



## **PLANNING COMMISSION**

**Wednesday, December 15, 2021 at 5:00 PM**

Palmer Lake Elementary School Library, Upper Glenway

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### **AGENDA**

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*This agenda is subject to revision 24 hours prior to commencement of the meeting.*

#### **Call to Order**

#### **Roll Call**

#### **Approval of Minutes**

1. November 17 Meeting Minutes

#### **Business Items**

2. Authorize signing Agreement for Professional Services with Community Matters Inc.
3. Commission Appointments Coming Up January 2022

#### **Next Meeting (January 19) and Future Items**

#### **Adjourn**

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#### **Americans with Disabilities Act**

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Reasonable accommodations for persons with a disability will be made upon request. Please notify the Town of Palmer Lake (at 719-481-2953) at least 48 hours in advance. The Town of Palmer Lake will make every effort to accommodate the needs of the public.

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#### **Notice**

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Notice is hereby given that more than two members of the Board of Trustees may be present; however, there will be no action taken by the Board of Trustees at this meeting.



## PLANNING COMMISSION

Wednesday, November 17, 2021 at 5:00 PM

Palmer Lake Elementary School Library, Upper Glenway

### MINUTES

#### Call to Order

Chair Cooper called the meeting to order at 5:00 PM.

#### Roll Call

Present: Dave Cooper, Bill Fisher, Amy Hutson, Vic Brown, Mark Bruce, Shana Ball. Excused: Charles Ihlendorf.

#### Approval of Minutes

1. MOTION (Fisher, Ball) to approve the minutes from the October 15 Meeting Motion PASSED.
2. MOTION (Ball, Bruce) to approve the minutes from the October 27 Special Meeting Motion PASSED.

#### Public Hearing

3. Consider Request to Rezone R1 to RA - 7109000061 - Hwy 105 (Brenneman) – The owner, Mr. Brenneman, requests the parcel be rezoned to residential agricultural (RA). He plans to place a barn on the property and raise livestock. The barn would have living quarters on the top floor. He understands the property is not served by public utilities, and plans to install a septic system and a well into the Dawson aquifer. He also owns the adjacent parcel with the existing home. Jonathan Branch and Marilyn Burlage were in favor of the rezone. There was no opposition. MOTION (Ball, Hutson) to recommend to the Board of Trustees to rezone the parcel to Residential Agricultural (RA). Motion PASSED (6-0).

#### Business Items

4. Request to Extend Conditional Use (Fletchers) – Fletchers Drilling requested an extension of the conditional use for an additional six months. The remaining drilling rigs are not movable under their own power and will need to be towed by a lowboy. At this time, no one has this equipment available. The property owner is looking at other options and is requesting more time to handle the issue. Susan Miner suggested updating the building and landscaping while the company is working to finish moving of the equipment. Matt Stephen stated his frustration with the extension and the apparent lack of support for the neighborhood. Susan Miner also spoke in support of the neighborhood. There was discussion of adding

consequences for property owners who miss the imposed deadlines. MOTION (Ball, Fisher) to recommend granting a six-month extension with reasonable penalties after six months set by the Board of Trustees. Staff was directed to give progress updates. Motion PASSED (6-0).

Ihlendfeld arrived at 5:55 PM.

5. Staff Update of Scope of Services - Community Matters Institute – Dawn Collins restated the award of the contract. After input, Barbara Cole is modifying the scope of work. Funds are budgeted in 2022 and a search for grants may help defray some of the costs of projects relating to land use. The final contract is scheduled for the next meeting.
6. Advisory Team Update – Susan Miner gave an update on the status of the survey. She explained the modification to some of the questions. They plan to survey the town’s residents, property owners and businesses in the area. Ms. Miner informed the members of the worksheets the Team is working on. Ms. Collins will forward the worksheets to the Planning Commission members for their review. Ms. Miner will add information about the Master Plan into the time capsule on November 21, 2021.
7. Direction for Purchase of Survey Software – The Advisory Team requested that staff purchase survey software. The cost is approximately \$900 for a twelve-month period. MOTION (Bruce, Ball) to approve the purchase of the Survey Monkey Premier subscription at a cost of approximately \$900. Motion PASSED (7-0).

Public Comment – Kellie Chandler inquired about the two properties on High Street, and if the owners were in discussion with the town. She asked if water taps were still available. She was instructed to contact staff to provide more information.

#### **Next Meeting (December 15) and Future Items**

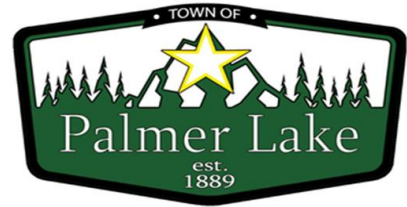
**Adjourn** MOTION (Ball, Brown) to adjourn at 6:20 PM. Motion PASSED.

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David Cooper, Chair

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ATTEST: Julia Stambaugh, Deputy Town Clerk



Item 2.

**TOWN OF PALMER LAKE  
PLANNING COMMISSION - AGENDA MEMO**

<b>DATE:</b> December 2021	<b>ITEM NO.</b>	<b>SUBJECT:</b>
<b>Presented by:</b> Town Administrator /Clerk		Authorize Signing Professional Services Agreement – Community Matters

**Background**

Staff has reviewed the scope of services proposed by Community Matters and supports the following modifications –

- Remove conducting the town survey
- Amend for virtual meeting (zoom) with consultant (excluding public input and hearings)
- Add individual interviews – including Advisory team members, Planning Commission members, Board of Trustee members (via phone)
- Add public input meetings
- Add contingency for staff direction if needed outside scope of work

The Town budget for 2022 supports this scope of work with an identified amount of \$120,000 and was adopted by the Board of Trustees on 12/09/2021.

## Exhibit A: Palmer Lake Final Scope of Work and Budget

Item 2.

TASK	SYNOPSIS	WHO	HOURS	COST <i>(combined rates)</i>	Work Products
<b>Phase 1. Community Analysis and Plan Review.</b>					
Task 1.0	Coordination with Town Administrator, materials for Advisory Team meeting on November 12	Cole	N/A	No charge	CMI will prepare materials for advisors prior to contract signing
Task 1.1	Provide Overview of Plan Update Process and Develop Key Measures of Success with Staff and all officials and advisory team members.	Cole	20	\$ 2,600	<ul style="list-style-type: none"> <li>· Measures of Success Worksheet</li> <li>· Tabulation of results from Trustees, Planning Commissioners and Advisors on worksheet</li> <li>· Summary of issues, opportunities, assets, and liabilities for inclusion on Town website and for Advisory Team</li> </ul>
Task 1.2	<ul style="list-style-type: none"> <li>· Prepare Advisory Team worksheet to aid in their review of current plan; provide examples of plan elements from other communities.</li> <li>· Review all existing plans, documents, ordinances, and conditions; update any factual text in current Plan that should be included in the new plan; annotate all existing plans; summarize policies and growth boundaries that influence or impact Palmer Lake's future</li> <li>· Prepare DRAFT Table of Contents based on input from the Advisors and measures of success worksheet for review.</li> </ul>	Cole + local staff time	25	\$ 3,250	<ul style="list-style-type: none"> <li>· Worksheet for Advisors to help in their review of the adopted Palmer Lake Plan.</li> <li>· Provide annotated outline of draft table of contents for review by the Advisors.</li> <li>· Review of all noted documents and prepare a summary of what is or will impact Palmer Lake's future.</li> </ul>

<p>Task 1.3</p>	<p>Update Town Base Map; prepare 3-Mile Planning Area Base Map; jurisdictional maps, public lands, environmental conditions, existing water and sewer lines, parks, open space and trails; create GIS zoning map with PDs shown (use GMS map layer); create special and metro districts, topography and street classification map utilizing <u>available data</u> from El Paso County. Boundaries will be shown but not individual parcels for a Comprehensive Plan.</p> <p>Any land use inventory will be updated to identify current land use patterns. CMI will provide directions to allow the advisors to conduct a field inventory to correct or verify the existing inventory of land uses.</p> <p>Acquisition of this base map data may require an agreement between the Town of Palmer Lake and El Paso County for use, ownership, and distribution of the information. It will be the Town's responsibility to sign any required agreement and assume any costs of getting this information to Community Matters. As noted in our proposal, we believe El Paso County is no longer charging for this information.</p>	<p>Davenport and Cole - includes training for staff person on fundamentals of land use mapping.</p>	<p>100</p>	<p>\$ 10,000</p>	<ul style="list-style-type: none"> <li>• Town Base Map</li> <li>• Existing Land Use Map (with assistance from the advisors)</li> <li>• Review and update as necessary the Town Zoning Map, format so all maps cover the same geographic area</li> <li>• 3-Mile Planning area base map</li> <li>• Map of environmental conditions (flood plain, topography, wildlife habitat, historic sites and structures</li> <li>• Map of Political and Ownership Patterns (private land, public lands, including any federal or state-owned land)</li> <li>• Map of jurisdictional boundaries (municipalities, school district, water, and sanitation districts, Special and Metro Districts)</li> <li>• Map of existing water and sewer service lines (if available, assumes coordination with GMS)</li> </ul>
<p>Task 1.4</p>	<p>The Citizen Survey is the responsibility of the Advisory Team. CMI will rely on the Advisors to distribute the community survey to area stakeholders which we understand will only include residents and business owners. The Advisory Team will provide an initial analysis of the survey results. CMI will analyze both the raw data and survey results and provide an objective 3rd party analysis of the survey findings. These findings will be shared with the Advisors, Planning Commission and Board of Trustees.</p>	<p>Haywood and Cole</p>	<p>20</p>	<p>\$ 2,600</p>	<ul style="list-style-type: none"> <li>• Create final survey on Survey Monkey</li> <li>• Zoom meeting with advisors to review survey</li> <li>• Final survey available for distribution by advisors (they choose venues and distribution methods)</li> <li>• Provide survey results for distribution</li> </ul>
<p>Task 1.5</p>	<p>Introductory materials for the Advisory Group, worksheets and Worksession #1.</p>	<p>Cole</p>	<p>20</p>	<p>\$ 2,600</p>	<ul style="list-style-type: none"> <li>• Agenda</li> <li>• Packet with worksheet</li> </ul>
<p><b>Total for Phase 1</b></p>			<p><b>185</b></p>	<p><b>\$ 21,050</b></p>	

Phase 2. Defining the Community's "Preferred Future"						
Task 2.1	Reconnaissance interviews by phone, and 'Meetings in a Box' Focus Group community engagement activity. Reconnaissance interviews should occur as soon as possible and include appointed and elected officials- I suggest we up the # of interviews given that we would want all BOT, PC and Advisors.	Cole to train volunteers to conduct focus groups Cole; confidential reconnaissance interviews by CMI team. This will include Advisors, Planning Commissioners, Trustees and Staff. (phone interviews and ZOOM training)	60	\$	7,300	<ul style="list-style-type: none"> <li>• Meeting in a Box training kit</li> <li>• Zoom Training with advisors</li> <li>• Up to 20 telephone reconnaissance interviews</li> <li>• Summary of reconnaissance interviews</li> <li>• Summary findings from Meeting in a Box and Zoom meeting with advisors to discuss their observations</li> </ul>
Task 2.2	Community Profile	Cole and Haywood	25	\$	3,250.00	2 page (1 sheet) community profile for use in economic development efforts
Task 2.3	3 Advisory Group Workshops via zoom or in person; any additional meeting, if needed can be facilitated via Zoom or with selected advisor – includes worksheets for Advisory Group, and recommendations that will inform plan elements- this will include new principles and policies for use in Development Review.	CMI team with staff assistance	60	\$	7,800	<ul style="list-style-type: none"> <li>• Agenda, packet material with worksheets for advisors</li> <li>• Summary of results- material will be used to draft plan elements</li> </ul>
Task 2.4	Build out analysis based on existing and proposed future land uses; to include a GIS shapefile that the Town can manage and update as development comes in based on growth.	Dlubac, Davenport, and Cole	60	\$	7,200	Population and employment estimates and projections in a spreadsheet format that can be aggregated into a variety of planning service areas.
Task 2.5	Update all factual information in the adopted Plan based on growth and servicing. This task includes updates to the classification of roadways, infrastructure services including taps and wastewater capacity by District, housing inventory, parks, open space, and trails inventory. We will welcome the advisors help in gathering information on the above items and to review the text.	CMI Team	60	\$	7,200	Draft of all factual information organized by chapter
<b>Total for Phase 2</b>			<b>265</b>	<b>\$</b>	<b>32,750</b>	
Phase 3. Development of Plan Elements						

Task 3.1	Draft the Plan Elements to include tourism/recreation element.	Team with review and comment by staff	100	\$	12,500	Draft Plan completed
Task 3.2	Mid-Course Review/Strategy Discussions.	Cole	8	\$	1,040	Conference zoom call with staff
Task 3.3	Meetings to Review the draft Comprehensive Plan (3 workshops) with Advisory Team and Planning Commission. (ZOOM)	Team with local staff attendance	60	\$	7,800	Facilitate discussion and update draft based on advisor and staff guidance
Task 3.4	Final Draft of Plan with emphasis on layout, graphics and maps and charts.	Team with staff support	45	\$	5,625	Final draft of Comprehensive Plan
<b>Total for Phase 3</b>			<b>213</b>		<b>\$26,965</b>	
<b>Phase 4. Presenting the Plan</b>						
Task 4.1	Community Open House with Listening Posts on all topic areas	Cole, Haywood, Davenport	30	\$	3,600	Community wide open house- Town to provide venue and refreshments
Task 4.1	Public Hearings [2] includes summary for elected and appointed officials, assumes Advisory Team will assist in presentation and discussion.	Cole or Davenport	30	\$	3,900	Attendance at 2 public hearings
Task 4.2	Final Comprehensive Plan Production.	Team	30	\$	3,750	
<b>Total Phase 4</b>			<b>90</b>		<b>\$11,250</b>	
<b>Phase 5.- Code Diagnosis</b>						
Task 5	Code Diagnosis and memo summarizing recommended changes to Palmer Lake's Zoning and PD ordinances.	Cole with Davenport and Dlubac	40	\$	5,000	Code diagnosis- annotated code and memo summarizing needed updates
<b>Phase 6- Intergovernmental Agreements and relationships</b>						
Task 6	Example IGAs for Town to consider and approach, Zoom meeting with staff and attorney to discuss relationships with area organizations and districts	Cole/Haywood	25	\$	3,250	Zoom meeting with staff, Mayor and Town attorney Memo outlining next steps and strategy to manage growth in the area surrounding Palmer Lake
<b>Phase 7: Plan Implementation and Financial Strategy</b>						
Task 7	No matter how hard a community works on a plan, it does no good if it sits on the shelf. The final task is to breakdown the work tasks, the individual and agency responsibilities, and the funding to make it happen for each tangible goal.	CMI Team	80	\$	10,000	Implementation Plan
<b>Total Phases 5, 6, 7</b>			<b>145</b>		<b>\$ 18,250</b>	
<b>Discretionary Funds for Use by Town as needed to ensure consensus</b>						

Item 2.

Telephone Consultations with Staff and other organizations as directed by Town Administrator.		Any CMI Team member	60	\$	7,800	This is a contingency fund for requests that are outside of the scope and can only be spent upon authorization by the Town Administrator for sole use of the consultant's time.
<b>TOTAL SERVICES</b>			<b>958</b>	<b>\$</b>	<b>118,065</b>	
<b>Estimated Expenses [CMI bills all expenses at actual cost and not included in budget]</b>						
Mileage	Assumes 8 trips to Palmer Lake @ .58 cents IRS rate Mileage rate of 54 cents a mile	50 miles each way x 2 ways x 8 trips	800 miles	\$	464	
Copies /Final Plan Production	To be produced by Town as PDF with Word Document for Staff; <i>recommend copies as local donation</i> ; Copies for meetings, draft maps , misc reproduction costs			\$	160	
map plots @ 24x36	Produced by Town as local contribution			\$	-	
<b>Total Estimated Expenses</b>				<b>\$</b>	<b>624</b>	
<b>Total Estimated Services and Expenses</b>				<b>\$</b>	<b>118,689</b>	

## Town of Palmer Lake, Colorado

### AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this \_\_\_\_ day of December 2021, by and between the Town of Palmer Lake, State of Colorado (hereinafter referred to as the "Town"), and Community Matters, *Institute* (hereinafter referred to as "Consultant").

#### RECITALS:

- A. The Town seeks professional services.
- B. Consultant has held itself out to the Town as having the requisite expertise and experience to perform the required services for the Project described below.

NOW, THEREFORE, it is hereby agreed, for the consideration hereinafter set forth, that Consultant shall provide to the Town professional consulting services for the Project.

#### I. SCOPE OF SERVICES

Consultant shall furnish all labor and materials to perform the services required for the complete and prompt execution and performance of all duties, obligations, and responsibilities for the Project, which are described or reasonably implied from **Exhibit A**, which is attached hereto and incorporated herein by this reference.

#### II. THE TOWN'S OBLIGATIONS/CONFIDENTIALITY

The Town shall provide Consultant with reports and such other data as may be available to the Town and reasonably required by Consultant to perform hereunder. No project information shall be disclosed by Consultant to third parties without prior written consent of the Town or pursuant to a lawful court order directing such disclosure. All documents provided by the Town to Consultant shall be returned to the Town. Consultant is authorized by the Town to retain copies of such data and materials at Consultant's expense.

#### III. OWNERSHIP OF INSTRUMENTS OF SERVICE

The Town acknowledges that the Consultant's documents are an instrument of professional service. Nevertheless, the documents prepared under this Agreement shall become the property of the Town upon completion of the services. Any reuse of the Consultant's documents is at the Town's own cost and risk.

#### IV. COMPENSATION

- A. In consideration for the completion of the services specified herein by Consultant, the Town shall pay Consultant an amount not to exceed \$118,689.00. Payment shall be made in accordance with the schedule of charges in **Exhibit A**, which is attached hereto and incorporated herein by this reference. Invoices will be itemized and include hourly breakdowns for all

personnel and other charges. The maximum fee specified herein shall include all fees and expenses incurred by Consultant in performing all services hereunder.

B. Consultant may submit monthly or periodic statements requesting payment. Such request shall be based upon the amount and value of the services performed by Consultant under this Agreement, except as otherwise supplemented or accompanied by such supporting data as may be required by the Town.

1. All invoices, including Consultant's verified payment request, shall be submitted by Consultant to the Town no later than the twenty-fourth (24th) day of each month for payment, pursuant to the terms of this Agreement. In the event Consultant fails to submit any invoice on or before the twenty-fourth (24th) day of any given month, Consultant defers its right to payment, pursuant to said late invoice, until the twenty-fourth (24th) day of the following month.
2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice, as provided by this Agreement.

C. The Town has the right to ask for clarification on any Consultant invoice after receipt of the invoice by the Town.

D. In the event payment for services rendered has not been made within forty-five (45) days from the receipt of the invoice for any uncontested billing, interest will accrue at the rate of eight percent (8%) per annum compounded annually. In the event payment has not been made within ninety (90) days from the receipt of the invoice for any uncontested billing, Consultant may, after giving seven (7) days' written notice and without penalty or liability of any nature, suspend all authorized services specified herein. In the event payment in full is not received within thirty (30) days of giving the seven (7) days' written notice, Consultant may terminate this Agreement. Upon receipt of payment in full for services rendered, Consultant will continue with all authorized services.

E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the Town) required by this Agreement have been turned over to and approved by the Town and upon receipt by the Town of Consultant's written notification that services required herein by Consultant have been fully completed in accordance with this Agreement and all data and reports for the Project have been submitted.

## **V. COMMENCEMENT AND COMPLETION OF SERVICES**

Within seven (7) days of receipt from the Town of a Notice to Proceed, Consultant shall commence services on all its obligations as set forth in the Scope of Services or that portion of such obligations as is specified in said Notice. Except as may be changed in writing by the Town, the Project shall be complete and Consultant shall furnish the Town the specified deliverables, as provided in **Exhibit A**.

## **VI. CHANGES IN SCOPE OF SERVICES**

A change in the Scope of Services shall constitute any material change or amendment of services which is different from or additional to the Scope of Services specified in Section I of this Agreement. No such change, including any additional compensation, shall be effective or paid, unless authorized by written amendment executed by the Town. If Consultant proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee or representative of the Town shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Agreement.

## **VII. PROFESSIONAL RESPONSIBILITY**

A. Consultant hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, as required by law.

B. The services performed by Consultant shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of services in the applicable community.

C. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by Consultant under this Agreement. Consultant shall, without additional compensation, correct or resolve any errors or deficiencies in his designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the Town for construction costs caused by errors and omissions which fall below the standard of professional practice.

D. Approval by the Town of drawings, designs, specifications, reports and incidental services or materials furnished hereunder shall not in any way relieve Consultant of responsibility for technical adequacy of the services. Neither the Town's review, approval, or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Consultant shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.

E. The rights and remedies of the Town provided for under this Agreement are in addition to any other rights and remedies provided by law.

## **VIII. COMPLIANCE WITH LAW**

The services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, rules, and regulations.

## **IX. INDEMNIFICATION**

A. **INDEMNIFICATION – GENERAL:** The Town cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate, or assume the defense of the Consultant or any other person or entity whatsoever, for any purpose whatsoever. Provided that the claims, demands, suits, actions or proceedings of any kind are not the result of professional negligence, the Consultant shall defend, indemnify, and hold harmless the Town, its mayor and Town council, officials, officers, directors, agents, and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including worker's compensation claims, in any way resulting from or arising from the services rendered by Consultant, its employees, agents, or subconsultants, or others for whom the Consultant is legally liable, under this Agreement; provided, however, that the Consultant need not indemnify or save harmless the Town, its mayor, the Town Board of Trustees, its officers, agents, and employees from damages to the extent caused by the negligence of the Town's mayor, Town Board of Trustees, officials, officers, directors, agents, and employees.

B. **INDEMNIFICATION FOR PROFESSIONAL NEGLIGENCE:** The Consultant shall indemnify and hold harmless the Town, its mayor and Town council, and any of its officials, officers, directors, and employees from and against damages, liability, losses, costs and expenses, including reasonable attorneys fees, but only to the extent caused by the negligent acts, errors or omissions of the Consultant, its employees, subconsultants, or others for whom the Consultant is legally liable, in the performance of professional services under this Agreement. The Consultant is not obligated under this subparagraph IX.B. to indemnify the Town for the negligent acts of the Town, its mayor, Town Board of Trustees, or any of its officials, officers, directors, agents, and employees.

C. **INDEMNIFICATION – COSTS:** Consultant agrees, to the extent provided in Paragraph A., above, to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims, or demands at the sole expense of Consultant or, at the option of the Town, agrees to pay the Town or reimburse the Town for the defense costs incurred by the Town in connection with any such liability, claims or demands. Consultant also agrees, to the extent provided in Paragraph A. above, to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false, or fraudulent. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission, or other fault of the Town, its mayor and Town Board of Trustees, officials, officers, directors, agents and employees, the Town shall reimburse Consultant for the portion of the judgment attributable to such act, omission or other fault of the Town, its mayor and Board of Trustees, officials, officers, directors, agents, and employees.

## **X. INSURANCE**

A. A. CMI agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by CMI pursuant to this Agreement. At a minimum, CMI shall procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.
2. General Liability insurance with minimum combined single limits of Commercial \$150,000 single occurrence/\$600,000 aggregate.
3. Automobile Combined Single Limit (\$600,000)
4. At the Town's request, CMI shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

*Since we do not build anything or create architectural or design plans, the above insurance has been accepted by all municipalities we have worked with over the last ten years.*

Consultant agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by Consultant, pursuant to Section IX, Indemnification, above. Such insurance shall be in addition to any other insurance requirements imposed by this Agreement or by law. Consultant shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section IX, Indemnification, above, by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

B. Consultant shall procure and maintain and shall cause any subconsultant of Consultant to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the Town. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by Consultant, pursuant to Section IX, Indemnification, above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. The policy required by Paragraph 2, above shall be endorsed to include the Town and the Town's officers, employees and consultants as additional insureds. Every policy required above shall be primary insurance, with the exception of Professional Liability and Worker's Compensation, and any insurance carried by the Town, its officers, its employees or its consultants shall be excess and not contributory insurance to that provided by Consultant. No additional insured endorsement to the policy required by Paragraph 1, above shall contain any exclusion for bodily injury or property damage arising from completed operations. Consultant shall be solely responsible for any deductible losses under any policy required above.
2. The certificate of insurance provided for the Town shall be completed by Consultant's insurance agent as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect and shall be reviewed and approved by the Town prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled or terminated until at least thirty (30) days' prior written notice has been given to the Town. The completed certificate of insurance shall be sent to:

Dawn A. Collins, Town Administrator /Clerk  
 Town of Palmer Lake  
 42 Valley Crescent  
 P.O. Box 208  
 Palmer Lake, Colorado 80133

3. Failure on the part of Consultant to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of agreement upon which the Town may immediately terminate this Agreement or, at its discretion, the Town may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Town shall be repaid by Consultant to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Consultant from the Town.
4. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
5. The parties hereto understand and agree that the Town, its officers, and its employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently One Hundred Fifty Thousand Dollars (\$150,000) per person and Six Hundred Thousand Dollars (\$600,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-101, *et seq.*, 10 Colo. Rev. Stat., as from time to time amended, or otherwise available to the Town, its officers or its employees.

#### **XI. NONASSIGNABILITY**

Neither this Agreement nor any of the rights or obligations of the parties hereto shall be assigned by either party without the written consent of the other.

#### **XII. TERMINATION**

This Agreement shall terminate at such time as the services in Section I are completed and the requirements of this Agreement are satisfied, or upon the Town's providing Consultant with seven (7) days' advance written notice, whichever occurs first. In the event the Agreement is terminated by the Town's issuance of said written notice of intent to terminate, the Town shall pay Consultant for all services previously authorized and completed prior to the date of termination. If, however, Consultant has substantially or materially breached the standards and terms of this Agreement, the Town shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Project, any use of documents by the Town thereafter shall be at the Town's sole risk, unless otherwise consented to by Consultant.

#### **XIII. CONFLICT OF INTEREST**

The Consultant shall disclose any personal or private interest related to property or business within the Town. Upon disclosure of any such personal or private interest, the Town shall determine if the interest constitutes a conflict of interest. If the Town determines that a conflict of interest exists, the Town may treat such conflict of interest as a default and terminate this Agreement.

#### **XIV. VENUE**

This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of El Paso, State of Colorado.

#### **XV. INDEPENDENT CONTRACTOR**

Consultant is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by Consultant to perform services under the terms of this Agreement shall be, and remain at all times, employees or agents of Consultant for all purposes. Consultant shall make no representation that it is the employee of the Town for any purposes.

**THE PARTIES HERETO UNDERSTAND THAT THE CONSULTANT IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS OR UNEMPLOYMENT COMPENSATION BENEFITS AND IS OBLIGATED TO PAY REQUIRED FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED PURSUANT TO THIS AGREEMENT.**

#### **XVI. NO WAIVER**

Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligations of this Agreement.

#### **XVII. ENTIRE AGREEMENT**

This Agreement and the attached Exhibit A is the entire Agreement between Consultant and the Town, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified, or changed, except as specified herein.

**XVIII. NOTICE**

Any notice or communication between Consultant and the Town which may be required, or which may be given, under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first-class United States mail, and/or electronic mail addressed as follows:

The Town: Dawn A. Collins, Town Administrator / Clerk  
Town of Palmer Lake  
42 Valley Crescent  
P.O. Box 208  
Palmer Lake CO 80133  
[dawn@palmerlake.org](mailto:dawn@palmerlake.org)

Copy to: Matthew Z. Krob, Town Attorney  
KROB LAW OFFICE, LLC  
8400 E. Prentice Ave., Penthouse  
Greenwood Village CO 80111  
[matt@kroblaw.com](mailto:matt@kroblaw.com)

Consultant: Community Matters Inc.  
Attn: Barbara Cole  
5021 Juniper Street  
Littleton CO 80123  
[barbcole@communitymattersinstitute.org](mailto:barbcole@communitymattersinstitute.org)

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in triplicate, as of the date first written above.

**TOWN OF PALMER LAKE, COLORADO**

By: \_\_\_\_\_  
David Cooper, Planning Commission Chair

ATTEST:

\_\_\_\_\_  
Dawn A. Collins, Town Clerk

**CONSULTANT**

By: \_\_\_\_\_  
President