

CONTRACT NO. 2023000004
AGREEMENT BETWEEN CHARLOTTE COUNTY
and
RAFTELIS FINANCIAL CONSULTANTS, INC.
for
WATER, SEWER, RECLAIMED WATER
AND MISCELLANEOUS FEES – RATE STUDY

THIS AGREEMENT, is made and entered into by and between CHARLOTTE COUNTY, a political subdivision of the State of Florida, 18500 Murdock Circle, Port Charlotte, Florida 33948-1094, hereinafter referred to as the "County," and RAFTELIS FINANCIAL CONSULTANTS, INC., d/b/a RAFTELIS, 227 W. Trade Street, Suite 1400, Charlotte, North Carolina 28202, hereinafter referred to as the "Consultant."

WITNESSETH

WHEREAS, the County has determined that it is necessary to retain a Consultant to provide professional services to provide financial management consulting and utility rate-making services; and

WHEREAS, the Consultant has reviewed RFP No. 2023000004 required pursuant to this Agreement and is qualified, willing and able to provide and perform all such services in accordance with its terms.

WHEREAS, the County, through a selection process conducted in accordance with the requirements of law and County policy, has determined that it would be in the best interest of the County to award a contract to Consultant for the rendering of those services described in the Scope of Services.

NOW, THEREFORE, the County and the Consultant, in consideration of the mutual covenants contained herein, do agree as follows:

ARTICLE 1.
INCORPORATION OF DOCUMENTS

1.1. RFP No. 2023000004, consisting of pages 1 through and including 17, and the Proposal submitted by Consultant dated January 5, 2023, all filed with the Clerk of the Circuit Court of Charlotte County, Minutes Division, as RFP No. 2023000004, are hereby specifically made part of this Agreement as if same had been set forth at length herein.

1.2. In the event of any conflict between the documents constituting this Agreement, the documents shall be given precedence in the following order:

- 1) This Agreement;
- 2) Work Assignments;
- 3) RFP No. 2023000004;
- 4) The Proposal submitted by Consultant dated January 5, 2023.

ARTICLE 2.
REQUEST FOR SERVICES BY COUNTY

2.1. The County may, in its sole discretion, issue an authorization to Consultant to provide professional services for a specific project under the terms of this Agreement and in accordance with the procedures contained in RFP No. 2023000004 (hereinafter "work assignment", "specific project authorization" or "work authorization") and any subsequent addenda thereto. Each specific project authorization shall be in writing and set forth: (1) the scope of services for the specific project; (2) an enumeration of the deliverables for the specific project, if applicable; (3) the time for performance of Consultant's services for the specific project; and (4) the basis and amount of compensation for Consultant's services for the specific project. Each work authorization shall be subject to all the terms and conditions of this Agreement. Each work authorization shall be in writing in the form of a "Work Assignment" using the form attached hereto as **Exhibit A**. After approval by the County Purchasing Director, County Administrator or Board of County Commissioners, whichever is applicable under the provisions of RFP No. 2023000004, each Work Assignment shall become an amendment to this Agreement.

ARTICLE 3
BASIC SERVICES

3.1. The basic services which shall be performed by Consultant under this Agreement are financial management consulting services and utility rate-making services for the utility department, as specified in Part II of RFP No. 2023000004. The Consultant shall provide current and future financial feasibility reports (5-year and 20-year plans), revenue and expenditure analysis, and multi-scenario impact studies. Tasks shall be performed by Consultant on an "as assigned" basis and may include, but not be limited to, projects involving one or more of the following:

- *Water, Sewer, Reclaimed Water and Miscellaneous Fees Utility Rate and Financial Feasibility Study*
- *Water, Sewer and Reclaimed Water Connection Fee Study*
- *Analysis of existing and proposed Water Supply Agreements, Interlocal Agreements and Amendments*
- *Educational presentations of utility information to County personnel and Board of County Commissioners*
- *Analysis of financial data related to the acquisition, expansion or disposal of any water/sewer/reclaimed water within the utility service area*

- *Requests for updated analyses or additional financial or cost of service scenarios after substantial completion of the initial work or on proposed projects*
- *Information and analysis required relating to debt issuance and bond coverage, and service of senior debt*
- *Provide comparisons of current and projected water and sewer costs (operational, capital improvement, bonded debt) against appropriate industry benchmarks*
- *Analysis of impact to all rates based on future expansions of service*
- *Assistance with State Revolving Fund (SRF), US Department of Agriculture (USDA) loan or grant funding applications and repayment options*
- *Assistance with establishing, operating or realigning various Fund Accounts in order to streamline accounting with Renewal and Replacement (R&R) programs, Capitol Improvement Programs (CIP), and such*
- *The delivery of non-proprietary multi-scenario modeling software as a deliverable at a milestone to be determined*
- *General assistance with other methods of charging various fees and charges, evaluation of funding scenarios, and other related needs.*

3.2. Consultant will provide the Department a monthly status report that identifies all outstanding projects, Consultant's progress, future plans and outstanding issues. The Status Report shall address each specific work assignment. It is understood by both parties that this list of services is by no means inclusive; County may require additional consulting services not listed therein to be performed by Consultant in accordance with the terms and conditions of this contract. A detailed scope of services for a specific project shall accompany the Work Assignment for the project.

3.3. Consultant shall be responsible for knowledge of and compliance with all applicable federal, state and local laws, rules, practices and regulations. Consultant must be able to conclusively demonstrate its professional ability to represent the County before any and all regulatory agencies and County departments as necessary.

3.4. Consultant shall have an office staffed with professional technical personnel to prepare, assemble, and present reports to the County. These reports will include items such as preliminary analysis and progress.

3.5. No guarantee is expressed or implied as to the quantity of services, if any, to be procured under RFP No. 2023000004 or any addenda thereto, by Charlotte County.

3.6. The County, at its sole discretion, may expand the scope of work to include additional requirements which shall require an equitable adjustment to the schedule and compensation of Consultant. The County reserves the right to investigate as it deems necessary to determine the ability of Consultant to perform the work or services requested. Information the County deems necessary in order to make a determination shall be provided by Consultant upon request.

3.7. Consultant shall perform any services described in a Work Assignment issued to Consultant by the County.

3.8. Consultant agrees to meet with County at reasonable times and with reasonable notice.

3.9. Consultant agrees to perform such duties and responsibilities, and accepts such authority, as set forth in a Work Assignment issued by the County to Consultant and further agrees to perform any services in the time allowed for performance in a Work Assignment issued by the County to Consultant.

ARTICLE 4. **COMPENSATION AND PAYMENT OF CONSULTANT'S SERVICES**

4.1. The amount and basis of compensation, whether it be lump sum, not-to-exceed, or some other basis, for Consultant's services on any specific project shall be determined during negotiations for that specific project, as provided in RFP No. 2023000004 and any subsequent addenda. The amount and basis of compensation shall be contained in the Work Assignment and calculated based upon the rate schedule attached hereto as **Exhibit B**.

4.2. Consultant shall submit all billings for payment of services rendered on a monthly basis to the County Purchasing Division. Billings shall be detailed as to the nature of the services performed and shall refer to the specific tasks listed in the Scope of Services that were actually performed by Consultant. Billings shall include a summary of any amounts previously billed and any credits for amounts previously paid.

4.3. Consultant acknowledges that each billing must be reviewed and approved by the County Director of Budget and Administrative Services or his or her designee. Should the County Director of Budget and Administrative Services or his or her designee, determine that the billing is not commensurate with services performed, work accomplished or hours expended, Consultant shall adjust billing accordingly. However, Consultant shall be entitled to payment of any portion of a billing not in dispute.

4.4. Payment for services rendered by Consultant on a lump sum basis shall be made on a monthly basis in proportion to the percentage of services completed. Percentage of services completed shall be subject to review and approval of County.

4.5. Payment for services rendered by Consultant on an hourly, not-to-exceed basis shall be made monthly based on actual hours spent, multiplied by appropriate hourly rates. Hours of service performed shall be subject to review and approval of County.

4.6. County shall pay Consultant's monthly billings in accordance with Sections 218.70 through 218.80 Florida Statutes, the Local Government Prompt Payment Act.

ARTICLE 5.
CONSULTANT'S RESPONSIBILITIES

5.1. Consultant shall perform or furnish consulting and related services to a level of technical skill, ability, and diligence customarily provided by an experienced professional in his or her field of expertise at the time and place the services are performed when rendering the same services, and in accordance with sound principles and practices generally acknowledged by professionals in his or her field of expertise, as represented to the County, both orally and in writing, to be possessed by Consultant, all in accordance with the standards contained elsewhere in this Agreement and in accordance with generally accepted standards of professional consulting practice prevailing at the time and place the services are performed and with the laws, statutes, ordinances, codes, rules and regulations governing Consultant's profession. The same standards of care shall be required of any subconsultant or subcontractor engaged by Consultant.

5.2. Consultant shall, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the negligent act, error or omission of Consultant or any subconsultant or subcontractor engaged by Consultant for one year after the completion of Consultant's services under this Agreement. The foregoing shall be construed as an independent duty to correct rather than a waiver of County's rights under any applicable statute of limitations. County review of, approval of, acceptance of, or payment for any of Consultant's work product, services, or materials shall not be construed to operate as a waiver of any of County's rights under this Agreement, or cause of action County may have arising out of the performance of this Agreement.

ARTICLE 6.
OWNERSHIP AND USE OF DOCUMENTS

6.1. All deliverables prepared in accordance with Consultant's services under this Agreement shall become the property of, and shall be delivered to, County. However, any use subsequent to or other than for the specific project for which such items were created, shall be at sole risk of County. Nothing contained herein shall be deemed a transfer, assignment or divestiture by Consultant of its trade secrets, know-how or intellectual property.

6.2. Consultant agrees that any software, computer systems and databases used for providing the documents necessary to this Agreement shall be compatible with existing County software and systems.

ARTICLE 7.
COUNTY'S RESPONSIBILITIES

7.1. County shall perform the responsibilities contained in this Article 7 in a timely manner so as not to delay the services of Consultant.

7.2. County shall furnish to Consultant, upon request of Consultant and at County expense, all existing studies, reports and other available data pertinent to the services to be performed under this Agreement which are within the County's possession. However, Consultant shall be required to evaluate all materials furnished hereunder using reasonable professional judgment before relying on such materials.

7.3. County shall provide reasonable access and entry to all public property required by Consultant to perform the services described in this Agreement. All such access and entry shall be provided at County expense. County shall also use reasonable efforts to obtain permission for reasonable access and entry to any private property required by Consultant to perform the services described in this Agreement.

ARTICLE 8.
TERM / TERMINATION

8.1. The term of this Agreement shall be for the period commencing on the date this Agreement is executed by both parties, and up to and including September 30, 2028, with an option to renew for two (2) additional one- (1) year terms, at the same terms and conditions, with the mutual consent of the parties.

8.2. This Agreement, or any specific project authorized under this Agreement, may be terminated by County, with or without cause, by written notice to Consultant of the intent to terminate. Such termination shall be effective fourteen (14) days after receipt by Consultant of such written notice of intent to terminate. However, no termination for cause will be effective unless Consultant is first given ten (10) calendar days after receipt of notice of intent to terminate in which to cure the cause for termination.

8.3. In the event that the Consultant has abandoned performance under this Agreement, then the County may terminate this Agreement upon three (3) calendar day's written notice to the Consultant indicating its intention to terminate. The written notice shall state the evidence indicating the Consultant's abandonment. Payment for services performed prior to the Consultant's abandonment shall be as stated Section 3 above.

8.4. In the event of termination, Consultant shall be entitled to compensation for services rendered and costs incurred through the effective date of termination. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports, prepared by Consultant shall become the property of County and shall be delivered by Consultant to County immediately upon the effective date of termination.

**ARTICLE 9.
NOTICES**

9.1. Any notice required or permitted to be sent hereunder shall be sent certified mail, return receipt requested to the parties at the addresses listed below:

CONSULTANT:

COUNTY:

Name: Raftelis
Murray Hamilton, Vice President
Address: 341 N. Maitland Avenue, Suite 300
Maitland, FL 32751

Name: Purchasing Division
Kim Corbett, Sr. Div. Manager
Address: 18500 Murdock Circle, Ste. 344
Port Charlotte, FL 33948

**ARTICLE 10.
NO CONTINGENT FEES**

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

**ARTICLE 11.
TRUTH-IN-NEGOTIATION CERTIFICATE**

11.1. In accordance with Section 287.055 Florida Statutes and Charlotte County Resolution 2003-059, signature of this Agreement by Consultant shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which County determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

**ARTICLE 12.
ASSIGNMENT**

12.1. This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances by Consultant without the prior written consent of County. Further, no portion of this Agreement may be performed by

subcontractors or subconsultants without written notice to and approval of such action by County.

ARTICLE 13.
EXTENT OF AGREEMENT / SEVERABILITY / MODIFICATION

13.1. This Agreement represents the entire and integrated agreement between the County and Consultant and supersedes all prior negotiations, representations or agreement, either written or oral.

13.2. In the event any provision of this Agreement shall be held invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition or covenant shall not be construed by the other party as a waiver of any subsequent breach.

13.3. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by both parties.

13.4. This is a nonexclusive contract. The County has the right to enter into contracts with other consultants for providing professional services.

ARTICLE 14.
GOVERNING LAW / VENUE

14.1. This Agreement shall be governed and construed in accordance with Florida law. In the event any litigation arises between the parties in connection with this Agreement, venue for such litigation shall lie exclusively in or for Charlotte County, Florida.

ARTICLE 15.
INDEPENDENT CONTRACTOR STATUS

15.1. Consultant is an independent contractor and is not an employee, servant, agent, partner or joint venturer of the County.

Neither the County nor any of its employees shall have any control over the conduct of Consultant or any of Consultant's employees, except as herein set forth, and Consultant expressly warrants not to represent at any time or in any manner that Consultant or any of Consultant's agents, servants or employees are in any manner agents, servants or employees of the County. It is understood and agreed that Consultant is, and shall at all times remain as to the County, a wholly independent contractor and that Consultant's obligations to the County are solely as prescribed by this Agreement.

ARTICLE 16.
AUDIT REQUIREMENTS

16.1. Consultant shall maintain books, records, documents, and other evidence directly pertaining to or connected with the services under this Agreement which shall be available and accessible at Consultant's offices for the purpose of inspection, audit, and copying during normal business hours by the County, or any of its authorized representatives. Such records shall be retained for a minimum of five (5) years after completion of the services. If any litigation, claim or audit is commenced prior to the expiration of the five (5) year period, the records shall be maintained until all litigation, claims or audit findings involving the records have been resolved.

16.2 Consultant shall require all subcontractors to comply with the provisions of this paragraph by insertion of the requirements hereof in a written contract agreement between Consultant and the subcontractor.

ARTICLE 17.
INDEMNIFICATION

17.1. Consultant shall indemnify and hold harmless County, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Consultant and other persons employed or utilized by Consultant in the performance of services under this Agreement.

ARTICLE 18.
PUBLIC RECORDS

18.1. Pursuant to Section 119.0701 of the Florida Statutes, Contractors acting on behalf of the County must comply with the public records laws, specifically: a) keep and maintain public records required by the County to perform the contracted services; b) upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law; c) ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract; and d) upon completion of the contract, keep and maintain all public records required by the County to perform the service, and meet all applicable requirements for retaining public records.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES TO THE CONTRACTOR'S DUTY TO RETAIN AND PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, THE CONTRATOR SHOULD

**CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT
(941) 743-1441, E-MAIL TO RECORDS@CHARLOTTECOUNTYFL.GOV,
18500 MURDOCK CIRCLE, BLDG. B, Suite 109, PORT CHARLOTTE,
FLORIDA 33948.**

**ARTICLE 19.
EMPLOYEE RESTRICTIONS**

19.1. Charlotte County will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a [Section 274A of the Immigration and Nationality Act ("INA")]. The County shall consider employment by the Consultant of unauthorized aliens a violation of Section 274A of the INA. Such violation by the Consultant of the employment provisions contained in Section 274A of the INA shall be grounds for termination of this Agreement by the County.

19.2. Pursuant to Section 448.095 of the Florida Statutes, all persons or firms entering into contracts with Charlotte County are required to register with, and use, the E-Verify system of the U.S. Department of Homeland Security to electronically verify the employment eligibility of all newly hired employees. The County may terminate this Agreement for failure on the part of the Contractor to use E-Verify. Contract termination for failure to use E-Verify is not considered a breach of contract pursuant to s. 448.095(2)(c)3, *Fla. Stat.*

**ARTICLE 20.
SCRUTINIZED VENDORS**

20.1. Pursuant to Section 287.135(3)(b) of the Florida Statutes, Charlotte County may, at its sole option, terminate this Agreement if the Consultant is found to have been placed on the *Scrutinized Companies that Boycott Israel List*, or is engaged in a boycott of Israel.

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IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the date and year written below.

RAFTELIS

WITNESSES:

Signed By: Peggy L. Perry
Print Name: Peggy L. Perry
Date: May 22, 2023

Signed by: [Signature]
Print Name: Murray M. Hamilton, Jr.
Title: Vice President
Date: 5/22/2023

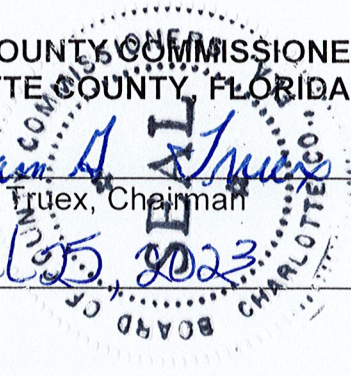
ATTEST:

Roger D. Eaton, Clerk of Circuit Court and Ex-officio Clerk to the Board of County Commissioners

By: [Signature]
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA

By: [Signature]
William G. Truex, Chairman
Date: April 25, 2023



APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
Janette S. Knowlton, County Attorney
LR 23-0290 [Signature]

Exhibit List:

- Exhibit A – Work Assignment – Sample Form
- Exhibit B – Rates Schedule

WORK ASSIGNMENT
 CHARLOTTE COUNTY PURCHASING DIVISION
 CONTRACT NO. 2023000004

WATER, SEWER, RECLAIMED WATER AND MISCELLANEOUS FEES - RATE STUDY

THIS WORK ASSIGNMENT

| | | |
|----|----------------------|--|
| 1. | Work Assignment # | |
| 2. | Short Title | |
| 3. | Date Submitted | |
| 4. | Amount | |
| 5. | Scheduled Completion | |

In presenting this Work Assignment, Consultant agrees that:

Unless detailed herein, all drawings, data, electronic files and other information required for this Work Assignment has been accepted by Consultant. Specifically, all electronic files have been reviewed and accepted for the purposes of this Work Assignment. Unless specified herein, additional information will not be required.

SUBMITTED AND AGREED TO BY:

BY: _____
 Name of Consultant / Firm (Type/Print)

 Signature

DATE: _____

RECOMMENDED AND APPROVED BY:

FISCAL REVIEWED BY: _____

CHARLOTTE COUNTY (DEPARTMENT/DIVISION): _____

CHARLOTTE COUNTY PURCHASING: _____

CHARLOTTE COUNTY ADMINISTRATION: _____

APPROVED by the COUNTY Administrative Agent, the _____ day of _____, 20__.

Exhibit "B"

Raftelis Financial Consultants, Inc.

2023 Standard Hourly Billing Rates

| <u>Position</u> | <u>Hourly Billing Rate *</u> |
|--------------------------|------------------------------|
| Executive Vice President | \$325 |
| Vice President | \$300 |
| Senior Manager | \$275 |
| Manager | \$245 |
| Senior Consultant | \$200 |
| Consultant | \$180 |
| Associate | \$155 |
| Administration | \$95 |

* These rates will be in effect for calendar year 2023 and will then increase annually by 3% unless specified otherwise by contract.