (2) If the tenant uses the services of a real estate broker, MANAGER will be entitled to 3% of the gross base rent for the initial lease term and 1.5% of the gross base rent for each

renewal term; and in such instance, the CITY will promptly pay the remainder of the commission fee that would otherwise be due MANAGER for the initial lease term under the preceding paragraph (1) to the tenant's broker. MANAGER will advise the CITY whenever MANAGER is aware that the tenant used such services.

In either of the foregoing events, MANAGER's right to receive any unpaid portion of the commission that otherwise remains due will terminate if the underlying lease is terminated for any reason. However, if in the course of a termination of the underlying lease prior to its expiration the CITY and tenant reach agreement for the tenant to "buy out" the remainder of the lease term, such as where the tenant is abandoning the leased premises prior to expiration of the lease, MANAGER will be entitled to a percentage of the buyout fee received by the CITY. This percentage is the same percentage as the percentage specified in paragraphs (1) or (2) above.

MANAGER will not be deemed to be the procuring cause hereunder if CITY uses a competitive bid or a request for proposal process to lease tenant space, and in such instance no commission will be owed to MANAGER on the lease. However, MANAGER will not be required to assist in the review of such bids or proposals or in the negotiation or execution of any such lease without additional compensation to be negotiated separately between the CITY and MANAGER.

Nothing herein prohibits the CITY from adding the cost of one or more of the fees listed in (a) through (d) of this Section to the CAM charges referenced above.

Section 11. INSURANCE. MANAGER will fully comply with the provisions of Exhibit D, attached hereto and incorporated herein, including by obtaining and maintaining insurance of the kinds and in the amounts set forth in the Exhibit. In addition, if after the date of this Contract the CITY's Risk Manager determines that insurance is required of a kind or in addition to the coverage amounts set forth, MANAGER will obtain such coverage within 60 days of receipt of notice by the CITY that such coverage is required.

Section 12. INDEMNIFICATION. MANAGER will indemnify the CITY as described in Exhibit D.

Section 13. PERFORMANCE BOND. MANAGER will obtain and maintain for the duration of this Contract a performance bond in the amount of \$50,000 to secure MANAGER's faithful performance of MANAGER's responsibilities. The form of the bond, and the surety providing the bond, are both subject to the CITY's approval.

Section 14. TERMINATION.

(a) The CITY has the right to terminate this Contract without cause upon 30 days written notice to MANAGER. If the CITY terminates without causes, and MANAGER is in compliance with all obligations at termination, then CITY will pay MANAGER the following amounts:

(i) All unpaid commissions that are due as of the date of termination, within 30 days after termination.

(ii) An additional amount to compensate MANAGER for commissions that MANAGER would have received on existing leases but for the early termination of this Contract. This amount will be calculated based upon the formula set forth for payment of commissions

above, and will be calculated with the assumption that all existing leases on which such commissions would have become due, will remain in good standing through the end of their current term.

(b) The CITY has the right to immediately terminate this Contract with cause if MANAGER defaults in MANAGER'S obligations herein. MANAGER will be in default if MANAGER, or any officer, employee, or agent of MANAGER:

(i) Deposits any receipts received by tenants into MANAGER's own accounts, or otherwise misappropriates any monies due to the CITY.

(ii) Executes leases, lease amendments, lease termination agreements, or written agreements purporting to materially modify, relinquish, or waive the CITY's rights under any existing lease agreement.

(iii) Intentionally or with willful disregard acts to damage, deface, or destroy CITY property.

(iv) Commits a felony or other crime involving moral turpitude in relation to the CITY, or the CITY's, officers, employees, or agents, any tenant, or any member of the public who is on CITY property.

(v) Continues to be in material breach of any obligation of this Contract for 30 days after the CITY provides MANAGER written notice of such breach and a demand to cure.

Termination due to default will be effective immediately upon the CITY's provision of a notice of termination. If termination for cause is due to (i) through (iv), above, MANAGER relinquishes all rights to any fees from the CITY that were not past due as of the date of default. Further, in the event of any termination for cause under this Section, any fees otherwise due to MANAGER will be offset by any damages or losses to the CITY that are due to the default.

The foregoing paragraph will not be deemed to waive or relinquish any other remedies the CITY may have against MANAGER under common law arising from MANAGER's default.

Section 15. NOTICE.

All notices, requests, and demands to or upon the Parties will be delivered by hand, delivered by a courier service, provided to a nationally recognized delivery service for overnight delivery, transmitted to a receiving fax machine followed by hard copy within two days, or by U.S. mail, postage prepaid by registered or certified mail, return receipt requested, to the addresses set forth herein:

If to the CITY: James V. Chisholm
City Manager
The City of Daytona Beach
301 S. Ridgewood Avenue
Daytona Beach, FL 32115
(Fax) 386 671-8015

If to MANAGER: Tyree F Wilson, Jr.
Manager
TW Realty, LLC
115 East Granada Blvd
Suite 12
Ormond Beach, FL 32176
(Fax) 386 677-8146

w/copy to: J. Paul Wetzel
Support Services Director
The City of Daytona Beach
301 S. Ridgewood Avenue
Daytona Beach, FL 32115
(Fax) 386 671-8206

provided, however, that either Party may change the person or address designated for receipt of the Party's notices, by providing written notice to the other Party.

Section 16. GENERAL CONDITIONS.

(a) **Limitations on Waiver.** Neither the CITY's review, approval, or acceptance of, or payment for, any of the services provided by MANAGER, will be construed to operate as a waiver of the CITY's rights under this Contract. MANAGER will be liable to the CITY in accordance with applicable law for any and all damages to the CITY caused by the MANAGER's negligent or wrongful provision of any of the services furnished under this Contract.

Failure of the CITY to exercise any right or option arising out of a breach of this Contract will not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach. Furthermore, the failure of the CITY at any time to insist upon strict performance of any condition, promise, agreement or understanding set forth herein will not be construed as a waiver or relinquishment of the CITY's right to insist upon strict performance of the same condition, promise, agreement or understanding at a future time.

(b) **Force Majeure.** In the event that fire, riots or civil commotion, acts of government or government immobility (whether federal, state or local) war, acts of God or contingencies beyond the reasonable control of a Party (hereinafter, "force majeure event") interfere with or prevent the fulfillment by such Party of its obligations hereunder, such obligations will be suspended until such time as such contingency or contingencies have terminated. Each Party will promptly notify the other upon becoming aware that any such contingency or contingencies have occurred or are likely to occur and will use its best efforts to minimize any resulting delay in or interference with the performance of its obligations hereunder.

(c) **JURY TRIAL WAIVED.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS CONTRACT, OR ANY DEALINGS BETWEEN THE PARTIES. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY DISPUTES BETWEEN THE PARTIES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS.

(d) **Amendments.** Except as otherwise provided herein, no change or modification of this Contract will be valid unless the same is in writing and signed by both Parties.

(e) **Assignments and Subcontracting.** No assignment or subcontracting will be permitted without the CITY's written approval.

(f) **Compliance with Laws and Regulations.** In providing all services pursuant to this Contract, MANAGER will abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provisions of, such services including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations will constitute a material breach of this Contract and will entitle the CITY to terminate this Contract immediately upon delivery of written notice of termination to the MANAGER.

(g) **No Third Party Beneficiaries.** There are no third party beneficiaries of MANAGER's services under this Contract.

(h) **Contingency Fee.** MANAGER warrants that MANAGER has not employed or retained any company or person, other than a bona fide employee working solely for MANAGER, to solicit or secure this Contract 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 MANAGER, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(i) **Principles in Construing Contract.** This Contract will be governed by and construed in accordance with the laws of the State of Florida. Captions and paragraph headings used herein are for convenience only, are not a part of this Contract and will not be deemed to limit or alter any provisions hereof or to be relevant in construing this Contract. The use of any gender herein will be deemed to be or include the other genders, and the use of the singular herein will be deemed to be or include the plural (and vice versa), wherever appropriate. In case of a conflict among the provisions of this Contract and the Exhibits, the order of precedence is this Contract, and then the Exhibits in the order in which they are lettered (A, then B, etc.)

(j) **Venue.** The exclusive venue for any litigation arising out of this Contract will be Volusia County, Florida if in state court, or the U.S. District Court, Middle District of Florida if in federal court.

(k) **Litigation Costs.** Except as otherwise expressly provided herein, in case of litigation between the Parties concerning this Contract, each Party will bear all of its litigation costs, including attorney's fees.

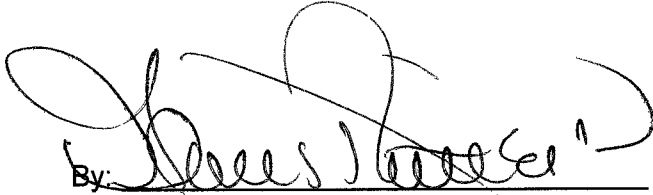
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Section 17. INTEGRATION. This Contract, including referenced Exhibits, represents the entire agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements or oral agreements have been made by either Party except as expressly set forth herein, or in other contemporaneous written agreements.

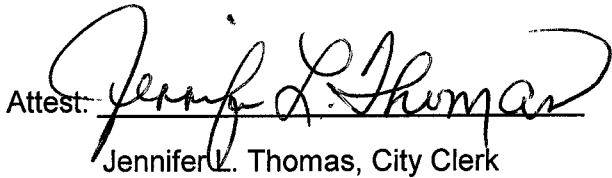
IN WITNESS WHEREOF, the Parties through their undersigned representatives have caused this Contract to be executed in duplicate original on the date(s) set forth below.

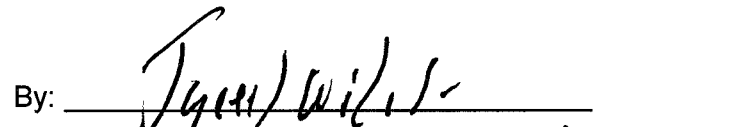
The City of Daytona Beach

TW Realty, LLC.

By: 


Glenn Ritchey, Mayor

Attest: 
Jennifer L. Thomas, City Clerk

By: 
Printed Name: Tyree F. Wilson Jr.
Title: President
Date: 3/15/2012

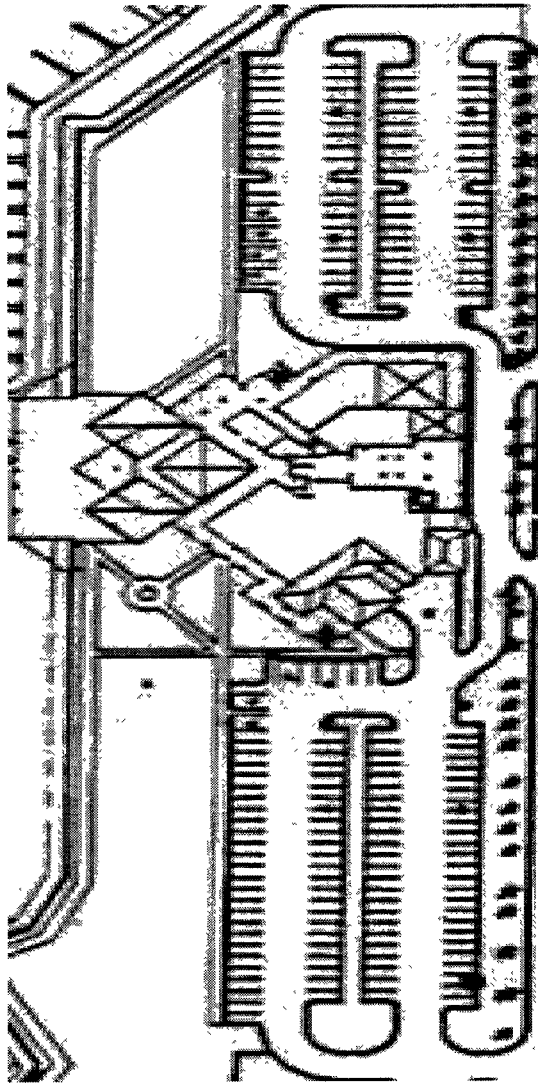
Date: March 21, 2012

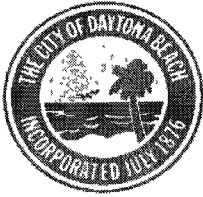
Approved as to legal form by:

By: 
Marie Hartman, City Attorney

Halifax Harbor Plaza

Sketch





**THE CITY OF DAYTONA BEACH
OFFICE OF THE PURCHASING AGENT**

Post Office Box 2451
Daytona Beach, Florida 32115-2451

Phone (386) 671-8080
Fax (386) 671-8085

**REQUEST FOR PROPOSALS
INVITATION**

NOTICE IS HEREBY GIVEN that sealed proposals will be received in the office of the Purchasing Agent, Daytona Beach City Hall, Room 146, 301 South Ridgewood Avenue, Daytona Beach, Florida 32114, until **August 11, 2011 at 2:00 p.m.**, at which time they will be publicly opened for the following:

HALIFAX HARBOR PLAZA BUILDING MANAGEMENT SERVICES

SCOPE OF WORK: The selected company shall provide a full range of commercial leasing and property management services for the Halifax Harbor Plaza Building.

AWARD OF CONTRACT subject to Article III, Chapter 30, "Minority and Women-owned Business Enterprises" and Division 4, Chapter 30, Negotiated Purchases, Code of the City of Daytona Beach.

SPECIFICATIONS MAY BE OBTAINED at the office of the Purchasing Agent City Hall, 301 South Ridgewood Avenue, Room 146, Daytona Beach, FL 32114, or by emailing a request to purchasing@codb.us.

A NON-MANDATORY PRE-PROPOSAL CONFERENCE will be held at the Daytona Beach City Hall First Floor Conference Room, 301 S. Ridgewood Ave., Room 116, Daytona Beach, Florida 32114, on August 2, 2011 at 10:00 a.m. Interested Proposers are *urged* to attend.

THE CITY RESERVES THE RIGHT to reject any or all proposals or parts thereof, or to accept the proposal(s) or parts thereof, when considered by it to be in the best interest of the City. Any proposal received after the time and date specified will not be considered. No proposer may withdraw their proposal for a period of sixty (60) days after the date of the opening of proposals. This time period is reserved for the purpose of reviewing proposals and investigating the qualifications of the proposers.

PROPOSALS SHALL BE ADDRESSED to the City of Daytona Beach, Purchasing Agent, 301 South Ridgewood Avenue, Room 146, Daytona Beach, Florida, 32114, and all proposals shall have the following plainly marked on the outside of the envelope:

PROPOSAL FOR: **HALIFAX HARBOR PLAZA BUILDING MANAGEMENT SERVICES**
PROPOSAL NO: **0111-2230**

**THE CITY OF DAYTONA BEACH
BY: JOANNE FLICK, CPPO, CPPB,
PURCHASING AGENT
ISSUED: July 14, 2011**

**THE CITY OF DAYTONA BEACH
REQUEST FOR PROPOSALS
No. 0111-2230**

GENERAL CONDITIONS

THIS IS NOT A BID. This is a Request for Proposals issued in accordance with the City of Daytona Beach code Chapter 30, Division 4, Negotiated Purchases, and is approved by Resolution of the City Commission. The Request for Proposal specifies the product(s) or services needed, and lists the criteria upon which the Proposal responses will be evaluated. When received, Proposals will be reviewed and ranked in order, beginning with the one deemed most advantageous to the City. Negotiations will commence with up to three of the Proposers. Upon completion of satisfactory negotiations, the Proposal negotiated as the best will be recommended to the City Commission. A copy of Chapter 30 may be obtained upon request.

GENERAL CONDITIONS

1. **INSTRUCTIONS TO PROPOSERS:** To insure consideration of your Proposal, please follow these instructions. One original and five (5) copies of all Proposal sheets must be executed and returned, unless otherwise directed. **Provide one pdf copy of the Proposal in its entirety on cd.** All Proposals not in compliance with the conditions specified herein are subject to rejection.

2. **PROPOSAL ENVELOPE:** All Proposals must be returned in a sealed box or envelope addressed to the City of Daytona Beach and should contain on its face the following information:
 - a. Name and address of Proposer
 - b. Proposal Number
 - c. Date and time of Proposal opening

PLEASE NOTE: The address of the Purchasing Division is:

Daytona Beach City Hall
301 South Ridgewood Avenue
Room 146
Daytona Beach, FL 32114

3. **EXECUTION OF PROPOSAL:** The Proposal must contain a manual signature of an individual or of an authorized representative of the firm making the Proposal, in the space provided on the Proposal Form, if provided as a part of the Proposal package, or on Proposer's own form, if a specific Proposal form is not provided. The Proposer's name shall be inserted on all other sheets requiring the Proposal's name. In order to insure uniformity, Proposals must be submitted on the Proposal Form, if provided, and on the attached pages.

4. **PROPOSAL OPENING - LATE PROPOSALS:** Proposals will be opened publicly, the name of the Proposers read aloud and recorded, on the date and time indicated, at the location specified in this Request for Proposals. It is the Proposers' responsibility to make certain that his/her Proposal is in the hands of

the Purchasing Agent prior to the opening time at the specified location. Any Proposal received thereafter will be rejected and returned to the Proposer.

5. **WITHDRAWAL OF PROPOSALS:** Proposals may be amended or withdrawn only by written notice prior to the Proposal opening. Proposal amendments must be submitted in a sealed envelope. Amendments or withdrawals received after the Proposal opening will not be effective, and the original Proposal submitted will be considered.
6. **CONSIDERATION OF PROPOSALS:** Telephonic, electronic, or faxed Proposals will not be considered. The Proposer agrees that his/her Proposal will not be withdrawn within sixty (60) calendar days following opening of the Proposals, and that during such time his Proposal will remain firm and irrevocable. The City reserves the right to reject any or all Proposals, and to waive any technical defects in Proposals.
7. **COOPERATIVE PURCHASING:** All proposers awarded contracts from this RFP are required to permit governmental entities in Volusia County to participate in the contract under the same prices, terms, and conditions except that allowances may be made for differences in delivery costs. At the option of the awarded proposer, the use of the contract resulting from this solicitation may be extended to other governmental agencies, cities, counties, and political subdivisions.
8. **LOCAL PREFERENCE:** The City has a Local Preference Ordinance (Section 30-26) that provides a preference to local businesses whenever the application of such a preference is reasonable in light of the dollar-value of proposals received in relation to such expenditures.

Local vendor means a person or business entity which has maintained a permanent place of business with full-time employees within the city limits for a minimum of six months prior to the date bids or proposals were received for the purchase or contract at issue, which generally provides from such permanent place of business the kinds of goods or services solicited, and which at the time of the solicitation fully complies with state and local laws, including city zoning and licensing ordinances.

Where proposals submitted for negotiated purchases are rated by a point system, a local vendor may be granted a preference of up to ten percent (10%) of the total available points. Where the contract is for labor or services, the exact percentage awarded may be adjusted based on the extent of work to be subcontracted to non-local vendors.

If the ranked list of the most highly qualified firms does not include a local vendor, then the highest ranked local vendor shall be included on the list of firms with whom the city manager shall negotiate. All firms on the resulting list will be given the opportunity to submit a best and final fee proposal when the evaluation includes price. Best and final fee proposals shall be evaluated and the final ranking shall be based upon that final evaluation.

9. **AWARD:** The award will be made by the City to the firm most qualified and offering the best value to the City, which will be determined by evaluation of Proposals using the evaluation criteria contained in the RFP, and in accordance with applicable rules and regulations governing the purchase and contract adopted and established by the City, and the State of Florida.

Any contract resulting from this solicitation may, in the alternative, be awarded by the City of Daytona Beach Community Redevelopment Agency (CRA). Therefore, any bids/proposals submitted in response to this solicitation shall be deemed to be offers to the CRA as well as the City. Any final written contract may be with the CRA instead of the City, and in such instances, any required insurance, performance and payment bonds, may be required to run in favor of the CRA in addition to or in lieu of the City.

10. **NON-COLLUSION:** By submitting a Proposal in response to the request and signing the Anti-Collusion Statement form enclosed, the Proposer represents that, should the Proposal be accepted, the resulting contract(s) would not violate any provisions of federal law or regulations, or any ordinances or regulations established by the City. The Proposer warrants as an integral and essential part of his/her Proposal: (a) that he/she has not participated in nor is he/she obligated or bound by any agreement, arrangement or other understanding with any person, firm or corporation with respect to the allocation of the business afforded by or resulting from the acceptance of his/her Proposal; (b) that his/her Proposal is or is intended to be competitive and free from any collusion with any person, firm or corporation; and (c) that he/she is not a party to nor has participated in nor is he/she obligated or otherwise bound by any agreement, arrangement or other understanding with any person, firm or corporation relating to the exchange of information concerning Proposals, prices, terms or conditions upon which the contract(s) resulting from this acceptance is to be performed.
11. **PERMITS, ETC.:** All Proposals submitted shall include in the price the cost of any business or professional licenses, permits or fees required by the City and any agency having jurisdiction over the services solicited through this Request for Proposal.
12. **PATENT INFRINGEMENT, ETC:** By submission of a Proposal the Proposer certifies that the services to be furnished will not infringe any valid patent, copyright, or trademark and the successful Proposer shall, at his/her own expense, defend any and all actions or suits charging such infringement and hold the City harmless in case of any such infringements.
13. **TAXES:** All Proposals shall be exclusive of federal taxes. However, if the Proposer believes that certain other taxes are properly payable by the City, he/she may list such taxes separately in each case directly below the respective item price. Tax exemption certificates will be furnished upon request.
14. **NO PROPOSAL:** If unable to submit a Proposal, please sign and return the form by return mail indicating the reason for not submitting a Proposal.
15. **PERFORMANCE:** During the performance of the contract, the Proposer agrees as follows:

- a. The Proposer will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin.
 - b. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirement of this section.
16. **FLORIDA PUBLIC RECORDS LAW:** Sealed bids or proposals received by the City of Daytona Beach, pursuant to Invitations To Bid or Requests For Proposals/Qualifications are exempt from the provisions of Florida's Public Records Law until such time the City provides notice of a decision or intended decision or within 10 days after bid or proposal opening, whichever is earlier. If you believe that your bid/Proposal or any portion thereof, is exempt from disclosure under the public records law, state the grounds for your position in CAPITAL LETTERS on the cover sheet accompanying your sealed bid/Proposal and a determination will be made as to whether or not it is exempt prior to opening. If a determination is made that it is not exempt from disclosure, the sealed Proposal will be returned to you upon request.
17. **EVALUATION CRITERIA:** The following weighted evaluation criteria will be used to evaluate Proposals and develop a recommendation for award for subsequent City Manager approval. Each criterion will be scored between 1 and 5; 1=poor, 2=below average, 3=average, 4=above average, 5=excellent. Scores will be multiplied by the criterion weight for a weighted score; weighted scores will be totaled for the weighted total score.

Weighted Evaluation Criteria

- 1. Experience in managing a leasing structure with a minimum of 5 tenants Weight = 25
- 2. Experience in managing a multiple commercial establishments structure, including a restaurant operation. Weight = 25
- 3. Fee structure for services to be provided. Weight = 25
- 4. Proposed management operation for Halifax Harbor Plaza Weight = 25
- TOTAL Weight = 100

18. **REJECTION OF PROPOSALS:** The City reserves the right to reject any or all Proposals in whole or in part and to award by items, parts of items, or by any aggregate group of items specified. The City also reserves the right to waive technical defect when in its judgment the best interests of the City thereby will be served.
19. **QUALIFYING PROPOSERS:** Prior to awarding of Proposal, the City may require submission by Proposer of complete financial statement and questionnaire describing Proposer's financial ability and experience in performance of similar work.

20. **RULES AND REGULATIONS:** All work performed under this agreement shall be in strict compliance with local, State and Federal laws, rules and regulations. Proposer shall assume all liability for fines and penalties assessed by the authorities for any infractions.
21. **MINORITY AND WOMEN WORK FORCE PARTICIPATION:** The City has an established policy of: 1) promoting Minority and Women-Owned Business Enterprise participation in business contracts and 2) requiring Proposers doing business with the City to use good faith efforts to promote cultural diversity and minority participation in the work force, including managerial positions. Proposers must provide information as part of the Proposal acknowledging its understanding and willingness to comply with Chapter 30, Article III, Code of The City of Daytona Beach.
22. **NO COSTS:** The City of Daytona Beach bears no responsibility for any costs incurred in the preparation of the Proposal.
23. **DRUG FREE WORKPLACE:** The selected firm must provide the Drug Free Workplace Form in accordance with Florida Statute 287.087, prior to Contract award.
24. **PROHIBITION OF LOBBYING.** Except for negotiations authorized by City Code Sections 30-116 or 30-118(3), the Consultants Competitive Negotiations Act, or other state or federal law, lobbying by the proposer, or the proposer's principals, officers, employees, attorneys, or other agents, is strictly prohibited during the Blackout Period. Lobbying in violation of this section may cause the proposal to be rejected.

"Lobbying" means influencing or attempting to influence action or non-action in connection with this RFP or the proposal, through direct or indirect oral or written communication with the Mayor, any member of the City Commission, the City Manager, or any other City employee. The following activities are not within the definition of "lobbying," and are permitted: requests for clarification submitted to the Purchasing Agent in accordance with this RFP, discussions with the Selection Committee as part of the selection process, the submission of additional information in response to a request by the City, and addressing the City Commission during the City Commission meeting at which the project is awarded or all proposals are rejected.

The Blackout Period begins on the date that this RFP is issued and ends when the project is awarded or all proposals are rejected.

24. **SELECTION PROCESS:**

For the purpose of selecting the most qualified firm, the City will use a competitive selection process as set forth in pertinent City and State procurement requirements. The procedure will involve the following steps:

- a. The City will advertise and mail formal Requests For Proposals to interested Proposers.

- b. The City's Selection Committee will review, rank, and shortlist all Proposals received by the established deadline for submission. Oral presentations by the short-listed Proposers to clarify their Proposals may be required. These presentations will serve to explain implementation techniques integral to their written Proposal. Subsequent to the receipt of Proposals, the City may schedule a time for each requested oral presentation at a place convenient to the City.
- c. The City's Selection Committee will then rank each Proposal and prepare a recommendation for approval by the City Manager. Upon receipt of the City Manager's authorization, the City's Project Manager shall negotiate a contract with the selected firm. Should the Project Manager be unable to negotiate a satisfactory contract with the firm considered to be most qualified, the City Manager, or designee, shall terminate such negotiations with that firm and begin negotiations with the next most qualified firm and so on until negotiations are successful.
- d. **The City Commission has the sole authority to bind the City to the terms and conditions of a contract that has been approved in a public meeting of the City Commission, executed by the Mayor and City Clerk, and approved by the City Attorney. The City Commission reserves the right to modify or reject any contract for the acquisition of goods and/or services submitted to it for consideration.**

ANTI-COLLUSION STATEMENT

By signing this form, the Proposer agrees that this Proposal is made without any other understanding, agreement, or connection with any person, corporation, or firm submitting a Proposal for the same purpose and that the Proposal is in all respects fair and without collusion or fraud.

Sign in ink in the space provided below. Unsigned Proposals will be considered incomplete, and will be disqualified and rejected.

IT IS AGREED BY THE UNDERSIGNED PROPSEER THAT THE SIGNING AND DELIVERY OF THE PROPSAL REPRESENTS THE PROPOSER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FORGOING TERMS AND CONDITIONS AND SCOPE OF SERVICES, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE PARTIES.

NAME OF FIRM: _____

SIGNATURE: _____
(MUST BE SIGNED BY A COMPANY OFFICER OR AUTHORIZED AGENT)

NAME TYPED: _____ TITLE: _____

ADDRESS: _____

CITY AND STATE: _____

TELEPHONE: _____ EMAIL: _____

DRUG FREE WORKPLACE FORM

The undersigned contractor in accordance with the Florida Statue 287.087 hereby certifies that _____ does:

1. Publish a statement notifying that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, any Available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in Paragraph 1.
4. In the statement specified in Paragraph 1, notify the employees that, as a condition of working on the commodities or contractual services that the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to any violation of Chapter 1893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug free workplace through implementation of Paragraph 1, through Paragraph 5.

As the person authorized to sign this statement, I certify that this firm fully complies with the above requirements.

Date: _____

Signature & Title

Scope of Services

- 1. Management Duties.** The Company shall provide a full range of commercial leasing and property management services as described below. At a minimum these services shall include the following:
 - (a) The Company shall advertise commercial lease space available within the Halifax Harbor Plaza, and assist in marketing the lease space to tenants who are suitable based on permitted Plaza uses and any exclusive use provisions in effect at the time. The Company shall generate generic "lease" available advertising. The costs of advertising shall be included in the Company's management fee. The Company shall be available for consultation on any additional advertising or marketing program on a separate fee basis.
 - (b) The Company shall have at least one qualified, professional staff person on-site and available weekdays during normal business hours to show vacant space within the Plaza available for lease as needed.
 - (c) The Company shall assist in the screening of potential tenants and assist in the negotiation and tenant execution of written leases for those tenants subject to City approval. The City will make all final decisions on negotiated terms. Please note that the City uses a form lease generated by the City Attorney's office. Currently all leases require City Commission approval.
 - (d) The Company shall keep abreast of and keep the City informed about competitive local space market and market rates.
 - (e) The Company shall manage leases, including the following:
 - (i) Collection of monthly rent and fees, including utilities and common area maintenance (CAM) charges.
 - (ii) Providing a point of contact for all tenant communications. The Company shall act as a buffer between the City and the tenant, including for purposes of receiving and processing tenant calls and requests, responding to tenant complaints, collecting rent, providing late notices and other notices of lease noncompliance.
 - (iii) Retain and manage one part-time on-site maintenance worker, subject to City reimbursement. The worker must be qualified to perform minor repairs, daily clean-up in and around building and grounds, and must pass a criminal background check and drug screening.

- (iv) Contracting for other than basic repairs with the approval of the City's Building Maintenance Supervisor.
 - (v) Posting of general information for the tenants and or public.
 - (vi) Tracking of accounts payables/billings and forwarding to the proper City department within one working day of receipt.
 - (vii) Providing monthly and annual reports.
 - (viii) Maintaining insurance compliance.
 - (ix) Preparation, managing, collection and enforcing annual rent, tax and CAM adjustments.
 - (x) Collection of late fees, provision of notices of late rent and other violations of the lease.
- (f) The Company shall be required to manage and set up tenant build-out improvement program as provided in the negotiated leases on an as-needed basis.
- (g) The Company shall provide services for contracting and repair due to extraordinary circumstances, i.e., hurricanes or other incidents resulting in heavy damage, subject to prior approval by the City, except that the requirement for prior approval shall be waived for valid emergencies.
- (h) The Company shall keep a complete set of records on file which will be available to the City for review at all times. The Company shall also submit to the City on a monthly basis, a summary and a detailed tenant report showing all monies due, amounts paid, and any outstanding tenant balances.
2. **Management Fees.** Please provide a detailed description of all proposed fees. Management fees may be proposed as monthly fee, a brokerage fee based on new leases secured, set fees for particular services, or any combination of the foregoing fees.
3. **Contract Term.** The contract resulting from this solicitation will be awarded for a three (3) year term, and the City will have the option to renew for up to three (3) additional terms of three (3) years each. Any contract award will be subject to cancellation by the City without cause upon reasonable notice.
4. **Insurance.** The Company shall be required to obtain insurance as described in Exhibit A.

EXHIBIT A TO RFP

HALIFAX HARBOR PLAZA MANAGEMENT SERVICES REQUIRED INSURANCE

The Company shall purchase and maintain, at its own expense, the following types and amounts of insurance, primary and non-contributory with the City's own insurance, in form and companies satisfactory to the City:

1. Workers' Compensation Insurance – As required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of the Company, employed at the site of the service or in any way connected with the service, which is the subject of this contract.

The insurance required by this provision shall comply fully with the Florida Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$100,000 per occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

2. Liability Insurance - Commercial General Liability Insurance, including coverage for operations, independent contractors, products-completed operations, broad form property damage, and personal and advertising injury on an "occurrence" basis insuring the Company and any other interests, including but not limited to any associated or subsidiary companies involved in the service.

Automobile Liability Insurance which shall insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the Company in the performance of this service or in any way connected with the service which is the subject of this contract.

THE LIABILITY INSURANCE SHALL NAME THE CITY AS AN ADDITIONAL INSURED.

The limit of liability shall be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence. If insurance is provided with a general aggregate, then the aggregate shall be in an amount of no less than \$1,000,000. The Risk Manager for the City may authorize lower liability limits for the automobile policy only, at the Risk Manager's sole discretion.

3. Fidelity Bond - The Company shall provide a Fidelity Bond in the amount of \$500,000 naming the City as the Loss Payee.

Proof of Insurance

The Company shall furnish proof of insurance acceptable to the City prior to or at the time of execution of the contract and the Company shall not commence service under this contract until it has obtained all the insurance required under this contract and such insurance has been filed with and approved by the City, nor shall the Company allow any subcontractor to commence service on its subcontract until similar insurance required of the subcontractor has been so obtained and approved. The Company shall

furnish evidence of all required insurance in the form of certificates of insurance which shall clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard and the expiration dates.

In the event any or all of the required insurance coverages are cancelled by the insurer, the Company, or any named insured, it shall be the Company's responsibility to notify the City of such cancellation as soon as knowledge of the cancellation is obtained. Notice shall be sent to:

Risk Manager
The City of Daytona Beach
P.O. Box 2451
Daytona Beach, Florida 32115-2451

If requested by the City, the Company will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the City.

The Company shall file replacement certificates 30 days prior to expiration or termination of the required insurance. In the event such insurance shall lapse, the City expressly reserves the right to renew the insurance at the Company's expense.

Termination of Insurance

The Company may not cancel the insurance required by this agreement until the Company has received written notification from the Risk Management Division of the City that the Company may cancel the insurance required by this contract and the date upon which the insurance may be canceled.



THE CITY OF DAYTONA BEACH
OFFICE OF THE PURCHASING AGENT

Post Office Box 2451
Daytona Beach, Florida 32115-2451

Phone (386) 671-8080
Fax (386) 671-8085

ADDENDUM NO. 1

DATE: **August 8, 2011**

PROJECT: **HALIFAX HARBOR PLAZA BUILDING MANAGEMENT SERVICES**
RFP No.: **0111-2230**

OPENING DATE: **~~August 11, 2011~~ August 15, 2011**

This addendum is hereby incorporated into the solicitation documents referenced above. The following items are clarifications, corrections, additions, deletions, and/or revisions to and shall take precedence over the original documents. Additions are indicated by underlining, deletions are indicated by ~~strikethrough~~.

1. Answers to the following questions submitted in writing are provided:
 - Q1: Can we get the current leases of the current tenants?
A1: A sample lease (with HarborPoint Media, LLC) representing the most recent terms is attached in lieu of copies of all current leases
 - Q2: Can you share how much money the city is paying the part maintenance man?
A2: \$10,520 annually.
 - Q3: Is the Plaza Building in a Re-Development area?
A3: Yes, however, the City is leasing its own property; the property is not owned by the CRA.
2. A copy of the restaurant lease is attached for Proposer's information. The restaurant changed its name several times since the lease was signed. It was called the Stock Exchange at the time; it is now called the Blue Grotto.
3. Scope of Services, Item 1 (b) is hereby CHANGED to read as follows:
"The Company shall have at least one qualified, professional staff person ~~on-site and~~ available weekdays during normal business hours to show vacant space within the Plaza available for lease as needed."
4. The RFP due date has been CHANGED from ~~August 11, 2011~~ to August 15, 2011 at 2:00 p.m.
5. All other terms and conditions remain the same.

The Proposer shall acknowledge receipt of this addendum by referencing in a transmittal letter covering the proposal.

The City of Daytona Beach
Joanne Flick, CPPB, CPPO
Purchasing Agent

TW Realty, LLC

Development, Property Management, and Real Estate Sales

Phone: (386) 677-7847 • Fax: (386) 677-8146 • twrealty@bellsouth.net

**115 E. GRANADA BLVD. SUITE 12
ORMOND BEACH, FL 32176**

Request for Proposal Number- *0111-2230*
Date of Opening – *August 15, 2011 - 2:00pm*

Name and Address of Proposer:

*Tyra Roberson &
Tyree F. Wilson Jr.
TW Realty, LLC
115 E Granada Blvd, Suite 12
Ormond Beach, FL 32176*

Halifax Harbor Plaza Building Management Services RFP Number 0111-2230

Order of Information Enclosed:

- A. Experience in Managing a leasing structure.
- B. Experience in managing a multiple commercial establishment structure, including a restaurant operation.
- C. Fee structure for services to be provided.
- D. Proposed management operation for Halifax Harbor Plaza.

A. Experience in Managing a leasing structure.

TW Realty, LLC has a long history of managing Halifax Harbor Plaza. Ty Wilson, the company's broker and Tyra Roberson licensed real estate agent and CCIM candidate, are the two contacts for this property and possess a large spectrum of commercial real estate skills. To name a few: We have listed for sale and lease many commercial properties, managed all aspects of a commercial property, developed land into commercial property from the ground up, completed buyout packages for leases that no longer could be satisfied, and assumption of leases between tenants. The above experiences become very beneficial when managing property.

TW Realty believes Halifax Harbor is not only a multi-tenant diversified commercial center, but also considers it to be a Class A office space location. The three classes of office buildings are Class A, B and C. Usually Class A space has the most amenities in the best locations. They generally are the best looking buildings, have ample parking, possess a professional manager and good access, and are typically located in highly visible areas on high traffic streets.

In relation to this proposal, below are a few examples of Class A space and/or multi tenant buildings that have been managed by either Ty Wilson or Tyra Roberson over the years of doing business in the Daytona Beach area.

Fifth Third Building
444 Seabreeze
Daytona Beach, FL 32118

Renaissance Shopping Center
487 S Nova Rd.
Ormond Beach, 32174

Oceanside Executive Center
140 S Atlantic
Ormond Beach, FL 32176

Halifax Harbor Plaza
125 Basin St
Daytona Beach, FL 32114

B. Experience in managing a multiple commercial establishment structure, including a restaurant operation.

Under this section we will provide what TW Realty has completed over the years for the City of Daytona Beach as the manager for Halifax Harbor Plaza.

1. When did TW Realty, LLC take over Halifax Harbor Plaza?

Answer: July of 1997

TW Realty took over the Plaza in July of 1997. We were at that time doing business as T.F. Wilson Realty, and Ty Wilson was the broker of the company. Tyra Roberson began to work for T.F. Wilson Realty in 2001. Ty Wilson & Tyra Roberson became partners in 2004 merging into a new company called TW Realty, LLC.

2. Has Halifax Harbor Plaza experienced growth over the years?

Answer: Yes

Below is a quick overview taken from randomly selected reports submitted each month by our company to the city. This explanation starts with the first report generated by our company in 1997 and ends with the last report up-to-date.

<u>Date</u>	<u>Monthly Rent</u>	<u>Occupancy</u>
August 13, 1997	\$11,923.38	7 Suites occupied
January 15, 2002	\$33,810.63	8 Suites occupied
January 31, 2005	\$41,312.76	10 Suites occupied
July 28, 2011	\$54,914.85	11 Suites occupied

- Above shows a strong growth period over the years.
- Today's rent is 4.6 times the rent in 1997.
- We have experienced the commercial boom in the early and mid 2000's, and have been able to hold this building to a high standard of growth and income during the downward swing of the market and economy which began in 2007.

3. What is the vacancy rate for Halifax Harbor Plaza?

Answer: 3,085 sq ft available / 39,038 sq ft total leaseable =

7.9% vacancy rate, making the Plaza at almost full capacity.

Space available:

Suite 102 = 236 square feet (one room available with no restroom inside suite)
Suite 120 = 478 square feet (two offices and a shared restroom area with Blue Grotto restaurant office)
Suite 131 = 909 square feet (three offices, storage room and shared restroom/kitchen with suite 130)
Suite 200 = 832 square feet (two offices and reception room and shared restroom with suite 210)
Suite 215 = 630 square feet (two office and reception room with a private restroom)

=3,085 square feet available for lease and 39,038 square feet total center leaseable

Having such a low vacancy rate in the building is an excellent sign of remarkable property management. It is a significant fact that the economy and market are not doing well. Business owners are closing doors, and some small business owners are moving to at-home offices. However, we have been able to keep the Plaza at an almost full capacity level at competitive market rates.

4. Has this office been successful in collecting the CAM Reconciliations?

Answer: Yes, over the past years we have been extremely successful.

However, many landlords and managers in today's market have not. Tenants default and landlords have to absorb the costs. Just to give you an idea, in the last three years that we have completed annual CAM reconciliations for this property, we have collected a total of \$50,053.08

5. How are tenant/management and management/ landlord relations?

Answer: We feel they are strong on both ends.

We have established long term relationships with the tenants in this building over the years. They know that they can call TW Realty with an issue, and they will get a quick response. They trust that we are doing everything we can to keep the building up to standard. This solid relationship helps to create long term leases at a facility and to maintain a high retention rate. Likewise, we feel that we try to keep a fluid relationship with the city. We consistently keep all parties informed of what is happening at the Plaza in terms of repairs necessary, renewals coming up, and any other leasing matter that is essential.

6. **What is the percentage of the total annual income that TW Realty, LLC made including the TW Realty management fee, the onsite maintenance worker hired specifically for this property and managed by our office, and the real estate commissions for placing tenants in the building?**

Answer: $\$45,249.08 / \$658,978.20 =$ approximately 6.8% of the total annual rent

* **It is less than one month rent generated from this property.**

- Annual income for this purpose = $\$54,914.85$ current monthly rent \times 12 months = $\$658,978.20$
- We used the last 12 consecutive months August 2010- July 2011 of monies paid to TW Realty for this calculation = $\$45,249.08$
- More discussion of fees paid will be in the next section.

C. Fee structure for services to be provided.

Under this section of the proposal our current agreement with the City of Daytona Beach fee structure, as well as a proposed structure for the next 3 year contract period will be discussed.

1. Current Fee Structure

This breaks down into three parts. a) Management company flat fee for all management services to the facility. b) Leasing commission fee for finding and placing tenants in the facility. c) Onsite maintenance/repair worker for the facility.

a) **TW Realty is paid \$1,225.00 a month for management services, and this totals \$14,700.00 a year.**

- A detailed explanation of specific management services provided by TW Realty will be found later in this proposal.
- **We have NOT asked for an increase since August of 2005 which was 6 years ago. We are still not asking for an increase today.** Although the annual rent received by the City of Daytona has increased greatly over the years, we can afford to keep the management fee down, because of the exclusive right to lease the building described later at length.
- Also, it is important to note that the management fee is allowed to be included as part of the CAM Reconciliation at year's end. This means, if over the city decides to increase or lower what is being paid to the management company, it would directly affect what is collected from the tenants as part of their additional rent CAM costs. *** *Meaning the management fee is a direct pass through to the tenant.*

b) TW Realty as part of the management agreement has retained the exclusive right to lease Halifax Harbor Plaza.

- All new tenants negotiated and placed into Halifax Harbor Plaza by TW Realty have a 6% commission fee to be paid to TW Realty on the initial term of the lease.
- If a new tenant has a relationship with another real estate brokerage firm, and that broker becomes the procuring cause of a new tenant at Halifax Harbor Plaza, we split the 6% initial term commission 50/50 between the two brokerage firms.
- Any renewals negotiated at Halifax Harbor Plaza have a fee of 3% commission of the renewal term paid to TW Realty.
- As part of an agreement with the City of Daytona Beach, TW Realty allows our firm's total commission to be paid out over the term of the lease. This was a request by the city when we first came on as the management team. All other procuring brokers involved are paid in full at lease commencement.
**** This means that if a tenant moves out early, TW Realty will not receive its full commission due, and it is a risk for our agency.*
- However, we are protected should the City of Daytona Beach decide to move forward with another management agency, it must pay any outstanding commissions/fees due.
- TW Realty earned approximately \$20,000.00 over the last 12 months in commissions for this property. This, of course, would go down should a tenant decide to not renew, or if a tenant possibly moved out before the lease expires. Likewise, this amount would increase by TW Realty receiving the 6% commission fee, if we are able to move new tenants in the available vacant space.

Important Points to Note:

** Using a commission fee pay schedule to fill space in a commercial center instead of a flat salary fee is a way to keep all real estate brokers competitive and eager to fill space.

** By paying a commission fee to a real estate brokerage firm, a check and balance system is created for a property. The more a landlord earns in rent means the more commission a real estate broker earns. Likewise, should the rent go down, so do the brokers' earnings.

c) Onsite Maintenance/Repair worker for the facility.

- An onsite maintenance worker has been hired by TW Realty for the City of Daytona Beach as a part time position with normal hours of 9:00 am – 1:00 pm Monday through Friday. This may vary depending on scheduling needs occurring outside this timeframe.
- The current employee's name is Darron L. Nealey, and he has worked at the Plaza since January of 2005 with no raise during this time to the dollars earned per hour.

- He is paid \$9.00 an hour, and using the last calendar year totaled approximately \$10,500.00 in pay.
- His job description includes the following but not limited to: Cleaning the parking lots and sidewalks, emptying all common area trash cans, cleaning the restrooms next to the kitchen office, cleaning elevators, pressure washing any areas that can be reached, removing any reachable wasp nests, changing all common area light bulbs, assisting with any repairs to interior suites like ceiling tile replacement, patching areas around the property that need treatment like caulk and paint, maintaining the timers directly related to the property, maintaining the trash bin area, keeping clean and clear of items the back door area and adjoining hallways and closets, keeping the stock room and the common restroom updated with supplies, reviewing all repairs acting as a buffer before the city of Daytona Beach is notified of issue.
- Lastly, it is important to note that the maintenance worker's salary is allowed to be included as part of the CAM Reconciliation at years end. Both the management fees and the maintenance worker fees are allowed to be included. This means if ever the city decided to increase or lower what is being paid to the maintenance worker, this would directly effect what is collected from the tenants as part of their additional rent CAM costs. *** Meaning the maintenance workers fee is a direct pass through to the tenant.

2. Proposed Fee Structure

We propose to keep the management fee the same as our current agreement with the City of Daytona Beach for the next three year suggested contract term. This would be a flat \$1,225.00 a month = \$14,700.00 annually with no increases over the next three year's.

We propose to keep the same commission structure as our current agreement with the City of Daytona Beach for the next three year suggested contract term. This not only would keep the commission percentage of 6% paid on the initial term of lease and 3% on renewal leases, but also would allow the city if they so choose, to spread the total payment due over the term of the lease. We believe this has helped the city with budgeting over the past years.

We propose to continue to manage and pay a part time onsite maintenance/repair employee for the City of Daytona Beach to be reimbursed as we have on a monthly reimbursement basis.

- One option available for this section of the fee structure is to subcontract the services that the onsite employee completes to different companies, for example cleaning crews and electricians.
- Another option is for the property maintenance department with the City of Daytona Beach to take over some of these responsibilities and possibly the city landscape crews to take over the parking lot responsibility.

Important Points to Note:

- ** TW Realty, LLC is open to discussion on better ways to set up the fee structure. We feel confident and have continuously pursued over the years to set up a fee structure that would best suit the property, and we have kept an open relationship with the city for ways to improve.
- ** All three sections of the fee structure combined together come to less than one month's rent generated from this property. We made in the last 12 months \$45,249.08, and one month's current rental income is \$54,914.85.
- ** As noted previously in this proposal, all three sections of the fee structure combined together only total approximately 6.8% of the total annual rental income generated from this property.
- ** Two of the fees included, management services and maintenance worker, are a direct pass through to the tenant CAM rent collected.

D. Proposed management operation for Halifax Harbor Plaza

Under this section you will find what TW Realty, LLC is proposing to include under its management team responsibilities. Please find listed below some of our full service management responsibilities:

- Collect and process all monthly rent due.
- Receive and process all tenant complaints.
- Manage and payroll of on-site maintenance worker to be reimbursed by the city. Send reimbursement invoice to the city every 4 weeks.
- Contract repairs with the city contact and/or any approved city sub contractors.
- Act as a buffer between tenant and landlord during repair requests, lease negotiating, and all other related issues, creating a fluid working relationship between all parties.
- Send out notices to the tenant(s).
- Pay approved vendors directly, or delivery to the city any approved bills to be sent through TW Realty.
- Includes all fees that go along with producing and delivering any documents or payments.
- Create the monthly reporting and any annual reports required.
- Calculate the annual rent increase for each tenant using what is requested in the lease. This is usually the CPI or a flat negotiated rate.

Management responsibilities continued:

- Review all leases for Halifax Harbor Plaza Tenants.
- Review the insurance policy, property tax bill, and the fiscal year maintenance costs to be included in the CAM reconciliation.
- Preparation and collection of all applicable annual tenant CAM reconciliation adjustments done at year end.
- Continue evaluation of the market and stay current as to areas market rental rates.
- Meet vendors at the property for inspections or other scheduled events.

TW Realty, LLC will have the exclusive right to lease Halifax Harbor Plaza on a fee basis as proposed under Section C of this proposal.

TW Realty, LLC will be responsible for having at least one staff person available as needed to show space during normal business hours.

TW Realty, LLC will be responsible for advertising this listing for lease on the most active commercial web sites and any company available resource. Some web sites include the local Daytona Beach Area Board of Realtors web site, Loopnet, and Costar group. At city request, TW Realty, LLC will be available for consultation on any additional advertising.

TW Realty, LLC agrees to keep a complete set of records on file for the required regulated period.

TW Realty, LLC will provide services for contracting and repair due to extraordinary circumstances: i.e. hurricanes and/or other incidents resulting in heavy damage for a fee subject to prior approval by the City.

Ways to generate more income:

1. Review ways to better use the 7008 square foot restaurant space. The space is in prime location within the center, and it is the only tenant paying below market rates. Having a restaurant at Halifax Harbor Plaza has been a long time battle with most restaurants not being able to sustain long term. Here are a couple of options:

(a) A possible renovation of the space into office/retail space. The space upstairs where Lando Resorts rents was at one time a restaurant. It now generates just over \$16,000 a month in rent as office space.

(b) Placing a franchise restaurant in the Plaza. This type of restaurant might have more draw.

2. Keep the appearance of the center as Class A space. We feel the plaza continues to be classified as Class A space. Possibly, painting the exterior of the facility would help draw in some new prospects.

3. Give some consideration in creating different marketing packages. One possibility is some sort of incentive program using the boat slips and Plaza. For example, if you lease space at Halifax Harbor Plaza, you would receive a discount on a boat slip or one free for so many months, or give boat slip renters some sort of incentive to also rent space. Basically, using the amenities the city has to fill and get use out of others.

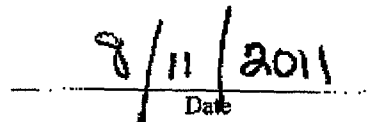
4. Ty Wilson and Tyra Roberson are actively involved in Daytona Beach area civic organizations. This involvement directly affects success in procuring new prospects. Our history in the Daytona Beach area has built solid relationships with local businesses, organizations and professionals that have helped build our on going everyday business.

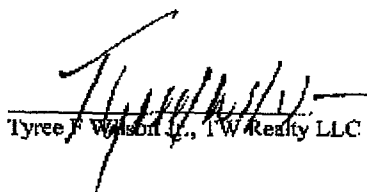
Some accomplishments of Ty Wilson are past president of the Daytona Beach Rotary, past chairman of the Daytona Beach Chamber of Commerce, chairman of the Volusia Housing Finance Authority, involving raising \$250,000.00 for Daytona Beach homeless shelter and \$250,000.00 for the Habitat for Humanity.

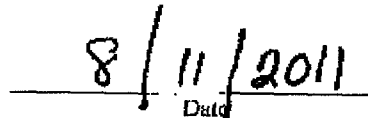
Tyra Roberson has been actively involved with fundraising for local charities. Some accomplishments include staging multiple fundraising walks along Halifax Harbor Plaza, and its surrounding area which has created more visibility to the plaza and area businesses. Also, she used the Blue Grotto as a dinner fundraiser location in hopes of bringing income and attention to the Halifax Harbor Plaza restaurant.

In closing, we have enjoyed working with the City of Daytona Beach over the years, and we look forward to a continued and successful relationship.


Tyra W. Roberson, TW Realty LLC


Date


Tyree F. Wilson, TW Realty LLC


Date

TW Realty, LLC

Development, Property Management, and Real Estate Sales

Phone: (386) 677-7847 • Fax: (386) 677-8146 • twrealty@bellsouth.net

**115 E. GRANADA BLVD. SUITE 12
ORMOND BEACH, FL 32176**

TW Realty, LLC received and reviewed the Addendum No. 1 regarding changes to the RFP No: 0111-2230 for Halifax Harbor Plaza Building Management Services



Tyra W. Robinson

8/11/2011
Date

ANTI-COLLUSION STATEMENT

By signing this form, the Proposer agrees that this Proposal is made without any other understanding, agreement, or connection with any person, corporation, or firm submitting a Proposal for the same purpose and that the Proposal is in all respects fair and without collusion or fraud.

Sign in ink in the space provided below. Unsigned Proposals will be considered incomplete, and will be disqualified and rejected.

IT IS AGREED BY THE UNDERSIGNED PROPSER THAT THE SIGNING AND DELIVERY OF THE PROPSAL REPRESENTS THE PROPOSER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THE FORGOING TERMS AND CONDITIONS AND SCOPE OF SERVICES, AND IF AWARDED, THIS CONTRACT WILL REPRESENT THE AGREEMENT BETWEEN THE PARTIES.

NAME OF FIRM: TW Realty, LLC

SIGNATURE: Tyra W Roberson
(MUST BE SIGNED BY A COMPANY OFFICER OR AUTHORIZED AGENT)

NAME TYPED: Tyra W. Roberson TITLE: President

ADDRESS: 115 E Coronada Blvd, Suite 12

CITY AND STATE: Ormond Beach, FL

TELEPHONE: 386 677-7847 EMAIL: _____

DRUG FREE WORKPLACE FORM

The undersigned contractor in accordance with the Florida Statute 287.087 hereby certifies that Tw Realty LLC does:

1. Publish a statement notifying that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, any Available drug counseling, rehabilitation, employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in Paragraph 1.
4. In the statement specified in Paragraph 1, notify the employees that, as a condition of working on the commodities or contractual services that the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to any violation of Chapter 1893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug free workplace through implementation of Paragraph 1, through Paragraph 5.

As the person authorized to sign this statement, I certify that this firm fully complies with the above requirements.

Date:

8/11/2011

Thom Wilcox
Signature & Title Owner/Broker

EXHIBIT A TO RFP

**HALIFAX HARBOR PLAZA MANAGEMENT SERVICES
REQUIRED INSURANCE**

The Company shall purchase and maintain, at its own expense, the following types and amounts of insurance, primary and non-contributory with the City's own insurance, in form and companies satisfactory to the City:

1. Workers' Compensation Insurance – As required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of the Company, employed at the site of the service or in any way connected with the service, which is the subject of this contract.

The insurance required by this provision shall comply fully with the Florida Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$100,000 per occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

2. Liability Insurance - Commercial General Liability Insurance, including coverage for operations, independent contractors, products-completed operations, broad form property damage, and personal and advertising injury on an "occurrence" basis insuring the Company and any other interests, including but not limited to any associated or subsidiary companies involved in the service.

Automobile Liability Insurance which shall insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the Company in the performance of this service or in any way connected with the service which is the subject of this contract.

THE LIABILITY INSURANCE SHALL NAME THE CITY AS AN ADDITIONAL INSURED.

The limit of liability shall be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence. If insurance is provided with a general aggregate, then the aggregate shall be in an amount of no less than \$1,000,000. The Risk Manager for the City may authorize lower liability limits for the automobile policy only, at the Risk Manager's sole discretion.

3. Fidelity Bond - The Company shall provide a Fidelity Bond in the amount of \$500,000 naming the City as the Loss Payee.

Proof of Insurance

The Company shall furnish proof of insurance acceptable to the City prior to or at the time of execution of the contract and the Company shall not commence service under this contract until it has obtained all the insurance required under this contract and such insurance has been filed with and approved by the City, nor shall the Company allow any subcontractor to commence service on its subcontract until similar insurance required of the subcontractor has been so obtained and approved. The Company shall

furnish evidence of all required insurance in the form of certificates of insurance which shall clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard and the expiration dates.

In the event any or all of the required insurance coverages are cancelled by the insurer, the Company, or any named insured, it shall be the Company's responsibility to notify the City of such cancellation as soon as knowledge of the cancellation is obtained. Notice shall be sent to:

Risk Manager
The City of Daytona Beach
P.O. Box 2451
Daytona Beach, Florida 32115-2451

if requested by the City, the Company will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the City.

The Company shall file replacement certificates 30 days prior to expiration or termination of the required insurance. In the event such insurance shall lapse, the City expressly reserves the right to renew the insurance at the Company's expense.

Termination of Insurance

The Company may not cancel the insurance required by this agreement until the Company has received written notification from the Risk Management Division of the City that the Company may cancel the insurance required by this contract and the date upon which the insurance may be canceled.

EXHIBIT D TO CONTRACT

HALIFAX HARBOR PLAZA MANAGEMENT SERVICES REQUIRED INSURANCE

The Company shall purchase and maintain, at its own expense, the following types and amounts of insurance, primary and non-contributory with the City's own insurance, in form and companies satisfactory to the City:

1. Workers' Compensation Insurance – As required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of the Company, employed at the site of the service or in any way connected with the service, which is the subject of this contract.

The insurance required by this provision shall comply fully with the Florida Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$100,000 per occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

2. Liability Insurance - Commercial General Liability Insurance, including coverage for operations, independent contractors, products-completed operations, broad form property damage, and personal and advertising injury on an "occurrence" basis insuring the Company and any other interests, including but not limited to any associated or subsidiary companies involved in the service.

Automobile Liability Insurance which shall insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the Company in the performance of this service or in any way connected with the service which is the subject of this contract.

THE LIABILITY INSURANCE SHALL NAME THE CITY AS AN ADDITIONAL INSURED.

The limit of liability shall be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence. If insurance is provided with a general aggregate, then the aggregate shall be in an amount of no less than \$1,000,000. The Risk Manager for the City may authorize lower liability limits for the automobile policy only, at the Risk Manager's sole discretion.

Proof of Insurance

The Company shall furnish proof of insurance acceptable to the City prior to or at the time of execution of the contract and the Company shall not commence service under this contract until it has obtained all the insurance required under this contract and such insurance has been filed with and approved by the City, nor shall the Company allow any subcontractor to commence service on its subcontract until similar insurance required of the subcontractor has been so obtained and approved. The Company shall

furnish evidence of all required insurance in the form of certificates of insurance which shall clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard and the expiration dates.

In the event any or all of the required insurance coverages are cancelled by the insurer, the Company, or any named insured, it shall be the Company's responsibility to notify the City of such cancellation as soon as knowledge of the cancellation is obtained. Notice shall be sent to:

Risk Manager
The City of Daytona Beach
P.O. Box 2451
Daytona Beach, Florida 32115-2451

If requested by the City, the Company will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the City.

The Company shall file replacement certificates 30 days prior to expiration or termination of the required insurance. In the event such insurance shall lapse, the City expressly reserves the right to renew the insurance at the Company's expense.

Termination of Insurance

The Company may not cancel the insurance required by this agreement until the Company has received written notification from the Risk Management Division of the City that the Company may cancel the insurance required by this contract and the date upon which the insurance may be canceled.



January 30, 2012

Agency Fax#: 1-386-673-5370

Mary Ellen Froehlich
Mitchell-Noel, Inc.
1400 Hand Ave., Ste D
Ormond Beach, FL 32174

Subject: T W REALTY LLC
Submission number: 40715 00 lt

Price quoted is partially based on the loss information received at the time this account is quoted. Price is subject to change based on updated loss information.

Your submission has been approved in the following program:

- o BusinessFirst Insurance Company

Your account is eligible for the following plan(s):

- o Guaranteed Cost
- o A Safety Reward illustration has been included if the account meets eligibility requirements.

Your account has been approved in the following pay plan(s):

- o Installment - \$600.40 down.

In order for us to write this account, you must submit the following required documentation:

- o ACORD 130 FL, signed and notarized - must include total number of employees by class code
- o Mail check(s) & application(s) to: P.O. Box 3643, Lakeland, FL 33802-3643
- o Hard copy loss runs if prior coverage exists

Special Disclosure Notices:

- o Please note continuance of coverage is contingent upon a favorable inspection to be completed by our Loss Control Department.
- o Due to the enactment of the Terrorism Risk Insurance Act of 2002, the enclosed disclosure must be presented along with the quotation for the states of Florida, Louisiana, and North Carolina.
- o Please note that a premium credit of 5% is available to those employers with an approved(*) drug free workplace program. For more information on how to implement and obtain approval for a drug free workplace program in order to receive the 5% credit please call 1-800-282-7648 and ask for our Loss Control Department.
(*Approval based on qualifications listed in F.S. 440.102)

Sincerely,
Lori Tilsley
Underwriter

P.O. Box 988
Lakeland, FL 33802-0988

Phone: 1-800-282-7648
Fax: 1-800-611-2667

This quote will be kept on file for 60 days from the proposed effective date.



Effective Date Agreement

For coverage through BusinessFirst Insurance Company.

Agency: Mitchell-Noel, Inc.

Regarding Submission #: 40715 00 It State: FL
For Submission: T W REALTY LLC

Please hold the effective date of 02/01/12.

I agree to send all required applications, documentation, and down payment, as indicated on my approval letter.

I understand if these items are not received by 02/07/12 the postmark date will be used to determine the effective date.

I understand the stated requirements for effecting coverage. I further understand that this form does not bind coverage nor does it authorize binding authority to an agent or agency.

Please sign and return to the fax number listed below on or before the effective date.


(CSR or Producer signature)

Should you need to change your effective date please contact your underwriter.

Fax To:
Underwriter: Lori Tilsley
Fax: 1-800-611-2667

P.O. Box 988
Lakeland, FL 33802-0988
Phone: 1-800-282-7648