



July 19, 2022

Mr. Geovanne Neste
Finance Director
City of Hallandale Beach
4000 S. Federal Highway
Hallandale Beach, FL 33009

Subject: **Agreement to Provide Utility Financing Support – Bond Feasibility Report**

Dear Mr. Neste:

Raftelis Financial Consultants, Inc. (“Raftelis”) is pleased to submit this agreement to provide utility consulting services on behalf of the City of Hallandale Beach. (“City” or “Client”). In support of the City’s purposed revenue bond issue, Raftelis will prepare a Bond Feasibility Analysis to be included in the City’s consulting engineers report associated with the proposed issuance of 2022 Revenue Bonds on behalf of the City’s Water, Wastewater, and Stormwater Systems.

PROJECT TEAM AND BILLING RATES

With respect to the performance of this engagement, Mr. Henry L. Thomas will be the Project Manager and primary contact with the City. Other analysts and administrative personnel will be utilized during the engagement as needed.

SCOPE OF SERVICES

A detailed scope of services for this project is included herein as Attachment B.

COMPENSATION AND BILLING

Based on the Scope of Services as summarized herein in Attachment B and the direct hourly labor billing rates as identified in Attachment A, we propose a total fee for the project of \$48,190 as set forth in Attachment C. This amount is based on the direct cost of personnel anticipated to be assigned to the project as well as any indirect costs such as telephone, reproduction, printing, and shipping charges. For the consulting services provided, the City will pay a not-to-exceed price based on the Direct Labor Rates and Standard Reimbursable Expense Schedule included herein as Attachment A. No additional services above the not-to-exceed price will be performed without the prior written authorization of the Client. The project labor cost will be billed monthly based upon the actual hours of service furnished toward the completion of the project. Indirect expenses will be billed as they are incurred.

TERMS AND CONDITIONS

This agreement is prepared in accordance with the terms and conditions of the General Services Contract – Contract No. 19632 dated March 4, 2020, between the City of Daytona Beach and Raftelis Financial Consultants, Inc. (the “Piggyback Agreement”), which is attached to this agreement as Attachment D. The terms and conditions, including the schedule of hourly billing rates as set forth in Attachment A and any provision for future adjustments, as

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City of Hallandale Beach
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contained in the Piggyback Agreement included in Attachment D shall be in effect during the term of any agreement executed between the parties.

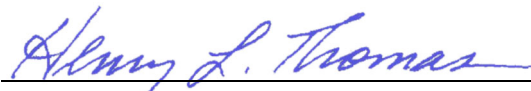
We appreciate the opportunity to submit this agreement to the City to provide utility rate consulting services. We are providing two copies of this agreement for your approval. If this agreement is acceptable to you, please execute both copies and return one to us. The other copy is for your records. We look forward to working with you on this project and, if you should have any questions or comments, please do not hesitate to give us a call.

Very truly yours,

Raftelis Financial Consultants, Inc.

Approved By:

City of Hallandale Beach, Florida



Henry L. Thomas
Vice President

Name

Title

Date

HLT/dlc
Attachments

ATTACHMENT A

**CITY OF HALLANDALE BEACH, FLORIDA
UTILITY BOND FEASIBILITY ANALYSIS**

SCHEDULE OF DIRECT LABOR HOURLY RATES AND STANDARD COSTS

DIRECT LABOR RATES

Project Team Title	Direct Labor Hourly Rates
Principal / Project Manager	\$250.00
Associate	\$210.00
Managing Consultant	\$195.00
Principal Consultant	\$175.00
Supervising Consultant	\$155.00
Senior Consultant	\$135.00
Rate Consultant	\$125.00
Consultant	\$115.00
Senior Rate Analyst	\$105.00
Rate Analyst	\$ 90.00
Analyst	\$ 75.00
Assistant Analyst	\$ 60.00
Clerical and Administrative	\$ 70.00

STANDARD COST RATES

Expense Description	Standard Rates
Mileage Allowance – Personal Car Use Only	IRS Standard Mileage Rate
Reproduction (Black and White) (In-house)	\$0.05 per Page
Reproduction (Color) (In-house)	\$0.25 per Page
Reproduction (Contracted)	Actual Cost
Computer Time	\$0.00 per Hour
Telephone Charges	Actual Cost
Delivery Charges	Actual Cost
Lodging/ Other Travel Expenses (Airfare, Car Rental, Parking, Taxi, etc.)	Actual Cost
Meals – per Employee	Standard per Diem Rates as Established by Florida Statutes 112.061 for Class C Travel for Breakfast, Lunch, and Dinner
Sub-consulting Services	Actual Cost
Other Costs for Services Rendered	Actual Cost

ATTACHMENT B

CITY OF HALLANDALE BEACH UTILITY BOND FEASIBILITY ANALYSIS

SCOPE OF SERVICES

As part of its capital improvement planning process, the City of Hallandale Beach (the “City”) has identified the need to issue revenue bonds to finance certain water, wastewater, and stormwater utility capital improvements. Accordingly, the City requested that Raftelis Financial Consultants, Inc. (“Raftelis”) provide a proposal for professional services necessary to assist with the development of a bond feasibility report in conjunction with the City’s consulting engineers in support of the issuance of the proposed revenue bonds (the “Feasibility Report”). The tasks included in the scope of services are described below:

TASK 1 – DATA REQUEST

Raftelis will provide to the City with a data request for information necessary to prepare the Feasibility Report. Data will be classified into the following areas:

- Organizational data: including responsibilities and reporting structure.
- Institutional / Legal data: including large user agreements, and other significant contractual arrangements with other entities or customers.
- Historical Financial data including audited financial statements for the five fiscal years FY2017 through FY2021
- Customer billing and usage and revenue data including the average numbers of customers billed by utility (i.e., water, wastewater, and stormwater by class (i.e., single-family residential, multi-family residential and commercial / non-residential and usage data including total billable water usage, billed wastewater usage, billed stormwater ERUs and related revenue data for the five years FY2017 through FY2021.
- Operational data and permitting data including monthly operating reports (MORs, NPDES Permits), etc.
- Capital Improvement Program (“CIP”) data: including annual expenditures by project, and the City’s plan of finance as developed in conjunction with the City’s Municipal Financial Advisor.

The City is currently conducting water, wastewater, and stormwater rate studies and is proposing to adopt rates for Fiscal Years 2023 through Fiscal Years 202 that will provide the basis for the projected financial operating results included in the Feasibility Report.

Raftelis will compare the study needs to the information that is already on file to reduce the data gathering efforts by City staff. Once Raftelis receives the data, we will review the adequacy of the information and schedule a conference call and/or on-line WebEx® meeting to address any additional data needs resulting from the initial review and compilation of data.

TASK 2 – REVIEW HISTORICAL FINANCIAL PERFORMANCE AND PROJECT FUTURE FINANCIAL PERFORMANCE

Based on actual and budgeted financial information provided by the City, Raftelis will work with City staff and the City's Consulting Engineers to prepare bond feasibility reports to provide the necessary financial and engineering disclosures to support the contemplated issuance of the 2022 Utility Revenue Bonds. Raftelis will be responsible for the financial report, which will present historical financial performance for the preceding five (5) fiscal years (FY2017 - 2021). The historical results will be based on the City's audited financial records and representations made by City staff. Raftelis will then present projected results for the Study Period (FY 2022 - 2027). Also, based on the City's plan of finance, if any additional debt is contemplated to be issued during this timeframe, Raftelis will note such plans and their projected impact on the overall cash flow needs of the utility system. Based on the results of the water, wastewater, and stormwater rate studies currently being conducted by the City and the rates adopted by the City Commission as a result of the rate studies, Raftelis will develop combined projected system operating results on a system-wide basis consistent with the total water, wastewater, and stormwater enterprise fund revenues pledged to repay the proposed 2022 Revenue Bonds. The projected operating results will include the projected flow of funds including cash fund balances and discussion of rate covenants as set forth in the Bond Resolution. In addition to summarizing the historical and projected operating results for the combined water, wastewater, and stormwater enterprise funds, the Feasibility Report will also include a discussion of adopted utility rate structures, and rate comparisons with other utilities comparing the City's adopted water, wastewater, and stormwater rates with rates charged by other neighboring or similar utilities. Raftelis will provide financial information and report sections to the firm preparing the Engineer's Report. Additionally, Raftelis will review any financial information included in the Engineer's Report.

Raftelis recognizes that the City will assemble a financing team to collaborate on the various aspects of the bond issue, in particular the financial reports and certifications. Based on Raftelis' extensive experience working as a part of the utility financing team, we recognize the need to incorporate into the financial projections the requirements of any covenants relating to rates and additional debt. Raftelis will work with the various financing team members to provide the level of detail and disclosure required.

TASK 3 – PREPARE BOND FEASIBILITY REPORT

Raftelis will coordinate with the City's consulting Engineers to prepare the Bond Feasibility Report to include discussions of the City's water, wastewater and stormwater utility systems, the system rates, historical and projected operating results. The engineering sections provided by the City's Consulting Engineers will include, among other things, a description of the utility systems, the capital improvements program and projects to be financed by the Bonds, the condition of the system and the status of regulatory compliance and permitting.

TASK 4 – PARTICIPATE IN PROJECT REVIEW SESSIONS WITH THE FINANCIAL WORKING GROUP AND OTHER ENTITIES

Raftelis will participate in project review sessions with the financial working group. Such sessions may include review of documents and will likely focus on assumptions and explanation of financial projections and other items. Raftelis will participate in conference calls with entities such as rating agencies and bond insurers if requested to do so. While conference calls and on-line WebEx® meetings may be adequate to review the preliminary results with City staff and the financing team, the scope of services allows for two (2) on-site meetings.

TASK 5 – PROVIDE ADDITIONAL BONDS TEST AND REQUIRED CERTIFICATIONS

Raftelis Feasibility Report will include additional Bonds Test as required by the Bond Resolution and the certifications required to support the closing of the revenue bond issuance.

LIST OF DELIVERABLES

The deliverables to be provided in this engagement include the following items:

- Data Request;
- Combined Water, Wastewater, and Stormwater Financial Forecast;
- Historical and Projected Compliance with Rate Covenants;
- Residential Rate Comparison with Other Jurisdictions; and
- Bond Feasibility Report and Certifications.

ADDITIONAL SERVICES

During the course of the study, the City may request additional services from Raftelis. Such services will not be conducted until authorized by the City as mutually agreed between the parties and Raftelis. The City will be billed for such additional services based on the direct labor rates as set forth in Attachment A. Examples of such additional services include, but are not limited to, the following:

1. Attendance at any additional on-site meetings in addition to the two (2) on-site meetings that are anticipated in this scope of services;
2. Requests for updated analyses and/or additional financial scenarios after substantial completion of the initial work; and
3. Costs incurred due to substantial delays in the duration of the project by the City or major changes in policy as directed by the City that is different from what is implied in the scope of services.

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ATTACHMENT C

City of Hallandale Beach, Florida
Project Cost Estimate - Bond Feasibility Study

Line No.		Principal / Project Manager	Supervising Consultant	Rate Consultant	Clerical and Administrative	Totals
1	Project Staff Billing Rates (\$/Hr.)	\$250.00	\$155.00	\$125.00	\$70.00	
	<u>Utility Rate Study - Water and Sewer</u>					
2	Task 1 - Prepare Data Request / Data Gathering	4	16	4	2	26
3	Task 2 - Review Historical and Projected Financial Operating Results	8	24	40	0	72
4	Task 3 - Prepare Bond Feasibility Report	32	40	24	24	120
5	Task 4 - Project/ Report Reviews	16	16	0	0	32
6	Certifications	8	16	0	0	24
7	Project Management	12	0	0	3	15
8	Total Hours	80	112	68	29	289
9	Direct Labor Cost	<u>\$20,000</u>	<u>\$17,360</u>	<u>\$8,500</u>	<u>\$2,030</u>	<u>\$47,890</u>
10	Report Covers / Reproduction Expenses					\$275
11	Telephone					\$25
12	Total Project Cost					<u>\$48,190</u>

ATTACHMENT D

**CITY OF DAYTONA BEACH, FLORIDA
GENERAL SERVICES CONTRACT
CONTRACT NO. 19632
("PIGGYBACK AGREEMENT")**

ATTACHMENT D

GENERAL SERVICES CONTRACT CONTRACT NO. 19632

THE PARTIES TO THIS CONTRACT are the City of Daytona Beach, a Florida municipal corporation (the "City"), and Raftelis Financial Consultants, Inc., a Foreign for Profit Corporation registered with the State of Florida with its principal office located in Charlotte, NC (the "Consultant").

In consideration of the mutual covenants herein contained, the Parties agree as follows:

Section 1. Scope of Services.

Consultant will provide rate, financial, and management consulting services as further described in Exhibit A, attached hereto and incorporated herein, to the City from time to time at the direction of the City during the Term of this Contract (the "scope of services").

Section 2. Work Authorization.

The project specific scope of services to be performed by the Consultant will be established by individual or separate work authorizations as approved by the City that delineates, among other things, the services to be performed by the Consultant, the cost to be invoiced by the Consultant for such services, and the schedule for completion of the scope of services. The work authorizations will be subject to scope definition and determination of the level of effort on a task-by-task basis.

During the term of this Contract, the City may, at its sole discretion, obtain said services from third parties in accordance with applicable law. In such an event, it is understood that the relationship between the Consultant and the City under this Contract shall be considered as neither barring Consultant from, nor granting special consideration to, the Consultant in the selection process for a consultant to provide such additional services.

Each task to be performed under this Contract shall be assigned to the Consultant by the City for accomplishment by a separate work authorization. For each task, the City shall request the Consultant to develop a scope of services and an estimate of cost, for review, revision and/or approval of the City. The format of the proposal from the consultant will refer to the contract number, the work authorization number, and state that acceptance of the proposal will be by issuance of a city purchase order. Upon mutual agreement of the scope of services, schedule for completion, and cost and basis of billing (lump sum or fixed fee or not-to-exceed price), the City shall issue a Purchase Order for each assigned work authorization.

Section 3. Fee(s).

(a) For the services provided by Consultant pursuant to this Contract, the City will pay Consultant a i) lump sum or fixed fee basis with payments made on a percent of completion basis; or ii) a not-to-exceed price which shall be based on the Direct Labor Rate and Standard Reimbursable Expense Schedule attached hereto as Exhibit B.

Except for any reimbursable expenses as specifically delineated on Exhibit B, Consultant will be solely responsible for all of costs Consultant incurs in meeting its obligations herein.

(b) At renewal, the direct labor hourly rates will be adjusted by not more than the net percentage change (but not less than 0%) in the Consumer Price Index – Urban Consumers per annum (rounded to the nearest dollar) or as mutually agreed between parties for invoices rendered after renewal until project completion or termination of the Agreement between the parties.

Section 4. Billing; Manner of Payment.

In addition to requirements for payment established by applicable federal, state, or local law including the City Code, payment terms are as follows:

(a) Unless provided otherwise herein, the City will pay 30 days after receipt of a valid invoice or receipt of goods or services, whichever is later.

(b) In order to be considered to be valid, an invoice must include all information that the City needs to verify the accuracy of the invoice and the amount of payment due based on the specific requirements of this Contract, such as where partial payments are based upon completion of specific tasks or a portion of the Scope of Services on a percent completion basis if a fixed or lump sum contract basis, or where payments are based on the Direct Labor Rate and Standard Reimbursable Expense Schedule delineated on Exhibit B. In addition, for the payment of reimbursable expenses associated with the performance of the scope of services as contained in the assigned work authorization, the invoice for such expenses will not be valid unless sufficient documentation is provided to the City by Consultant to verify that such expenses were incurred and that other conditions have been met.

(c) If an invoice submitted by Consultant is not valid, within 30 days after receipt the City will provide notice to the Consultant identifying the deficiencies.

Section 5. Standard of Performance.

Consultant's services will at a minimum meet the level care and skill ordinarily used by members of Consultant's profession performing the type of services provided herein within the State of Florida.

Section 6. Relationship between Parties.

This Contract does not create an employee-employer relationship between the City and Consultant. Consultant is an independent Consultant of the City and will be in control of the means and the method in which the requested work is performed. As an independent Consultant, Consultant will be solely responsible for payment of all federal, state and local income tax, and self-employment taxes, arising from this Contract; and Consultant agrees to indemnify and hold harmless the City from any obligations relating to such taxes. The

City will not make deductions from payments due, for such taxes, or for social security, unemployment insurance, worker's compensation, or other employment or payroll taxes.

Section 7. Documents and Records.

(a) All data, reports, estimates, and other materials furnished, prepared or executed by Consultant during the term of and in accordance with the provisions of this Contract will be the property of the City and delivered to the City upon demand or, if no demand has previously been made, upon completion of the particular work authorization for which such materials were prepared, executed, or otherwise required. This provision will not apply to Consultant proprietary computer software relied upon or developed by the Consultant to perform the scope of services as delineated in a work authorization unless specifically documented and provided for in the work authorization as agreed to by the parties.

(b) Public Records

(1) To the extent applicable, Consultant will comply with the requirements of Florida Statutes Section 119.0701, which include the following:

A) Keeping and maintaining public records that the City requires for performance of the service provided herein.

B) Upon the request of the City Clerk of the City, (i) providing the City Clerk with a copy of requested public records; or (ii) allowing inspection or copying of the records, within a reasonable time after receipt of the City Clerk's request, at a cost that does not exceed the cost provided in Ch. 119, Florida Statutes, or as otherwise provided by law.

C) Ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law until completion of this Contract, and following such completion if Consultant fails to transfer such records to the City.

D) Upon completion of this Contract, keep and maintain public records required by the City to perform the service. Consultant will meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City upon request from the City Clerk, in a format that is compatible with the City's information technology systems.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONSULTANT MUST CONTACT THE CITY CLERK, WHOSE CONTACT INFORMATION IS AS FOLLOWS:

Phone: 386 671-8023
Email: clerk@codb.us
Address: 301 S. Ridgewood Avenue
Daytona Beach, FL 32114

(2) Nothing herein will be deemed to waive Consultant's obligation to comply with Section 119.0701(3)(a), Florida Statutes, as amended by Chapter 2016-20, Laws of Florida (2016).

Section 8. Effective Date and Term.

The Effective Date of this Contract is the date on which the last Party signs it. The Term of this Contract is two (2) years, commencing on the Effective Date. The City will have the option to renew this Contract for up to three (3) additional terms of one (1) year each, by providing Consultant written notice at least sixty (60) days before the end of the current Term.

If this Contract specifically provides that some or all of Consultant's services will be required only after issuance of a City work authorization, any work authorizations previously issued by the City will remain in effect after the expiration of this Contract unless the City terminates this Contract due to Consultant's material breach after notifying Consultant to suspend such services as provided below.

Section 9. Termination.

(a) The City may by written notice to Consultant terminate this Contract, in whole or in part, at any time, either for the City's convenience or because of the failure of the Consultant to fulfill its contractual obligations.

(1) Before terminating for convenience, City must provide Consultant at least thirty (30) day's advance notice of termination. This Contract will terminate automatically and without need for further notice upon the expiration of the notice period.

(2) Before terminating due to Consultant's material breach of its contractual obligations, City must provide Consultant prior written notice, specifying the breach and demanding Consultant remedy the breach within ten (10) business days of the notice, or within such longer period as may be reasonably required if the nature of the breach is that it cannot be remedied within ten (10) business days of notice. This Contract will terminate automatically and without need for further notice if Consultant fails to remedy the material breach within the period described in the City's notice of breach.

In either instance described above, upon termination Consultant will immediately discontinue all services affected, unless the notice directs otherwise, and deliver to the City all data, estimates, reports, , and any and all such other information and materials of whatever type or nature as may have been accumulated by Consultant in performing this Contract, whether completed or in process.

(b) If the termination is for convenience, Consultant will be paid compensation for authorized services performed to the date of termination. If termination is due solely to Consultant's material breach, the City reserves all rights and remedies it may have under law due to such breach. Among other things, the City may take over the work and prosecute the same to completion by other agreements or otherwise; and in such case, the Consultant will be liable to the City for all reasonable additional costs occasioned to the City thereby.

(c) If after notice of termination for the Consultant's failure to fulfill contractual obligations it is judicially determined by a court of law that the Consultant had not so failed, the termination will be conclusively deemed to have been affected for the City's convenience. In such event, adjustment in payment to Consultant will be made as provided in subsection (b) of this Section for a termination for convenience.

(d) The rights and remedies of City provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Contract.

Section 10. Suspension of Services.

If the notice of material breach issued by the City pursuant to the preceding Section so directs, Consultant will suspend services immediately upon receipt thereof, other than the work required to remedy the material breach.

Section 11. Indemnification.

The Consultant hereby indemnifies and holds harmless the City from and against, all liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, arising out of or resulting from the services performed provided that the liabilities, damages, losses, and costs are caused in whole or in part by any negligence, recklessness, or intentional wrongful misconduct of the Consultant, any subcontractor, anyone directly or indirectly employed by any one of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this agreement or otherwise.

Section 12. Insurance.

Consultant will provide and maintain at Consultant's own expense, insurance of the kinds of coverage and in the amounts set forth in this Section. All such insurance will be primary and non-contributory with the City's own insurance. In the event any request for the performance of services presents exposures to the City not covered by the requirements set forth below, the City reserves the right to add insurance requirements that will cover such an exposure.

(Remainder of page intentionally left blank)

(a) Coverage and Amounts.

(1) **Workers Compensation Insurance** as required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of Consultant, employed at the site of the service or in any way connected with the work, which is the subject of this service. The insurance required by this provision will comply fully with the Florida Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$500,000 per occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

(2) **Liability Insurance**, including (i) **Commercial General Liability** coverage for operations, independent Consultants, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis insuring Consultant and any other interests, including but not limited to any associated or subsidiary companies involved in the work; and (ii) **Automobile Liability Insurance**, which will 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 Consultant in the performance of this Contract.

THE COMMERCIAL GENERAL LIABILITY INSURANCE POLICY WILL NAME THE City AS AN ADDITIONAL INSURED. The limit of liability for each policy will 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 will be in an amount of no less than \$2,000,000. The Risk Manager for the City may authorize lower liability limits for the automobile policy only, at the Risk Manager's sole discretion.

(3) **Professional Liability Insurance**, insuring CONSULTANT and other interests, including, but not limited to, any associated or subsidiary companies involved in the work, for errors or omissions in the performance of professional services to be rendered pursuant to this Contract. The limit of liability will be no less than \$1,000,000.

(Professional Liability coverage will be provided on an Occurrence Form or a Claims Made Form with a retroactive date equal to at least the first date of this agreement and with a two-year reporting tail beyond the annual expiration date of the policy).

Unless specifically waived hereafter in writing by the Risk Manager, Contractor agrees that the insurer shall waive its rights of subrogation, if any, against the City on each of the above listed insurance coverages.

(b) **Proof of Insurance.** Consultant will furnish proof of insurance acceptable to the City prior to or at the time of execution of this Contract. Consultant will not commence work until all proof of such insurance has been filed with and approved by the City. Consultant will furnish evidence of all required insurance in the form of certificates

of insurance which will clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard, and the expiration dates.

If requested by the City, Consultant 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.

(c) **Cancellation; Replacement Required.** Consultant will file replacement certificates 30 days prior to expiration or termination of the required insurance occurring prior to the acceptance of the work by the City. If a required policy is canceled without Consultant's prior knowledge Consultant will immediately notify the City immediately upon becoming aware that a required insurance coverage has been canceled for any reason, and promptly replace the canceled policy. The City expressly reserves the right to replace the canceled policy at Consultant's expense if Consultant fails to do so.

(d) **Termination of Insurance.** Consultant may not cancel the insurance required by this Contract until the work is completed, accepted by the City and Consultant has received written notification from the Risk Management Division of the City that Consultant may cancel the insurance required by this Contract and the date upon which the insurance may be canceled. The Risk Management Division of the City will provide such written notification at the request of Consultant if the request is made no earlier than two weeks before the work is to be completed.

(e) **Liabilities Unaffected.** Consultant's liabilities under this Contract will survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverages. Similarly, Consultant's liabilities under this Contract will not be limited to the extent of by the existence of any exclusions or limitations in insurance coverages, or by Consultant's failure to obtain insurance coverage.

Consultant will not be relieved from responsibility to provide required insurance by any failure of the City to demand such coverage, or by City's approval of a policy submitted by Consultant that does not meet the requirements of this Contract.

(f) **Loss Deductible Clause:** The City shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Consultant or sub-contractor providing such insurance.

Section 13. Notice.

Unless otherwise expressly agreed herein, 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:

To the City:

James V. Chisholm, City Manager
City of Daytona Beach
301 S. Ridgewood Ave.
Daytona Beach, FL 32115
Fax: 386-671-8010
Email: ChisholmJames@CODB.us

To the Consultant:

Robert J. Ori, Executive Vice President
Raftelis Financial Consultants, Inc.
341 N. Maitland Ave., Suite 300
Maitland, FL 32751
Fax: 407-628-2610
Email: ROri@Raftelis.com

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 14. Personnel.

Consultant will not replace the Project Director or the Project Manager included in the Consultant's response to the request for proposals without the City's prior written approval. Consultant represents that Consultant has or will secure at Consultant's own expense all personnel required in performing the services under this Contract. Such personnel will not be employees of or have any contractual relationship with the City.

All personnel engaged in the work will be fully qualified and will be authorized under state and local law to perform such services.

Section 15. City's Responsibilities.

The City agrees to make available for review and use by the Consultant, reports, studies, and data relating to the services required. The City will establish a project manager to meet periodically with the Consultant to facilitate coordination and ensure expeditious review of work product.

Section 16. Limitation on Waivers.

Neither the City's review, approval, or acceptance of, or payment for, any of the services provided by Consultant will be construed to operate as a waiver of the City's rights under this Contract. Consultant will be and always remain liable to the City in accordance with applicable law for any and all damages to the City caused by the Consultant'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.

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Section 17. Dispute Resolution.

If a dispute exists concerning this Contract, the Parties agree to use the following procedure prior to pursuing any judicial remedies.

(a) **Negotiations.** A Party will request in writing that a meeting be held between representatives of each Party within fourteen (14) calendar days of the request or such later date that the Parties may agree to. Each Party will attend and will include, at a minimum, a senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization. The purpose of this meeting is to negotiate in the matters constituting the dispute in good faith. The Parties may mutually agree in writing to waive this step and proceed directly to mediation as described below.

(b) **Non-Binding Mediation.** Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them. Within thirty (30) days after the procedure described in Subsection (a) proves unsuccessful or the Parties mutually waive the subsection (a) procedure, the Parties will submit to a non-binding mediation. The mediation, at a minimum, will provide for (i) conducting an on-site investigation, if appropriate, by the mediator for fact gathering purposes, (ii) a meeting of all Parties for the exchange of points of view and (iii) separate meetings between the mediator and each Party to the dispute for the formulation of resolution alternatives. The Parties will select a mediator trained in mediation skills and certified to mediate by the Florida Bar, to assist with resolution of the dispute. The Parties will act in good faith in the selection of the mediator and give consideration to qualified individuals nominated to act as mediator. Nothing in this Contract prevents the Parties from relying on the skills of a person who also is trained in the subject matter of the dispute or a contract interpretation expert. Each Party will attend will include, at a minimum, a senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization.

If the Parties fail to reach a resolution of the dispute through mediation, then the Parties are released to pursue any judicial remedies available to them.

Section 18. General Terms and Conditions.

(a) **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.

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

(c) **Compliance with Laws and Regulations.** In providing all services pursuant to this Contract, Consultant 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 Consultant.

(d) **Truth in Negotiations Certificate.** Consultant hereby certifies that the wages and other factual unit costs supporting the compensation herein are accurate, complete, and current at the time of this Contract.

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

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

(g) **Nondiscrimination.** Consultant will not discriminate against any employee or applicant for employment because of race, color, sex, or national origin. Consultant will take affirmative action to ensure that applicants are employed and that the employees are treated during employment without regard to their sex, race, creed, color, or national origin. Further, Consultant agrees to comply with all local, state, and federal laws and ordinances regarding discrimination in employment against any individual on the basis of race, color, religion, sex, national origin, physical or mental impairment, or age. In particular, Consultant agrees to comply with the provisions of Title 7 of the Civil Rights Act of 1964, as amended, and applicable executive orders including, but not limited to, Executive Order No. 11246.

(h) **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. If any word, phrase, clause, sentence or provision of the Contract, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, invalid or unenforceable, that finding will only effect such word, phrase, clause, sentence or provision, and such finding will not affect the remaining portions of this Contract; this being the intent of the Parties in entering into the Contract; and all provisions of the Contract are declared to be severable for this purpose.

(i) **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.

(j) **Litigation Costs.** Except where specifically 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.

(k) **Force Majeure.** A force majeure event is an act of God or of the public enemy, riots, civil commotion, war, acts of government or government immobility (whether federal, state, or local) fire, flood, epidemic, quarantine restriction, strike, freight embargo, or unusually severe weather; provided, however, that no event or occurrence will be deemed to be a force majeure event unless the failure to perform is beyond the control and without any fault or negligence of the Party charged with performing or that Party's officers, employees, or agents. Whenever this Contract imposes a deadline for performing upon a Party, the deadline will be extended by one day for each day that a Force Majeure event prevents the Party from performing; provided, however, that the Party charged with performing and claiming delay due to a Force Majeure event will promptly notify the other Party of the Event and will use its best efforts to minimize any resulting delay.

(l) **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.

(m) **Authority to Bind Consultant.** The undersigned representative of Consultant represents and warrants the he or she is fully authorized to bind Consultant to the terms and conditions of this Contract.

(n) **Incorporation of RFP and Proposal.** The City's Request for Proposals 19632, and the Consultant's responsive proposal are incorporated herein by reference as Composite Exhibit C and will remain on file in the Office of the City Clerk. In case of conflicts between the RFP and Proposal, the RFP will govern. In case of conflicts between Composite Exhibit C and other provisions of this Contract, including Exhibits A and B, this Contract will govern.

(o) **Integration.** This Contract 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.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the Parties through their undersigned representatives have caused this Contract to be executed in duplicate original.

**THE CITY OF DAYTONA BEACH,
FLORIDA**

**RAFTELIS FINANCIAL
CONSULTANTS, INC.**

By: Derrick L. Henry By: Robert J. Ori
Derrick L. Henry, Mayor Printed Name: Robert J. Ori
Date: 2/4/20 Title: Executive Vice President
Date: February 17, 2020

Attest: Letitia LaMagna
Letitia LaMagna, City Clerk

Approved as to legal form:

By: Robert J. Jagger
Robert Jagger, City Attorney

EXHIBIT A
SCOPE OF SERVICES

1.0 PURPOSE

The purpose of this General Services Contract is for the Consultant to provide a rate, financial, and management services for the utility and other divisions and municipal activities of the City as deemed necessary from time to time by the City.

The City desires to conduct a detailed cost of service and rate evaluation and other financial analyses and evaluations on behalf of the water, wastewater, reuse, stormwater, and solid waste enterprise funds or business activities (collectively, the "Enterprise Funds"). Additionally, the City desires to evaluate the rates, fees and charges, including impact fees, for its municipal services, which include but are not limited to, parks, recreation and cultural, public safety including police, fire and emergency medical services, planning, zoning and building services, public works, fleet maintenance, general governmental and other related services (the "Municipal Services"). As a result of increased development, aging infrastructure, system expansion, changes in customer demographics, and changes in the cost of providing municipal and utility services; the City is requesting the Consultant to assist in preparing comprehensive financial, rate, cost of service, and management evaluations for the Enterprise Funds and other Municipal Services to provide for the recovery of its costs to provide service to its stakeholders and to promote a strong financial position over the long-run.

2.0 SCOPE

The Consultant shall provide assistance in budgeting and forecasting, ratemaking, management accounting assistance, financing activities assistance, organizational and other financial analysis of the Enterprise Funds and Municipal Services. Tasks that would be encompassed in the scope of services may include, but not be limited to, the following services:

1. Review and redesign the potable water, wastewater and reuse rates, solid waste disposal and collection fees, stormwater fees, and fees in support of the Municipal Services as considered necessary based on cost of services and recovery principals.
2. Compile statistics and prepare projections of the Enterprise Funds and other municipal programs in support of the tasks provided, including number of customers served or requiring the services provided by the City, usage and generation rates, service utilization statistics, and other information necessary to provide planning and rate evaluation services.

3. Separately project annual revenue requirements for the Enterprise Funds and Municipal Services for planning and rate evaluation services.
4. Design rates and fees for service from the Enterprise Funds and for the Municipal Services to fund the identified revenue requirements or needs of the programs being evaluated.
5. Review and design appropriate fees for other miscellaneous services as provided by the Enterprise Funds or in support of the Municipal Services as considered necessary.
6. Investigate and develop potential wholesale water, wastewater and reclaimed water rates associated with the provision of such type of service.
7. Assist in the redesign of the four billing cycles used by the Enterprise Funds.
8. Review operations of the Enterprise Funds and of the Municipal Services to determine if additional services, charges and revenue enhancements are appropriate.
9. Perform financial sensitivity analyses on Enterprise Fund operations taking into account such factors as capital program implementation, regulatory changes; and other such issues that may cause a need to review financial operations.
10. Review the prevailing capital facilities (impact and development) fees and capital cost recovery programs in light of the projected expansion and unused existing capacity in the facilities under consideration. Develop new charges to recover the capital investment require to accommodate growth and provide for future adjustments to the charges.
11. Review operations, management and organizational structure, and performance by the City's Enterprise Funds and for Municipal Services.
12. Perform financial due diligence and transaction-related activities and services related to the acquisition of or the extension of utility service for water, wastewater, and reuse utility, solid waste systems or franchises, and stormwater utility management programs.
13. Provide assistance to the City in the development of Enterprise Funds and Municipal Services contracts, including but not limited to, rate ordinances and resolutions, wholesale and large user service agreements, solid waste disposal and collection service agreements, acquisition contracts, extension and development agreements, reuse or reclaimed water usage agreements, and inter-local agreements between the City and other public agencies. Services may involve drafting agreements, review of documents,

negotiations among affected parties and performance of financial or economic analyses required for evaluation.

14. Provide assistance in strategic planning activities for Enterprise Funds and Municipal Services.
15. Preparation of financial feasibility reports in support of the issuance of revenue bonds or securing debt financing for capital or major operations programs, including preparation for and attendance of presentations before rating agencies, bond insurance companies, potential investors and purchasers of instruments of debt, and other required parties.
16. Provide assistance in the preparation of loan documents to obtain funds from agencies such as the Florida Department of Environmental Protection, Rural Development, Department of Community Affairs, banks, and other lending agencies.
17. Provide assistance in the development of accounting, financial and business policies as well as providing opinions on such issues.
18. Provide assistance to the City in providing privatization and managed competition activities and cost evaluations.
19. Provide assistance to the City in support or determination of service affordability programs.
20. Provide information and technology and customer data base services in support of implementation and/or enhancement of Enterprise Fund and Municipal Services billing and customer accounting programs.
21. Provide management consulting services which could include but are not limited to evaluations, analyses, and production of operational, customer, human resources, management, and risk related processes, procedures, application, and methodology employed or considered by the City.

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EXHIBIT B**DIRECT LABOR RATE AND STANDARD REIMBURSABLE EXPENSE SCHEDULE****RAFTELIS FINANCIAL CONSULTANTS, INC.****DIRECT LABOR HOURLY RATES**

Project Team Title	Direct Labor Hourly Rates [*)
Principal	\$250.00
Associate	\$210.00
Managing Consultant	\$195.00
Principal Consultant	\$175.00
Supervising Consultant	\$155.00
Senior Consultant	\$135.00
Rate Consultant	\$125.00
Consultant	\$115.00
Senior Rate Analyst	\$105.00
Rate Analyst	\$ 90.00
Analyst	\$ 75.00
Assistant Analyst	\$ 60.00
Administrative	\$ 70.00

STANDARD COST RATES

Expense Description	Standard Rates
Mileage Allowance – Personal Car Use Only	IRS Standard Mileage Rate
Reproduction (Black and White) (In-House)	\$0.05 per Page
Reproduction (Color) (In-House)	\$0.25 per Page
Reproduction (Contracted)	Actual Cost
Computer Time	\$0.00 per Hour
Telephone Charges	Actual Cost
Delivery Charges	Actual Cost
Lodging/Other Travel Costs	Actual Cost
Meals – per Employee	Standard per diem rates as established by Florida Statutes 112.061 for Class C travel for breakfast, lunch and dinner
Subconsultant Services	Actual Cost
Other Costs for Services Rendered	Actual Cost

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EXHIBIT C
CITY OF DAYTONA BEACH
REQUEST FOR PROPOSALS 19632
WITH
CONSULTANT'S RESPONSIVE PROPOSAL

The City's Request for Proposals 19632, and the Consultant's responsive proposal are incorporated herein by reference and will remain on file in the Office of the City Clerk.

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