



**AGENDA**  
**CITY OF LAKE WORTH BEACH**  
**REGULAR CITY COMMISSION MEETING (REVISION 3) - TO FOLLOW THE WORK**  
**SESSION**  
**CITY HALL COMMISSION CHAMBER**  
**TUESDAY, APRIL 16, 2024 - 6:00 PM**

**ROLL CALL:**

**INVOCATION OR MOMENT OF SILENCE:** led by Commissioner Sarah Malega

**PLEDGE OF ALLEGIANCE:** led by Mayor Betty Resch

**AGENDA - Additions / Deletions / Reordering:**

**PRESENTATIONS:** (there is no public comment on Presentation items)

- A. Presentation regarding the resurfacing, restoration and rehabilitation project on SR 802/Lake Avenue/Lucerne Avenue by Melissa Reading, Community Outreach Specialist for The Corradino Group
- B. Palm Beach Fire Rescue report by Craig Spiegelhalter, District Chief
- C. [Proclamation declaring April 18, 2024, as Lineman Appreciation Day](#)
- D. [Proclamation declaring April 22, 2024 as Earth Day](#)
- E. [Proclamation declaring April 27, 2024 as Arbor Day](#)
- F. [Proclamation declaring April 7-13, 2024, as National Library Week](#)
- G. [Proclamation declaring April 21-27, 2024, as National Volunteer Week](#)
- H. [Proclamation declaring April 2024 as National Dark Night Sky Month](#)
- I. [Proclamation declaring April 2024 as Water Conservation Month](#)
- J. [Proclamation declaring April 2024 as Water Professionals Month](#)

**DESIGNATION OF APPOINTMENTS:**

- A. [Appointment of Vice Mayor and Vice Mayor Pro Tem](#)
- B. [Appointment of commissioners to various organizations:](#)
  - 1. [Transportation Planning Authority plus alternates](#)
  - 2. [Palm Beach County League of Cities](#)
  - 3. [Community Redevelopment Agency](#)
  - 4. [Neighborhood Association Presidents' Council](#)
  - 5. [Education Task Force](#)

**COMMISSION LIAISON REPORTS AND COMMENTS:**

**CITY MANAGER'S REPORT:**

**CITY ATTORNEY'S REPORT:**

**PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:**

**APPROVAL OF MINUTES:**

- A. [March 5, 2024 - regular meeting](#)
- B. [March 26, 2024 - emergency special meeting](#)

**CONSENT AGENDA:** (public comment allowed during Public Participation of Non-Agendaed items)

- A. [Proclamation declaring April 2024 as STD Awareness Month](#)
- B. [Agreement for Legal Services with Akerman, LLP for services regarding employee classification related to the City's Pension Ordinance](#)
- C. [Informed Consent for Goren, Cherof, Doody & Ezrol, P.A. \(the "Firm"\) to represent Sunshine Lake Worth Development, LLC, in matters related to the City of Lake Worth Beach while representing the City of Lake Worth Beach for Foreclosure of City Code Enforcement Liens and other Legal Services](#)

**NEW BUSINESS:**

- A. [Agreement with Bausch Enterprises, Inc, to purchase and install lifeguard towers](#)
- B. [Ratification of the emergency procurement with Musco Sports Lighting, LLC for the removal of the baseball field lighting at Dave Manzo field](#)
- C. [Agreement with Stantec Consulting Services, Inc for Comprehensive Sustainability Analysis for the City for the FY 2025 Budget not to exceed \\$138,279.00](#)
- D. [Agreement with Davenport and Company, LLC, to provide comprehensive financial advisory services](#)
- E. Discussion of the impact of the subregional forcemain break on Florida Mango Rd.

**UPCOMING MEETINGS AND WORK SESSIONS:**

April 23 @ 5 pm - special meeting  
April 30 @ 6 pm - utility meeting  
May 7 @ 6 pm - regular meeting

**ADJOURNMENT:**

The City Commission has adopted Rules of Decorum for Citizen Participation (See Resolution No. 13-2023). The Rules of Decorum are posted within the City Hall Chambers, City Hall Conference Room, posted online at: <https://lakeworthbeachfl.gov/government/virtual-meetings/>, and available through the City Clerk's office. Compliance with the Rules of Decorum is expected and appreciated.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that,

for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105)

# CITY OF LAKE WORTH BEACH

## PROCLAMATION

**WHEREAS,** The City of Lake Worth Beach’s electric utility system provides services to over 27,000 homes and businesses and must be maintained in operation 24 hours a day, 7 days a week, and 365 days a year during periods of rain, cold, heat, thunderstorms, and hurricanes; and

**WHEREAS,** The national system of electric transmission lines is kept in a high state of readiness and reliability by over 120,000 dedicated and skilled men and women collectively known as electric “linemen” and who are essential and valued employees at all electric utilities across the country; and

**WHEREAS,** Electric linemen are a cohesive group who must work safely in hazardous conditions while maintaining and restoring electric service to our homes and businesses, and who have chosen a career in the electric utility industry and have achieved certification as linemen after a rigorous apprenticeship to perform a job that has been ranked as one of the 10 most dangerous jobs in the country; and

**WHEREAS,** The linemen of our City of Lake Worth Beach Electric Utility are dedicated and hard-working individuals who perform this work daily to ensure the safe and reliable delivery of electric energy to our homes and businesses; and

**WHEREAS,** It is most fitting and proper that the City of Lake Worth Beach observe this special day to recognize Lake Worth Beach’s hometown heroes, our electric utility linemen.

**NOW, THEREFORE,** I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

**APRIL 18, 2024**

as

**LINEMAN APPRECIATION DAY**

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 16<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk



# CITY OF LAKE WORTH BEACH

## PROCLAMATION

- WHEREAS,** Each year, Earth Day can provide a special time to draw people together in appreciation of their mutual home, Planet Earth, and bring a global feeling of community through realization of our deepening desire for life, freedom and love, and our mutual dependence on each other; and
- WHEREAS,** the creation of a healthy environment requires the establishment of a stable human society where the economic and material desires of humankind are balanced with ecological concerns; and
- WHEREAS,** the theme for Earth Day 2024 is “Planet vs. Plastics”, about fighting the big problem of plastics all over the world. The goal is to make 60% less plastic by 2040, not only having less trash, but it is also keeping us and the environment healthy; and
- WHEREAS,** Through voluntary action, individuals can join with one another in building the Earth in harmony with nature and promote support thereof by private and government agencies; and
- WHEREAS,** the City of Lake Worth Beach, as a waterfront community, has a special interest in cleanup efforts for Lake Osborne, the Lake Worth Lagoon and the C-51 canal; and
- WHEREAS,** the City of Lake Worth Beach has made neighborhood beautification a priority including the planting of trees and enhancement of green space; and
- WHEREAS,** the City of Lake Worth Beach takes pride in its natural resources and conservation efforts; and
- WHEREAS,** Earth Day each year can foster a common recognition that we must join together to invest in our planet’s future for the health of future generations.

**NOW, THEREFORE,** I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida,  
by virtue of the authority vested in me and on behalf of the City Commission,  
do hereby proclaim:

**APRIL 22, 2024**  
as  
**EARTH DAY**

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 16<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk

# CITY OF LAKE WORTH BEACH

## PROCLAMATION

**WHEREAS,** in 1872, the Nebraska Board of Agriculture established a special day to be set aside for the planting of trees; and

**WHEREAS,** the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

**WHEREAS,** Arbor Day is now observed throughout the nation and the world; and

**WHEREAS,** trees can be a solution to combating climate change by reducing the erosion of our precious topsoil by wind and water, cutting heating and cooling costs, moderating the temperature, cleaning the air, producing life-giving oxygen, and providing habitat for wildlife; and

**WHEREAS,** trees are a renewable resource, giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

**WHEREAS,** trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community; and

**WHEREAS,** trees, wherever they are planted, are a source of joy and spiritual renewal.

**NOW, THEREFORE,** I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

**APRIL 27, 2024**

**as**

**ARBOR DAY**

and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 16<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk



**Arbor Day Foundation®**

211 N. 12th Street • Lincoln, NE 68508 • 888-448-7337 • [arborday.org](http://arborday.org)

*We inspire people to plant, nurture, and celebrate trees.*

Mayor Betty Resch  
7 North Dixie Highway  
Lake Worth Beach, FL 33460

Dear Tree City USA Community Member,

On behalf of the Arbor Day Foundation, I'm thrilled to congratulate Lake Worth Beach on earning recognition as a 2023 Tree City USA. Residents of Lake Worth Beach should be proud to live in a community that makes the planting and care of trees a priority.

Founded in 1976, Tree City USA is a partnership between the Arbor Day Foundation, the U.S. Forest Service, and the National Association of State Foresters. Lake Worth Beach is part of an incredible network of more than 3,600 Tree City USA communities nationwide, with a combined population of 155 million.

Over the last few years, the value and importance of trees has become increasingly clear. Cities and towns across the globe are facing issues with air quality, water resources, personal health and well-being, and energy use. Lake Worth Beach has taken steps to create to a brighter, greener future.

We hope you are as excited as we are to share this accomplishment with your local media and your residents. Enclosed in this packet is a press release for you to distribute at your convenience.

We're excited to celebrate your commitment to the people and trees of Lake Worth Beach. Thank you, again, for your efforts.

Best Regards,

Dan Lambe  
Arbor Day Foundation Chief Executive





**Arbor Day Foundation®**

211 N. 12th Street • Lincoln, NE 68508 • 888-448-7337 • [arborday.org](http://arborday.org)

*We inspire people to plant, nurture, and celebrate trees.*

FOR IMMEDIATE RELEASE

Contact:

Jasmine Putney

Arbor Day Foundation

402-216-9307

[jputney@arborday.org](mailto:jputney@arborday.org)

## Arbor Day Foundation Names Lake Worth Beach a 2023 Tree City USA®

LINCOLN, Nebraska (1/17/2024) – Lake Worth Beach was named a 2023 Tree City USA by the Arbor Day Foundation to honor its commitment to effective urban forest management.

Lake Worth Beach achieved Tree City USA recognition by meeting the program's four requirements: maintaining a tree board or department, having a tree care ordinance, dedicating an annual community forestry budget of at least \$2 per capita, and hosting an Arbor Day observance and proclamation.

The Tree City USA program is sponsored by the Arbor Day Foundation, in partnership with the U.S. Forest Service and the National Association of State Foresters.

“Tree City USA communities see the positive effects of an urban forest firsthand,” said Dan Lambe, chief executive of the Arbor Day Foundation. “The trees being planted and cared for by Lake Worth Beach are ensuring that generations to come will enjoy to a better quality of life. Additionally, participation in this program brings residents together and creates a sense of civic pride, whether it’s through volunteer engagement or public education.”

If ever there was a time for trees, now is that time. Communities worldwide are facing issues with air quality, water resources, personal health and well-being, energy use, and extreme heat and flooding. Lake Worth Beach is doing its part to address these challenges for residents both now and in the future.

More information on the program is available at [arborday.org/TreeCityUSA](http://arborday.org/TreeCityUSA).

### **About the Arbor Day Foundation**

Founded in 1972, the Arbor Day Foundation has grown to become the largest nonprofit membership organization dedicated to planting trees, with more than one million members, supporters and valued partners. Since 1972, almost 500 million Arbor Day Foundation trees have been planted in neighborhoods, communities, cities and forests throughout the world. Our vision is to lead toward a world where trees are used to solve issues critical to survival.

As one of the world's largest operating conservation foundations, the Arbor Day Foundation, through its members, partners and programs, educates and engages stakeholders and communities across the globe to involve themselves in its mission of planting, nurturing and celebrating trees. More information is available at [arborday.org](http://arborday.org).

# CITY OF LAKE WORTH BEACH

## PROCLAMATION

- WHEREAS,** Libraries connect our communities and enrich our lives in ways we may not realize; and
- WHEREAS,** libraries, librarians, library workers and supporters across America are celebrating National Library Week; the theme for 2024 is Ready, Set, Library; and
- WHEREAS,** libraries create potential and possibilities within their communities, campuses and schools and level the playing field for all who seek information and access to technologies; and
- WHEREAS,** libraries continually grow and evolve in how they provide for the needs of every member of their communities; and
- WHEREAS,** libraries and librarians open up a world of possibilities through innovative programming, job-seeking resources and the power of reading; and
- WHEREAS,** librarians are trained, tech-savvy professionals, providing technology training and access to downloadable content like e-books; and
- WHEREAS,** libraries support democracy and effect social change through their commitment to provide equitable access to information for all library users regardless of race, ethnicity, creed, ability, sexual orientation, gender identity or socio-economic status

**NOW, THEREFORE,** I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

**APRIL 7 - 13, 2024**

**as**

**NATIONAL LIBRARY WEEK**

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 16<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk

# CITY OF LAKE WORTH BEACH

## PROCLAMATION

**WHEREAS,** National Volunteer Week, established in 1974, is an annual celebration to promote and show appreciation for volunteerism and volunteering.; and

**WHEREAS,** The City of Lake Worth Beach recognizes the enormous contribution that volunteers and voluntary, community-based organizations make to the social, cultural and economic development of our City; and

**WHEREAS,** The theme for National Volunteer Week 2024 is Every Moment Matters, highlighting the importance of every volunteer and each contribution they make at a moment when we need support more than ever. The sharing of time, skills, empathy, and creativity is vital to the inclusivity, strength, and wellbeing of our community; and

**WHEREAS,** It has been recognized that the contributions made by volunteer hours result in a significant and positive impact on the quality of life of the residents of the City of Lake Worth Beach; and

**WHEREAS,** The City of Lake Worth Beach recognizes and shows its appreciation to all volunteers and encourages the continuation of volunteerism

**NOW, THEREFORE,** I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

**APRIL 21 – 27, 2024**

as

**NATIONAL VOLUNTEER WEEK**

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 16<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk



# CITY OF LAKE WORTH BEACH

## PROCLAMATION

- WHEREAS,** the beauty and wonder of a natural night sky is a shared heritage of all humankind that inspires feelings of wonder and awe, and encourages interest in the sciences, technology, engineering, arts and math (STEAM), including among young people living in City of Lake Worth Beach; and
- WHEREAS,** “light pollution” is artificial light with adverse impacts to the environment, especially at night, and includes excessive light that causes glare and trespass, disrupts ecosystems, wastes natural resources, energy and money; and has scientifically-established economic and environmental consequences that significantly impact the wildlife and human health of all communities; and
- WHEREAS,** many residents in our region live under a dome of light pollution and are not able to fully enjoy the cultural, recreational, ecological and health benefits of a naturally lit nocturnal environment and night sky in their own communities; and
- WHEREAS,** the opportunity to view star-filled skies over Everglades National Park, Big Cypress National Preserve, Kissimmee Prairie Preserve State Park, Florida Keys and other areas of the Greater Everglades with limited light pollution, attracts tourists and gives pride and economic benefit to City of Lake Worth Beach; and
- WHEREAS,** within the Greater Everglades, two International Dark Sky Places (Big Cypress National Preserve and Kissimmee Prairie Preserve State Park) earned their designations in 2016 and are facing the threat of losing their natural nights to skyglow as cities sprawl with increasingly more excessive artificial light sources; and
- WHEREAS,** light pollution impacts many wildlife species in our region, including sea turtles nesting along our coastlines, birds migrating through the Atlantic flyway, fireflies twinkling within the Everglades and bats foraging in darker areas that remain in South Florida; and
- WHEREAS,** the US Fish and Wildlife Service (FWS) has recognized that due to the "loss of night sky quality" to light pollution, the night sky resource has become "nationally significant"; and
- WHEREAS,** protecting the night sky and quality of the nocturnal environment provides many benefits to City of Lake Worth Beach communities, including neighborhood livability, safety, quality of life, and access to nature; and
- WHEREAS,** solving the problem of light pollution requires educating governments, communities, businesses, and citizens; and encouraging neighbor and ecology friendly lighting best practices that are effective in preventing and reducing light pollution in all its forms; and
- WHEREAS,** DarkSky International has designated April 2 through April 8, 2024 as “International Dark Sky Week 2024” to draw awareness to light pollution, its far-reaching impacts, and solutions to mitigate it; and
- WHEREAS,** The City of Lake Worth Beach wishes to extend awareness during all of April 2024 to encourage ample and broader opportunities for public participation.

**NOW, THEREFORE,** I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim:

**APRIL 2024**

**as**

**NATIONAL DARK NIGHT SKY MONTH**

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 16<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk

# CITY OF LAKE WORTH BEACH

## PROCLAMATION

- WHEREAS,** Water is a basic and essential need of every living creature; and
- WHEREAS,** The State of Florida, Water Management Districts and the City of Lake Worth Beach are working together to increase awareness about the importance of water conservation; and
- WHEREAS,** The City of Lake Worth Beach and the State of Florida has designated April, typically a dry month when water demands are most acute, Florida's Water Conservation Month, to educate citizens about how they can help save Florida's precious water resources; and
- WHEREAS,** The City of Lake Worth Beach has always encouraged and supported water conservation, through various educational programs and special events; and
- WHEREAS,** Every business, industry, school and citizen can make a difference when it comes to conserving water; and
- WHEREAS,** Every business, industry, school and citizen can help by saving water and thus promote a healthy economy and community.

**NOW, THEREFORE,** I, BETTY RESCH, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim

**APRIL 2024**  
**As**  
**WATER CONSERVATION MONTH**

in the City of Lake Worth Beach, Florida, and encourage citizens of the City of Lake Worth Beach to help protect our precious resource by practicing water saving measures and becoming more aware of the need to save water.

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 16<sup>th</sup> day of April 2024.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk



# CITY OF LAKE WORTH BEACH

## PROCLAMATION

**WHEREAS,** Water industry professionals dedicate themselves to the production and distribution of safe drinking water, as well as the proper collection, treatment, reuse, and disposal of wastewater and storm water; and

**WHEREAS,** Regardless of where it originates, our water is treated, tested, distributed, collected and retreated in processes carefully managed by water professionals to meet stringent water quality standards; and

**WHEREAS,** Water professionals work 24 hours a day, seven days a week maintaining and upgrading their system, planning for the future and improving the safety and resiliency of local water supplies; and

**WHEREAS,** The success that we have experienced thus far and will have in the future is made possible by tremendous commitment and efforts of Florida's water professionals.

**NOW, THEREFORE,** I, BETTY RESCH, Mayor of the City of Lake Worth Beach, Florida, by virtue of the authority vested in me and on behalf of the City Commission, do hereby proclaim

**APRIL 2024**

as

**FLORIDA WATER PROFESSIONALS MONTH**

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 16<sup>th</sup> day of April 2024.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 16, 2024

**DEPARTMENT:** City Clerk

**TITLE:**

Appointment of Vice Mayor and Vice Mayor Pro Tem

**SUMMARY:**

The Item provides for the appointment of a Vice Mayor and Vice Mayor Pro Tem in accordance with City Charter Article III, Section 3.

**BACKGROUND AND JUSTIFICATION:**

In accordance with the City Charter, the Commission shall annually elect from among its members a Vice Mayor and Vice Mayor Pro Tem at the first regular City Commission meeting following the general election.

The Municipal Election was held on March 19, 2024 with a Run-Off Election on April 2, 2024; this is the first regular meeting following the election.

The Vice Mayor shall act as Mayor in the absence or disability of the Mayor. The Vice Mayor Pro Tem shall act as Mayor in the absence or disability of the Mayor and Vice Mayor.

**MOTION:**

Move to appoint \_\_\_\_\_ as Vice Mayor.

Move to appoint \_\_\_\_\_ as Vice Mayor Pro Tem.

**ATTACHMENT(S):**

Fiscal Impact Analysis – N/A

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 16, 2024

**DEPARTMENT:** City Clerk

**TITLE:**

Appointment of commissioners to various organizations:

1. Transportation Planning Authority plus alternates
2. Palm Beach County League of Cities
3. Community Redevelopment Agency
4. Neighborhood Association Presidents' Council
5. Education Task Force

**SUMMARY:**

The item provides for the annual appointment of City liaisons from the City Commission members to various organizations and boards.

**BACKGROUND AND JUSTIFICATION:**

On April 4, 2023, the City Commission made the following appointments:

**1. Transportation Planning Authority (TPA) – Commissioner Diaz; Vice Mayor McVoy alternate**

The TPA provides a cooperative, comprehensive, and continuing transportation planning and decision-making process which encompasses all modes and covers both short-range and long-range transportation planning.

**2. Palm Beach County League of Cities (PBCLC) – Mayor Resch**

The PBCLC's purpose is to promote and advance the collective interest(s) of the municipalities of the County to study municipal issues and seek desired results through cooperative effort, to respect the principles of Home Rule, to encourage and enhance the quality of life of the citizens of the County, and/or to engage in any other lawful purpose not for profit.

**3. Community Redevelopment Agency (CRA) – Commissioner Malega**

The CRA is responsible for formulating and implementing projects that are consistent with the Lake Worth Beach Redevelopment Plan to assist in revitalizing and redeveloping portions of the City.

**4. Neighborhood Association Presidents' Council (NAPC) – Commissioner Malega**

The Council supports and promotes the neighborhood associations and serves as an umbrella organization with no opinion on how each association chooses to decide matters for its own association.

**5. Education Task Force – Commissioner Stokes**

The Education Task Force serves to strengthen the relationship between the city and its schools, to study issues affecting the schools and report the findings and to assess the strengths and challenges that city schools are facing in an effort to determine how the city could assist.

**MOTION:**

Move to appoint \_\_\_\_\_ to serve as liaison to the Transportation Planning Authority with \_\_\_\_\_ and \_\_\_\_\_ serving as alternate(s).

Move to appoint \_\_\_\_\_ to serve as liaison to the Palm Beach County League of Cities.

Move to appoint \_\_\_\_\_ to serve as liaison to the Community Redevelopment Agency.

Move to appoint \_\_\_\_\_ to serve as liaison to the Neighborhood Association Presidents' Council.

Move to appoint \_\_\_\_\_ to serve as liaison to the Education Task Force.

**ATTACHMENT(S):**

Fiscal Impact Analysis – N/A

**MINUTES  
CITY OF LAKE WORTH BEACH  
REGULAR CITY COMMISSION MEETING  
CITY HALL COMMISSION CHAMBER  
TUESDAY, MARCH 5, 2024 – 6:00 PM**

The meeting was called to order by Mayor Resch on the above date at 6:01 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

**ROLL CALL:** (0:34) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy (via Zoom), Commissioners Sarah Malega, Kim Stokes and Reinaldo Diaz. Also present were Interim City Manager Jamie Brown, City Attorney Elizabeth Lenihan and City Clerk Melissa Ann Coyne.

**INVOCATION OR MOMENT OF SILENCE:** (1:04) was led by Commissioner Reinaldo Diaz.

**PLEDGE OF ALLEGIANCE:** (2:10) was led by Commissioner Kim Stokes.

**ADDITIONS/DELETIONS/REORDERING:** (2:33)

New Business G, Discussion of the Fiscal Year 2024-2025 Community Development Block Grant Application, was reordered to New Business A and the subsequent items were reordered.

**Action:** Motion made by Commissioner Malega and seconded by Commissioner Diaz to approve the agenda as amended.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

**PRESENTATIONS:** (there is no public comment on Presentation items) (3:24)

- A. Presentation regarding the Palm Beach County (PBC) Community Services Department by James Green, Director, focusing on Housing and Homelessness, Behavioral Health and Economic Mobility (3:26)
- B. Presentation by PBC School Board Member Erica Whitfield regarding landscaping projects at Highland Elementary, Lake Worth Middle and North Grade Elementary Schools in partnership with Lake Worth Beach, brought forward by Commissioner Stokes (25:28)
- C. Proclamation declaring March 2024 as Ethics Awareness Month (35:06)
- D. Proclamation declaring March 2024 as Florida Bicycle Month (39:27)
- E. Proclamation declaring March 2024 as Let's Move Palm Beach County Month (42:27)
- F. Proclamation to proclaim March 2024 as Palm Beach Pride Month (48:16)
- G. Proclamation declaring March 2024 as National Women's History Month (51:46)
- H. Proclamation declaring March 6, 2024 as Education Foundation Day, marking the 40th anniversary (54:27)
- I. Proclamation declaring April 5, 2024, as The Lord's Place Sleep Out Homelessness Awareness Day (59:52)

**COMMISSION LIAISON REPORTS AND COMMENTS:** (1:04:26)

**CITY MANAGER'S REPORT:** (1:10:37)

Interim City Manager Brown provided the following report:

- there was a kick-off meeting this week with the Weiner Museum of Decorative Arts (WMODA); there would be weekly meetings with staff regarding the potential project with the city
- FDOT would give a construction update at the April 16 meeting
- introduced Teanna McKay, the new Leisure Services Director, who expressed her excitement to be working for the City
- had City Clerk Coyne give an update regarding the March 19 election

**CITY ATTORNEY'S REPORT:**

City Attorney Lenihan did not provide a report.

**PUBLIC PARTICIPATION OF NON-AGENDAED ITEMS AND CONSENT AGENDA:**  
(1:14:58)

**APPROVAL OF MINUTES:** (1:30:54)

**Action:** Motion made by Commissioner Malega and seconded by Commissioner Diaz to approve the following minutes:

A. February 20, 2024 - regular meeting

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

**CONSENT AGENDA:** (public comment allowed during Public Participation of Non-Agendaed items)  
(1:31:02)

**Action:** Motion made by Commissioner Diaz and seconded by Commissioner Stokes to approve the Consent Agenda.

A. Proclamation declaring March 3 - 9, 2024 as Women in Construction Week

B. Resolution No. 06-2024 – documenting the levy of municipal special assessment liens for unpaid lot clearing charges

C. Resolution No. 07-2024 – documenting the levy of municipal special assessment liens for unpaid boarding and securing charges.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

**PUBLIC HEARINGS:**

There were no Public Hearing items.

**UNFINISHED BUSINESS:**

There were no Unfinished Business items.

**NEW BUSINESS:** (1:31:09)

A. (reordered from New Business G) Discussion of the Fiscal Year 2024-2025 Community Development Block Grant Application (1:31:12)

**Action:** Motion made by Commissioner Malega and seconded by Commissioner Stokes to select the Youth Empowerment Center for FY 2024-2025 CDBG funding and to authorize the submission of an application to DHED for CDBG funds in the estimated amount of \$266,814 for that project.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

The meeting recessed at 8:02 PM and reconvened at 8:09 PM.

B. Task Order No. 2 with Song & Associates, Inc to prepare construction documents for the expansion and renovation of the Community Sustainability Department (2:09:18)

**Action:** Motion made by Commissioner Malega and seconded by Commissioner Diaz to approve Task Order No. 2 with Song & Associates, Inc to prepare construction documents for the expansion and renovation of the Community Sustainability Department.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

C. Waiver to Competitive Selection Process for the purchase of the oil radiator for TPTL-2 transformer from Trantech Radiator Products, Inc. (2:14:44)

**Action:** Motion made by Commissioner Diaz and seconded by Commissioner Stokes to approve the Waiver to Competitive Selection Process for the purchase of the oil radiator for TPTL-2 transformer from Trantech Radiator Products, Inc.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

D. Resolution No.08-2024 - Fiscal Year 2024 Budget Amendment (2:16:34)

City Attorney Lenihan did not read the resolution.

RESOLUTION NO. 08-2024, FIRST BUDGET AMENDMENT OF THE CITY OF LAKE WORTH BEACH, A MUNICIPAL CORPORATION OF THE STATE OF FLORIDA, MAKING SEPARATE AND SEVERAL BUDGET AMENDMENTS AND CORRESPONDING APPROPRIATIONS FOR THE CITY'S NECESSARY OPERATING EXPENSES, THE USES AND EXPENSES OF THE VARIOUS FUNDS AND DEPARTMENTS OF THE CITY FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023 AND ENDING SEPTEMBER 30, 2024; AND PROVIDING FOR AN EFFECTIVE DATE

**Action:** Motion made by Commissioner Malega and seconded by Commissioner Stokes to approve Resolution No. 08-2024 - Fiscal Year 2024 Budget Amendment.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

E. Task Order No. 1 with Mock Roos & Associates Inc. for Construction Engineering and Inspection services for additions and improvements of ADA ramps at various locations throughout the City (2:17:43)

**Action:** Motion made by Commissioner Diaz and seconded by Commissioner Malega to approve Task Order No. 1 with Mock Roos & Associates Inc. for Construction Engineering and Inspection services for additions and improvements of ADA ramps at various locations throughout the City.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

F. Contract with Williams Scotsman Inc. (2:23:34)

**Action:** Motion made by Commissioner Diaz and seconded by Commissioner Malega to approve the contract with Williams Scotsman Inc.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

G. Task Order No. 2 with WGI for the modular buildings at the beach (2:28:00)

**Action:** Motion made by Commissioner Diaz and seconded by Commissioner Stokes to approve Task Order No. 2 with WGI for the modular buildings at the beach.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

G. (reordered to New Business A) Discussion of the Fiscal Year 2024-2025 Community Development Block Grant Application

**UPCOMING MEETINGS AND WORK SESSIONS:**

March 8 @ 9 am - pre-agenda work session

March 26 @ 5 pm - special meeting

March 26 @ 6 pm - regular meeting

**ADJOURNMENT:** (2:28:26)

**Action:** Motion made by Commissioner Malega and seconded by Commissioner Stokes to adjourn the meeting at 8:29 PM.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk

Minutes approved April 16, 2024

Item time stamps correspond to the recording on YouTube.



**MINUTES  
CITY OF LAKE WORTH BEACH  
EMERGENCY SPECIAL CITY COMMISSION MEETING –  
SETTING THE RUN-OFF BALLOT  
CITY HALL COMMISSION CHAMBER  
TUESDAY, MARCH 26, 2024 - 5:00 PM**

The meeting was called to order by Mayor Resch on the above date at 5:03 PM in the City Commission Chamber located at City Hall, 7 North Dixie Highway, Lake Worth Beach, Florida.

**ROLL CALL:** (0:43) Present were Mayor Betty Resch, Vice Mayor Christopher McVoy, Commissioners Sarah Malega, Kim Stokes and Reinaldo Diaz. Also present were Interim City Manager Jamie Brown, City Attorney Christy L. Goddeau and City Clerk Melissa Ann Coyne.

**PLEDGE OF ALLEGIANCE:** (1:00) was led by Commissioner Reinaldo Diaz.

**NEW BUSINESS:** (1:22)

A. Resolution No. 12-2024 – setting the ballot for the Run-Off Election on April 2, 2024. (1:25)

City Attorney Goddeau did not read the resolution.

RESOLUTION NO. 12-2024 OF THE CITY OF LAKE WORTH BEACH, FLORIDA,  
DIRECTING THE CITY CLERK TO PREPARE THE OFFICIAL BALLOT FOR THE  
CITYWIDE RUN-OFF ELECTION TO BE HELD ON APRIL 2, 2024; PROVIDING AN  
EFFECTIVE DATE

**Action:** Motion made by Commissioner Malega and seconded by Commissioner Stokes to approve Resolution No. 12-2024 setting the ballot for the April 2, 2024 Run-Off Election.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

B. Construction Agreement with RMJ Maintenance Inc. (1:53)

**Action:** Motion made by Commissioner Malega and seconded by Vice Mayor McVoy to approve the Construction Agreement with RMJ Maintenance Inc.

**Vote:** Voice vote showed: AYES: Mayor Resch, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

**ADJOURNMENT:** (2:29)

**Action:** Motion made by Commissioner Stokes and seconded by Commissioner Malega to adjourn the meeting at 5:05 PM.

**Vote:** Voice vote showed: AYES: Mayor Amoroso, Vice Mayor McVoy, Commissioners Malega, Stokes and Diaz. NAYS: None.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk

Minutes Approved: April 16, 2024. Time stamps refer to the meeting on YouTube.

# CITY OF LAKE WORTH BEACH

## PROCLAMATION

- WHEREAS,** the prevalence of sexually transmitted diseases (STDs) poses significant risks to individuals' health and well-being, affecting millions worldwide each year; and
- WHEREAS,** sexually transmitted diseases (STDs) pose a significant public health challenge, necessitating urgent attention and action; and
- WHEREAS,** the Centers for Disease Control and Prevention (CDC), annual report highlighted the imperative nature of addressing STDs as a public health priority. In the year 2022, the Centers for Disease Control and Prevention (CDC) reported more than 2.5 million STD cases in the United States; and
- WHEREAS,** in 2022, Palm Beach County witnessed concerning rises in sexually transmitted infections, with reported increases of over 6% in syphilis and chlamydia cases, and a staggering 20% increase in HIV cases compared to the previous year; and
- WHEREAS,** the impact of STDs extends beyond individual health, affecting families, communities, and the overall public health landscape; and
- WHEREAS,** In collaboration with The Florida Department of Health in Palm Beach County, Monarch Health Services actively provides education to the public and healthcare professionals on STD prevention, testing, and treatment, while also focusing on supporting all individuals living with HIV/AIDS or affected by an STD/STI through accessible healthcare services, resource allocation, and the implementation of supportive programs; and
- WHEREAS,** recognizing the significance of STD Awareness Month in raising public consciousness about the impact of STDs within our communities and advocating for prevention, risk reduction, testing, and treatment.

**NOW, THEREFORE,** I, Betty Resch, Mayor of the City of Lake Worth Beach, Florida,  
by virtue of the authority vested in me and on behalf of the City Commission,  
do hereby proclaim:

**April 2024**  
as  
**STD AWARENESS MONTH**

**IN WITNESS WHEREOF,** I have hereunto set my hand and caused the Seal of the City of Lake Worth Beach, Florida, to be affixed this 16<sup>th</sup> day of April, 2024.

\_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 16, 2024

**DEPARTMENT:** City Attorney

**TITLE:**

Agreement for Legal Services with Akerman, LLP for services regarding employee classification related to the City's Pension Ordinance

**SUMMARY:**

This Agreement for Legal Services provides for the legal services regarding employee classification related to the City's Pension ordinance.

**BACKGROUND AND JUSTIFICATION:**

The City previously entered into an Agreement for Legal Services with Akerman, LLP in September 2023. The agreement was estimated to be up to \$25,000 annually. Due to the extensive work requirement under this agreement the total annual amount will exceed this threshold. The agreement allows for an additional increase in this amount with the City Commission approval.

**MOTION:**

Move to approve/disapprove the modification of the Agreement for services regarding employee classification related to the City's Pension Ordinance.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Agreement

**FISCAL IMPACT ANALYSIS**

Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>
Inflows/Revenues					
Appropriated (Budgeted)	0	0	0	0	0
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
Outflows/Expenditures					
Appropriated (Budgeted)	\$75,000	0	0	0	0
Operating	0	0	0	0	0
Capital	0	0	0	0	0
Net Fiscal Impact					
<i>(If not budgeted)</i>	0	0	0	0	0
No. of Addn'l Full-Time					
Employee Positions	0	0	0	0	0

Contract Award - Existing Appropriation (Budgeted)	
	Expenditure
Department	General Fund
Division	City Attorney
GL Description	Professional Services Legal
GL Account Number	001-1110-514-31-10
Project Number	n/a
Requested Funds	N/A
Remaining Balance	\$154,600
Source of Revenue (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.)	

**CITY OF LAKE WORTH BEACH STANDARD  
AGREEMENT FOR LEGAL SERVICES**

This Standard Agreement (“Agreement”) is made as of the 5th day of September, 2023, by and between the **City of Lake Worth Beach**, a Florida Municipal Corporation, whose mailing address is 7 North Dixie Highway, Lake Worth, Florida 33460 (“City”) and Akerman LLP, whose mailing address is 777 S. Flagler Drive, Suite 1100 West Tower, West Palm Beach, Florida 33401 (“Firm”).

In consideration of the mutual promises contained in this Agreement (hereinafter referred to as the “Agreement”), the City and Firm agree as follows:

**SECTION 1 – INDEMNIFICATION**

1.1 Intentionally deleted due to professional liability insurance coverage provided below.

**SECTION 2 – REMEDIES**

2.1 This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise.

**SECTION 3 – WAIVER OF JURY TRIAL AND ENFORCEMENT COSTS**

3.1 WAIVER OF JURY TRIAL. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

3.2 If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the parties agree that each party shall be responsible for its own attorney’s fees.

**SECTION 4 - AUTHORITY TO PRACTICE**

4.1 The Firm hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner and in accordance with applicable law. Proof of such licenses and approvals shall be submitted to the City upon request.

**SECTION 5 – SEVERABILITY**

5.1 If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 6 - PUBLIC ENTITY CRIMES, DISCRIMINATION AND SCRUTINIZED  
COMPANIES**

6.1 As provided in Sections 287.132-133, Florida Statutes, as amended from time to time, by entering into this Agreement, Firm certifies that it, its affiliates, suppliers, subcontractors and any other contractors who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof.

6.2 As provided in Sections 287.134, Florida Statutes, as amended from time to time, by entering into the Agreement, Firm certifies that it and its affiliates have not been placed on the discriminatory vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof.

6.3 Firm certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the Firm or any of its subcontractors are found to have submitted a false certification; or if the Firm or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

6.4 If this Agreement is for one million dollars or more, the Firm certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the Firm, or any of its subcontractors are found to have submitted a false certification; or if the Firm or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

#### **SECTION 7 - ENTIRETY OF CONTRACTUAL AGREEMENT**

7.1 The City and Firm agree that this Agreement, together with Akerman's Engagement Letter and Akerman's Standard Terms and Conditions of Engagement, sets forth the entire contract between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. Should any conflict or inconsistencies arise between the City's Standard Agreement for Legal Services, Akerman's Engagement Letter or Akerman's Standard Terms and Conditions of Engagement, the City's Standard Agreement for Legal Services shall control.

#### **SECTION 8 - WAIVER**

8.1 Failure of either party to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of either party's right to enforce or exercise said right(s) at any time thereafter.

#### **SECTION 9 - TERM, TERMINATION AND EFFECT OF TERMINATION**

9.1 The term of this Agreement shall begin upon the date executed by the City and shall continue unless earlier terminated as stated herein.

9.2 Either party may terminate this Agreement upon written notice to the other party at the mailing address provided above.

9.3 Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination. Notwithstanding the foregoing, the parties acknowledge and agree that the City is a political subdivision of the state of Florida, and as such, this Agreement is subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Notwithstanding anything in this Agreement to the contrary, in the event that no funds are appropriated or budgeted by the City in any fiscal year to pay the costs associated with the City's obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the City to be, insufficient to pay the costs associated with the City's

obligations hereunder in any fiscal period and the City is not seeking the same or similar services from a competitor of Firm, then the City will notify Firm of such occurrence and either the City or Firm may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the City of any kind whatsoever.

#### **SECTION 10 – COMPLIANCE**

10.1 Each of the parties agrees to perform its obligations under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement. In the event that either party becomes aware of a possible violation of law, regulation or administrative instruction that might affect the validity or legality of the services provided under this Agreement, such party shall immediately notify the other party and the parties shall agree on appropriate corrective action. In the event either party becomes aware that any investigation or proceeding has been initiated with respect to any of the services provided hereunder, such party shall immediately notify the other party.

#### **SECTION 11 – EFFECTIVENESS AND PALM BEACH COUNTY IG**

11.1 This Agreement shall not become effective until approved by the City Manager. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

11.2 In accordance with Palm Beach County ordinance number 2011-009, this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. Firm should review Palm Beach County ordinance number 2011-009 in order to be aware of its rights and/or obligations under such ordinance and as applicable.

#### **SECTION 12 – INDEPENDENT CONTRACTOR**

12.1 No relationship of employer or employee is created by this Agreement, it being understood that the Firm will act hereunder as an independent contractor and none of the Firm's, officers, directors, employees, independent contractors, representatives or agents performing services for Firm pursuant to this Agreement shall have any claim against the City for compensation of any kind under this Agreement. The relationship between the City and Firm is that of independent contractors, and neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

#### **SECTION 13 – SERVICES AND COMPENSATION**

13.1 The initial scope of services under this Agreement shall be for the Firm to provide all services regarding employee classification related to the City's Pension Ordinance. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

13.2 The City agrees to compensate the Firm at a 20% discount hourly rate of Seven Hundred and Sixty-Eight dollars (\$768.00) per hour for Beth Alcalde and 20% discount hourly rate of Five Hundred and Fifty-Two dollars (\$552.00) per hour for Montaye Sigmon; **however, the scope of services under this Agreement shall not exceed Twenty-Five Thousand Dollars (\$25,000)** on an annual basis. The City shall not reimburse the Firm for any additional costs incurred as a direct or indirect result of the Firm providing services to the City under this Agreement, except for those costs allowed under paragraph 13.7.

13.3 The City and Firm may amend this Agreement to add additional services to be provided by the Firm and related compensation beyond the amount stated herein.

13.4 The Firm shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. Invoices will normally be paid within thirty (30) days following the City's receipt of the Firm's invoice.

13.5 The total compensation to be paid to the Firm under this Agreement (including all amendments thereto) shall not exceed \$25,000, on an annual basis, unless this Agreement is approved by the City Commission and executed by the Mayor. However, this is a non-exclusive Agreement and the City does not guarantee that any further services beyond those stated herein will be requested of the Firm.

13.6 All invoices must be submitted to the Finance Department, 7 North Dixie Highway, Lake Worth, FL 33460, on a monthly basis for review and approval prior to payment with a copy to the City Attorney, Glen J. Torcivia, 701 Northpoint Pkwy, Ste 209, West Palm Beach, FL 33407. Invoices should be itemized to specifically and concisely identify each task performed and should reflect the actual time spent on each task, using 1/10 of an hour increments. The City does not accept grouping of activities or "block billing." Each task must be billed separately and each billing entry must be sufficiently descriptive so that it can be determined exactly what professional service was provided and the appropriateness of the related time charge can be assessed. Additionally, the personnel who perform each task must be specified together with their hourly rate. Any other type of billing or timekeeping, which allows compensation for time not actually spent by the Firm, is not permitted by the City.

13.7 The City will reimburse the Firm for any out-of-pocket expenses, including, but not limited to, filing fees, long distance telephone charges, postage charges, courier fees, outside printing, photocopying, court reporting and transcription fees. Payment for some of these fees is outlined more specifically below.

In-house photocopying will be paid at the rate of ten cents (.10) per page. (It would be helpful if each invoice specified the number of copies for which reimbursement is sought.)

The City will not pay for local facsimile transmissions.

Long distance telephone calls must state the number of calls, date, length of call, and per minute cost.

Any travel, per diem, mileage, or meal expenses, which may be reimbursable, must be approved in advance (orally) and will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

The City does not pay for local travel (Palm Beach County), including, but not limited to, attorney's time for such local travel and/or reimbursement for meals.

For all disbursements, the City requires copies of paid receipts, invoices, or other documentation acceptable to the City of Lake Worth Finance Department. Such documentation must be sufficient to establish that the expense was actually incurred and necessary in the performance of legal services provided.

The City will not be responsible for the cost of any computerized legal research service that the Firm receives on a fixed or "flat fee" basis. For payment of computerized research on a "per minute" basis, the City requires copies of transaction reports indicating the total time for each research session, the charge per minute, and a brief description of the issues researched. Any extensive research project (research in excess of three hours whether said research is performed during one session or over several



sessions or which is likely to exceed \$300) must be discussed with and approved in advance. Since assignments are made to firms which have been selected for their expertise in particular areas of law, the City will not pay for research that is routine in nature. The City will pay only for updating and shepardizing existing research and/or fact specific research.

**SECTION 14 - INSURANCE**

14.1 The Firm shall maintain during the term of this Agreement all insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than “excellent” by A.M. Best or as mutually agreed upon by the City and the Firm.

<u><b>Type of Coverage</b></u>	<u><b>Amount of Coverage</b></u>
<b>Professional liability/ Errors and Omissions</b>	\$100,000,000 per occurrence
<b>Commercial General Liability Insurance</b>	\$1,000,000 per occurrence \$2,000,000 aggregate
<b>Automobile Liability (optional /per case basis)</b>	\$100,000,000 combined Single Limit
<b>Workers’ Compensation</b>	Must be in accordance with State and Federal Laws (no minimum amount)
<b>Cyber Liability</b>	\$1,000,000 per occurrence or claim \$2,000,000 aggregate

Proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance upon request by the City. The City shall be identified as an “Additional Insured” on general and auto liability. Failure to comply with the foregoing requirements shall not relieve Firm of its liability and obligations under this Agreement.

**SECTION 15 – PUBLIC RECORDS**

15.1 The Firm shall comply with Florida’s Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City’s custodian of public records or designee, provide the City 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, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Firm does not transfer the records to the City.

- (d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Firm or keep and maintain public records required by the City to perform the service. If the Firm transfers all public records to the City upon completion of the Agreement, the Firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Firm keeps and maintains public records upon completion of the Agreement, the Firm shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**IF THE FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT (561) 586-1660, CITYCLERK@LAKEWORTHBEACHFL.GOV, or 7 North Dixie Highway, Lake Worth, FL 33460.**

#### **SECTION 16 – E-VERIFY**

16.1 Pursuant to Section 448.095(5), Florida Statutes, the Firm shall:

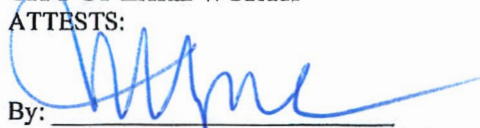
- (a) Register with and use the E-Verify system to verify the work authorization status of all newly hired employees pursuant to Section 448.095(2), Florida Statutes, and require all subcontractors do the same;
- (b) Secure an affidavit from all subcontractors stating that the subcontractor does not employ, contract with, or subcontract with an “unauthorized alien” as defined in Section 448.095(1)(f), Florida Statutes;
- (c) Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the City upon request;
- (d) Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
- (e) Be aware that a violation of Section 448.09(1), Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement;
- (f) Be aware that a violation of Section 448.095(5) by a subcontractor, and not the Firm, shall be grounds for the City to order the Firm immediately terminate the contract with the subcontractor; and
- (g) Be aware that if the City terminates this Agreement under Section 448.095(5)(c), Florida Statutes, the Firm may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

#### **SECTION 17 - COUNTERPARTS**

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


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year set forth above.

CITY OF LAKE WORTH  
ATTESTS:

By:   
Melissa Ann Coyne, CMC, City Clerk


By:   
Carmen Davis, City Manager

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By:   
Glen J. Torcivia, City Attorney



AKERMAN LLP

By:   
Elizabeth Alcalde

CITY OF LAKE WORTH BEACH, FLORIDA

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 16, 2024

**DEPARTMENT:** City Attorney

**TITLE:**

Informed Consent for Goren, Cherof, Doody & Ezrol, P.A. (the "Firm") to represent Sunshine Lake Worth Development, LLC, in matters related to the City of Lake Worth Beach while representing the City of Lake Worth Beach for Foreclosure of City Code Enforcement Liens and other Legal Services

**SUMMARY:**

The Firm is requesting informed consent from its client, the City of Lake Worth Beach, to allow the Firm to represent another client, Sunshine Lake Worth Development, LLC, in certain matters related to the City of Lake Worth Beach.

**BACKGROUND AND JUSTIFICATION:**

On January 16, 2024, the City Commission approved an Agreement for Legal Services with the Firm to provide legal services to the City for the foreclosure of outstanding code enforcement liens. Related legal services may also be provided under this Agreement, such as review of the forms used by Code Compliance to ensure foreclosures move quickly and smoothly once authorized.

Attorneys and their firms are bound to follow the Rules Regulating the Florida Bar. Rule 4-1.7, provides that a lawyer must not represent a client if:

1. The representation of one client will be directly adverse to another client; or
2. There is a substantial risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer;

unless:

1. The lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
2. The representation is not prohibited by law;
3. The representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and
4. Each affected client gives informed consent, confirmed in writing or clearly state on the record at a hearing.

Informed consent is defined in the Rules as "the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct." The Firm believes the conditions for it to represent Sunshine Lake Worth Development, LLC, in the matters described in the attached letter are satisfied.

The Firm is requesting that the City provides its informed consent to the Firm representation of Sunshine Lake Worth Development, LLC, in the matters described in the attached letter, thus waiving the resulting potential conflict of interest.

**MOTION:**

Move to approve/disapprove providing the requested informed consent and authorizing the City Attorney to execute the informed consent.

**ATTACHMENT(S):**

Informed Consent Letter  
Agreement for Legal Services



**GOREN CHEROF  
DOODY & EZROL P.A.**  
ATTORNEYS AT LAW

March 15, 2024

Glen J. Torcivia, Esq.  
City Attorney for Lake Worth Beach  
Torcivia, Donlon, Goddeau & Rubin, P.A.  
701 Northpoint Parkway #209  
West Palm Beach, Florida 33407

Via electronic mail: [glen@torcivialaw.com](mailto:glen@torcivialaw.com)

RE: Goren Cherof Doody and Ezrol, PA: City of Lake Worth Beach

Dear Mr. Torcivia:

This letter is intended to request the informed consent of the City of Lake Worth Beach, allowing for the law firm of Goren Cherof Doody and Ezrol, P.A., ("Law Firm") to represent Sunshine Lake Worth Development, LLC, a Florida limited liability company in the following matters:

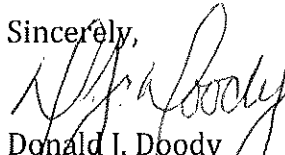
- a) Drafting and negotiating terms of a Purchase and Sale Agreement for the acquisition of real property with the intended use to be an art museum and residential apartments; and
- b) Negotiations with the City of Lake Worth Beach related to the development of an art museum and resident apartments; and
- c) Negotiations relative to a Development Agreement; and
- d) Representing the Sunshine Lake Worth Development, LLC in application process before the City of Lake Worth Beach for required governmental approvals necessary for the development of an art museum campus; and

The Law Firm currently serves as special counsel for Lake Worth Beach pursuant to and consistent with an Attorney-Client Fee Contract between the Law Firm and Lake Worth Beach dated January 24, 2024.

When a conflict exists or the potential of a conflict exists, representation of a party to the conflict is possible pursuant to the requirements of Rule 4-1.7(b) of the Rules Governing the Florida Bar. Upon the execution of this letter, the Law Firm believes the conditions for it to represent the Sunshine Lake Worth Development, LLC in the matters set forth herein are satisfied.

By execution below, the City of Lake Worth Beach acknowledges informed consent for the Law Firm to represent the Sunshine Lake Worth Development, LLC in the matters described above.

Sincerely,



Donald J. Doody  
For the Law Firm

**Informed Consent**

The undersigned has read the foregoing disclosure, and acknowledges that he has been fully informed and the conflicts described herein, and by signed hereto acknowledges that the consent provided herein is informed and that Goren Cherof Doody and Ezrol, P.A., may represent the Sunshine Lake Worth Development, LLC in the matters set forth herein.

By: \_\_\_\_\_  
Name: Glen J. Torcivia, Esquire  
City Attorney

**CITY OF LAKE WORTH BEACH STANDARD  
AGREEMENT FOR LEGAL SERVICES**

This Standard Agreement (“Agreement”) is made as of the \_\_\_\_\_ <sup>1/24/2024</sup> day of \_\_\_\_\_, 2023, by and between the **City of Lake Worth Beach**, a Florida Municipal Corporation, whose mailing address is 7 North Dixie Highway, Lake Worth, Florida 33460 (“City”) and **Goren, Cherof, Doody & Ezrol, P.A.**, whose mailing address is 3099 East Commercial Boulevard, Suite 200, Fort Lauderdale, FL 33308 (“Firm”).

In consideration of the mutual promises contained in this Agreement, the City and Firm agree as follows:

**SECTION 1 – SCOPE OF SERVICES AND TERM**

1.1 The City engages the Firm to provide legal services as it relates to the foreclosure of identified City code enforcement liens and for other legal services as may arise from time to time. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services. Either the City or the Firm may terminate this Agreement at any time upon written notice to the other. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination.

1.2 Notwithstanding the foregoing, the parties acknowledge and agree that the City is a political subdivision of the state of Florida, and as such, this Agreement is subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Notwithstanding anything in this Agreement to the contrary, in the event that no funds are appropriated or budgeted by the City in any fiscal year to pay the costs associated with the City’s obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the City to be, insufficient to pay the costs associated with the City’s obligations hereunder in any fiscal period and the City is not seeking the same or similar services from a competitor of Firm, then the City will notify Firm of such occurrence and either the City or Firm may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the City of any kind whatsoever.

**SECTION 2 – REMEDIES**

2.1 This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise.

**SECTION 3 – WAIVER OF JURY TRIAL AND ENFORCEMENT COSTS**

3.1 WAIVER OF JURY TRIAL. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

3.2 If any legal action or other proceeding is brought for the enforcement of the Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any provisions of the Agreement, the parties agree that each party shall be responsible for its own attorney’s fees.

**SECTION 4 - AUTHORITY TO PRACTICE**

4.1 The Firm hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a



reputable manner and in accordance with applicable law. Proof of such licenses and approvals shall be submitted to the City upon request.

#### **SECTION 5 – SEVERABILITY**

5.1 If any term or provision of the Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of the Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of the Agreement shall be deemed valid and enforceable to the extent permitted by law.

#### **SECTION 6 - PUBLIC ENTITY CRIMES, DISCRIMINATION AND SCRUTINIZED COMPANIES**

6.1 As provided in Sections 287.132-133, Florida Statutes, as amended from time to time, by entering into the Agreement, Firm certifies that it, its affiliates, suppliers, subcontractors and any other contractors who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof.

6.2 As provided in Sections 287.134, Florida Statutes, as amended from time to time, by entering into the Agreement, Firm certifies that it and its affiliates have not been placed on the discriminatory vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof.

6.3 Firm certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the Firm or any of its subcontractors are found to have submitted a false certification; or if the Firm or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

6.4 If this Agreement is for one million dollars or more, the Firm certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the Firm, or any of its subcontractors are found to have submitted a false certification; or if the Firm or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

#### **SECTION 7 - ENTIRETY OF CONTRACTUAL AGREEMENT**

7.1 The City and Firm agree that this Agreement sets forth the entire contract between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

#### **SECTION 8 – WAIVER**

8.1 Failure of either party to enforce or exercise any right(s) under the Agreement shall not be deemed a waiver of either party's right to enforce or exercise said right(s) at any time thereafter.

#### **SECTION 9 – COMPLIANCE**

9.1 Each of the parties agrees to perform its obligations under the Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of the Agreement. In the event that either party becomes aware of a possible violation of law, regulation or administrative instruction that might affect the validity or legality of the services provided under the Agreement, such party shall immediately notify the other party and the parties shall agree on appropriate corrective action. In the event either party becomes aware that any investigation or proceeding has been initiated with respect to any of the services provided hereunder, such party shall immediately notify the other party.

#### **SECTION 10 – EFFECTIVENESS AND PALM BEACH COUNTY IG**

10.1 This Agreement shall not become effective until approved by the City Commission. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

10.2 In accordance with Palm Beach County ordinance number 2011-009, this Agreement and the Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. Firm should review Palm Beach County ordinance number 2011-009 in order to be aware of its rights and/or obligations under such ordinance and as applicable.

#### **SECTION 11 – INDEPENDENT CONTRACTOR**

11.1 No relationship of employer or employee is created by this Agreement, it being understood that Firm will act hereunder as an independent contractor and none of the Firm's, officers, directors, employees, independent contractors, representatives or agents performing services for Firm pursuant to this Agreement shall have any claim against the City for compensation of any kind under this Agreement. The relationship between the City and Firm is that of independent contractors, and neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

#### **SECTION 12 – COMPENSATION AND INVOICING**

12.1 The City shall compensate the Firm on an hourly basis of \$250 per hour for legal services provided on or after December 1, 2023.

12.2 The Firm shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. Invoices will normally be paid within thirty (30) days following the City's receipt of the Firm's invoice.

12.3 All invoices must be submitted to the Finance Department, 7 North Dixie Highway, Lake Worth Beach, FL 33460, on a monthly basis for review and approval prior to payment with a copy to the City Attorney, Glen J. Torcivia, 701 Northpoint Pkwy, Ste 209, West Palm Beach, FL 33407. Invoices should be itemized to specifically and concisely identify each task performed and should reflect the actual time spent on each task, using 1/10 of an hour increments. The City does not accept grouping of activities or "block billing." Each task must be billed separately, and each billing entry must be sufficiently descriptive so that it can be determined exactly what professional service was provided and the appropriateness of the related time charge can be assessed. Additionally, the personnel who perform each task must be specified together with their hourly rate. Any other type of billing or timekeeping, which allows compensation for time not actually spent by the Firm, is not permitted by the City.

12.4 The City will reimburse the Firm for any out-of-pocket expenses, including, but not limited to, filing fees, long-distance telephone charges, postage charges, courier fees, outside printing, photocopying, court reporting and transcription fees. Payment for some of these fees is outlined more specifically below.

- (a) In-house photocopying will be paid at the rate of ten cents (.10) per page. (It would be helpful if each invoice specified the number of copies for which reimbursement is sought).
- (b) The City will not pay for local facsimile transmissions.
- (c) Long distance telephone calls must state the number of calls, date, length of call, and per minute cost.
- (d) Any per diem, or meal expenses, which may be reimbursable, must be approved in advance (orally) and will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.
- (e) The City will pay for travel, including, but not limited to, attorney’s time for such travel at half of the hourly rate plus reimbursement for parking costs and mileage at the current IRS rate.
- (f) For all disbursements, the City requires copies of paid receipts, invoices, or other documentation acceptable to the City of Lake Worth Finance Department. Such documentation must be sufficient to establish that the expense was actually incurred and necessary in the performance of legal services provided.
- (g) The City will not be responsible for the cost of any computerized legal research service that the Firm receives on a fixed or “flat fee” basis. For payment of computerized research on a “per minute” basis, the City requires copies of transaction reports indicating the total time for each research session, the charge per minute, and a brief description of the issues researched. Any extensive research project (research in excess of three hours whether said research is performed during one session or over several sessions or which is likely to exceed \$300) must be discussed with and approved in advance. Since assignments are made to firms which have been selected for their expertise in particular areas of law, the City will not pay for research that is routine in nature. The City will pay only for updating and Shepardizing existing research and/or fact specific research.

**SECTION 13 - INSURANCE**

13.1 The Firm shall maintain during the term of this Agreement all insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than “excellent” by A.M. Best or as mutually agreed upon by the City and the Firm.

<u><b>Type of Coverage</b></u>	<u><b>Amount of Coverage</b></u>
<b>Professional liability/ Errors and Omissions</b>	\$1,000,000 per occurrence
<b>Commercial General Liability Insurance</b>	\$1,000,000 per occurrence \$2,000,000 aggregate
<b>Automobile Liability (optional /per case basis)</b>	\$1,000,000 combined Single Limit
<b>Workers’ Compensation</b>	Must be in accordance with State and Federal Laws (no minimum amount)
<b>Cyber Liability</b>	\$1,000,000 per occurrence or claim

\$2,000,000 aggregate

Proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance upon request by the City. The City shall be identified as an "Additional Insured" on general and auto liability. Failure to comply with the foregoing requirements shall not relieve Firm of its liability and obligations under this Agreement.

#### **SECTION 14 – PUBLIC RECORDS**

14.1 The Firm shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City's custodian of public records or designee, provide the City 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, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Firm does not transfer the records to the City.
- (d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Firm or keep and maintain public records required by the City to perform the service. If the Firm transfers all public records to the City upon completion of the Agreement, the Firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Firm keeps and maintains public records upon completion of the Agreement, the Firm shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**IF THE FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT (561) 586-1660, CITYCLERK@LAKEWORTHBEACHFL.GOV, or 7 North Dixie Highway, Lake Worth, FL 33460.**

#### **SECTION 15 – E-VERIFY**

15.1 Pursuant to Section 448.095(5), Florida Statutes, the Firm shall:

- (a) Register with and use the E-Verify system to verify the work authorization status of all newly hired employees pursuant to Section 448.095(2), Florida Statutes, and require all subcontractors do the same;

- (b) Secure an affidavit from all subcontractors stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(f), Florida Statutes;
- (c) Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the City upon request;
- (d) Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
- (e) Be aware that a violation of Section 448.09(1), Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement;
- (f) Be aware that a violation of Section 448.095(5) by a subcontractor, and not the Firm, shall be grounds for the City to order the Firm immediately terminate the contract with the subcontractor; and
- (g) Be aware that if the City terminates this Agreement under Section 448.095(5)(c), Florida Statutes, the Firm may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Standard Agreement for Legal Services to be executed as of the day and year set forth above.

ATTEST:



By: Melissa Ann Coyne, MMC  
Melissa Coyne, City Clerk

CITY OF LAKE WORTH BEACH

By: Betty Resch  
Betty Resch, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: Elizabeth Lenihan  
Glen J. Torcivia, City Attorney

GOREN, CHEROF, DOODY & EZROL, P.A.,

By: Michael D. Cirullo, Jr.  
City Attorney

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 16, 2024

**DEPARTMENT:** Leisure Services

**TITLE:**

Agreement with Bausch Enterprises, Inc, to purchase and install lifeguard towers

**SUMMARY:**

The Leisure Services Department is seeking approval of single source procurement with Bausch Enterprises, Inc., for the purchase and installation of three (3) lifeguard towers.

**BACKGROUND AND JUSTIFICATION:**

The 3 towers currently in place were installed in 2009 putting them at 15 years of service. These towers have been through multiple storms over the years and have undergone many repairs. The towers have exceeded their life expectancy of 10- 12 years. The current towers are constructed of fiberglass and steel. These towers suffer from cracks and corrosion (rust) due to harsh beach environment exposure over the years. The proposed lifeguard towers will be a replacement of the 3 towers currently in operation at the beach now. The proposed towers offer the same operational features as the towers currently in place.

Staff did the market research and budget pricing and determined that there are currently only 3 companies that manufacture prefab lifeguard towers. Each of those companies uses a different construction material, wood, fiberglass, and aluminum.

Bausch Enterprises is currently the only company that constructs their towers out of powder coated aluminum with stainless steel fasteners that are also most cost effective and durable. After talking with other municipal beach agencies in the area which use this same product, it was determined that this feature alone would be superior to any other products currently offered. The purchasing division also reached out to the Palm Beach County and City of Ft Lauderdale to determine if solicited contracts were available for the potential piggyback. Palm Beach County chose this Vendor based on the single source procurement and City of Ft. Lauderdale had chosen this Vendor as the only bidder after their formal bid.

City's Procurement Policy and Code authorizes the purchases of goods and services using single source procurement after the search for available sources and determining that solicitation would not be practicable or deliver better results and to be in the best interest of the City.

The direct cost offered to the City by the Vendor was lower than Ft Lauderdale's price on the contract and therefore the City Staff are requesting to move forward with a single source purchase.

The City of Lake Worth Beach received funding through the American Rescue Plan Act (ARPA). A specific amount from the ARPA funds were designated for this project.

**MOTION:**

Move to approve/disapprove the agreement with Bausch Enterprises, Inc. to supply and install Lifeguard Towers.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Agreement

Sole Source Letter

**FISCAL IMPACT ANALYSIS**

Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>
<b>Inflows/Revenues</b>					
Appropriated (Budgeted)	0	0	0	0	0
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
<b>Outflows/Expenditures</b>					
Appropriated (Budgeted)	\$230,795	0	0	0	0
Operating	0	0	0	0	0
Capital	\$0	0	0	0	0
<b>Net Fiscal Impact</b> <i>(If not budgeted)</i>	\$0	0	0	0	0
<b>No. of Addn'l Full-Time Employee Positions</b>	0	0	0	0	0

<b>Contract Award - Existing Appropriation (Budgeted)</b>	
	<b>Expenditure</b>
<b>Department</b>	Capital Project
<b>Division</b>	
<b>GL Description</b>	Improve other than build
<b>GL Account Number</b>	301-9010-589-63-00
<b>Project Number</b>	AP2405
<b>Requested Funds</b>	\$230,795
<b>Remaining Balance</b>	\$0
<b>Source of Revenue</b> (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.)	Grants

**AGREEMENT FOR GOODS AND SERVICES  
(Purchase, Delivery and Installation of Lifeguard Towers)**

**THIS AGREEMENT FOR GOODS AND SERVICES** ("Agreement") is made on this \_\_\_\_\_, between the **City of Lake Worth Beach**, Florida, a municipal corporation ("CITY") with its office located at 7 North Dixie Highway, Lake Worth Beach, Florida 33460, and **Bausch Enterprises, Inc.**, a Florida Corporation with its principal office located at 3171 SE Waaler St, Stuart, FL 34997 ("CONTRACTOR").

**RECITALS**

**WHEREAS**, the CITY is a municipal corporation organized and existing pursuant to the Charter and the Constitution of the State of Florida; and

**WHEREAS**, the CITY is in need of purchase, delivery and installation of Lifeguard Towers for the CITY's beach; and

**WHEREAS**, the City's procurement code, section 2-112(f), authorizes a single source procurement without competition if the single source is the only practicable source or in the best interest of the City; and

**WHEREAS**, the CITY requested and the CONTRACTOR submitted a quote which is attached hereto as **Exhibit "A"** and is incorporated herein; and

**WHEREAS**, the CITY desires to accept the CONTRACTOR's quote in order for the CONTRACTOR to render the goods and services to the City as provided herein; and

**WHEREAS**, based on the CONTRACTOR's past service and experience in its distinctive field of expertise in providing different municipalities with purchasing, delivering and installing lifeguard Towers, the City desires to enter into a direct goods and services agreement with the CONTRACTOR; and

**WHEREAS**, the CONTRACTOR further warrants that it is experienced and capable of performing the tasks hereunder in a professional and competent manner; and

**WHEREAS**, the CITY finds entering this Agreement with the CONTRACTOR as described herein serves a valid public purpose.

**NOW THEREFORE**, the CITY hereby engages the CONTRACTOR, and in consideration of the mutual promises herein contained, the sufficiency of which is hereby acknowledged by both parties, the parties agree as follows:

**1. TERM**

1.1 The term shall commence upon the approval of this Agreement by the City Commission and the CITY's issuance of a Purchase Order. The CONTRACTOR agrees to provide all goods and services required under this Agreement as per the terms and timelines provided in **Exhibit "A"**.

**2. SPECIFICATIONS**



2.1 The specifications set forth in the quote details the purchase, delivery and installation of the Lifeguard Towers to be provided to the CITY. The CONTRACTOR's quote, attached hereto as **Exhibit "A"** and incorporated herein, set forth further details for the furnishing of goods and services under this Agreement for the purchase of three (3) Lifeguards Towers.

2.2 The CONTRACTOR represents to the CITY that all goods and services provided under this Agreement shall be in accordance with accepted and established trade practices and procedures recognized in the CONTRACTOR's trade in general and that the materials shall conform to the highest standards and in accordance with this Agreement.

2.3 The CONTRACTOR further warrants its capability and experience to perform the services provided for herein in a professional and competent manner.

2.4 The goods and services shall be provided by the CONTRACTOR or under its supervision and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under the state and local law to perform such services. All of the CONTRACTOR's personnel (and all subcontractors), while on CITY premises, shall comply with all CITY requirements governing safety, conduct and security.

2.5 The goods and services shall be provided and completed in accordance with the terms and conditions set forth in this Agreement.

### **3. INDEPENDENT CONTRACTOR; USE OF AGENTS OR ASSISTANTS**

3.1 The CONTRACTOR is and shall be, in the provision of all goods and services under this Agreement, an independent contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work performed pursuant to this Agreement shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work.

3.2 To the extent reasonably necessary to enable the CONTRACTOR to perform the goods and services hereunder, the CONTRACTOR shall be authorized to engage the services of any agents or assistants which it may deem proper, and may further employ, engage, or retain the services of such other persons or corporations to aid or assist in the proper performance of its duties. All costs of the services of, or expenses incurred by, such agents or assistants shall be paid by the CONTRACTOR.

### **4. MATERIALS**

4.1 The CONTRACTOR shall provide all materials as more specifically set forth in the quote and its specifications in **Exhibit "A"** unless otherwise specified in writing by the CITY.

### **5. FEE AND ORDERING MECHANISM**

5.1 The CITY shall utilize a City Purchase Order for the purchase of the three (3) Lifeguards Towers, the terms and conditions of the City Purchase Order shall not apply.

5.2 Should the CITY require additional goods and services, which additional goods and services are not included in this Agreement, the CITY and CONTRACTOR will prepare and

execute a written amendment setting forth the additional goods and services and the total cost for the same prior to any such additional goods or services being provided by the CONTRACTOR.

5.3 The CITY's ordering mechanism is a CITY issued Purchase Order; however, the terms and conditions stated in this Agreement and any amendment thereto will apply. CONTRACTOR shall not exceed amounts expressed herein or in any CITY issued Purchase Order. The CITY's Fiscal Year ends on September 30<sup>th</sup> of each calendar year. Except for purchases authorized in a prior fiscal year and fully appropriated and funded, the CITY cannot authorize the purchase of additional goods or services beyond September 30<sup>th</sup> of each calendar year, prior to the annual budget being approved by the CITY's City Commission.

## 6. MAXIMUM COSTS

6.1 The CITY shall compensate the CONTRACTOR in accordance with the CONTRACTOR's quote, which is attached hereto and incorporated herein as **Exhibit "A"**. The total cost to be paid by the CITY to the CONTRACTOR for the purchase, of three (3) Lifeguard Towers including delivery and installation shall not exceed **Two Hundred Thirty Thousand Seven Hundred Ninety-Five Dollars (\$230,795)**.

## 7. INVOICE

7.1 The CONTRACTOR shall submit an itemized invoice to the CITY for the goods and services upon delivery, and final acceptance of the goods and all services by the CITY. Final acceptance occurs when the unit becomes fully operational and accepted by the CITY. The CONTRACTOR shall be paid by the CITY within thirty (30) days of receipt of an approved invoice for all goods and services.

7.2 If the CITY disputes any invoice or part of an invoice, CITY shall notify the CONTRACTOR within a reasonable time after receipt of the invoice. CITY reserves the right to off-set, reduce or withhold any payment to the CONTRACTOR until the dispute is resolved.

## 8. AUDIT BY CITY

8.1 The CONTRACTOR shall permit the CITY, or any authorized representatives of the CITY, at all reasonable times, access to and the right to examine all records, books, papers or documents related to the CONTRACTOR's performance under this Agreement including, but not limited to, expenses for sub-contractors, agents or assistants, direct and indirect charges for work performed and detailed documentation for all such work performed or to be performed under this Agreement.

## 9. COPIES OF DATA/DOCUMENTS

9.1 Copies or original documents prepared by the CONTRACTOR in relation to work associated with this Agreement shall be provided to the CITY. Data collected, stored, and/or provided shall be in a form acceptable to the CITY and agreed upon by the CITY.

## 10. OWNERSHIP



10.1 Each and every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the CONTRACTOR pursuant to or in connection with this Agreement shall be the exclusive property of the CITY.

## **11. WRITTEN AUTHORIZATION REQUIRED**

11.1 The CONTRACTOR shall not make changes in the specifications or goods and services to be provided or perform any additional work or provide any additional materials under this Agreement without first obtaining written authorization from the CITY for such additional services or materials. Additional services or materials provided without written authorization shall be done at the CONTRACTOR's sole risk and without payment from the CITY.

## **12. DEFAULTS, TERMINATION OF AGREEMENT**

12.1 If the CONTRACTOR fails to timely provide the goods and services or has failed in any other respect to satisfactorily perform in accordance with this Agreement; or, is in material breach of a term or condition of this Agreement, the City Manager or designee may give written notice to the CONTRACTOR specifying the default(s) to be remedied. Such notice shall set forth a reasonable timeframe for correcting the default(s) and any suggested corrective measures. If the CONTRACTOR does not remedy the default(s) within the timeframe provided in the CITY's notice or commence good faith steps to remedy the default to the reasonable satisfaction of the CITY, the CITY may take such action to remedy the default and all expenses related thereto shall be borne by the CONTRACTOR including, without limitation, utilization of another contractor to provide for such work and all of the CITY's legal fees; and/or, the CITY may withhold any money due or which may become due to the CONTRACTOR for such expense and/or work related to the claimed default. Alternatively, or in addition to the foregoing, if after three (3) business days the CONTRACTOR has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the CITY, the CITY may elect to terminate this Agreement. No cancellation fee or other compensation shall be paid by the CITY for de-mobilization, take-down, disengagement, wind-down, lost profits, or other costs incurred due to termination of this Agreement under this paragraph.

12.2 Notwithstanding paragraph 12.1, the CITY reserves the right and may elect to terminate this Agreement at any time, with or without cause. At such time, the CONTRACTOR would be compensated only for that work which has been satisfactorily completed to the date of termination. No compensation shall be paid for de-mobilization, take-down, disengagement, wind-down, lost profits, or other costs incurred due to termination of this Agreement under this paragraph.

12.3 If the CITY fails to timely perform in accordance with this Agreement; or, is in material breach of a term or condition of this Agreement, the CONTRACTOR may give written notice to the CITY specifying the default(s) to be remedied. Such notice shall set forth a reasonable timeframe for correcting the default(s) and any suggested corrective measures. If the CITY does not remedy the default(s) within the timeframe provided in the CONTRACTOR's notice or commence good faith steps to remedy the default to the reasonable satisfaction of the CONTRACTOR, the CONTRACTOR may take such action to remedy the default and all expenses related thereto shall be borne by the CITY; and/or, the CONTRACTOR may withhold any work. Alternatively, or in addition to the foregoing, if after three (3) business days the CITY has not remedied defaults or commenced good faith steps to remedy defaults to the satisfaction of the CONTRACTOR, the CONTRACTOR may elect to terminate this Agreement.

## **13. INSURANCE**



13.1. Prior to commencing any work, the CONTRACTOR shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount, and classification as required for strict compliance with this Section and that no material change or cancellation of the insurance shall be effective without thirty (30) days' prior written notice to the CITY. Failure to comply with the foregoing requirements shall not relieve the CONTRACTOR of its liability and obligations under this Agreement. All insurance, other than Workers' Compensation, required hereunder shall specifically include the "City of Lake Worth Beach" as an "Additional Insured" on a primary, non-contributing basis, and the CONTRACTOR shall provide additional insured endorsements section of Certificates of Insurance.

13.2. The CONTRACTOR shall maintain, during the life of this Agreement, commercial general liability, including contractual liability insurance in the amount of \$1,000,000 per occurrence (\$2,000,000 aggregate) to protect the CONTRACTOR from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Agreement, whether such operations be by the CONTRACTOR or by anyone directly employed by or contracting with the CONTRACTOR.

13.3. The CONTRACTOR shall maintain, during the life of this Agreement, comprehensive automobile liability insurance in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damages liability to protect the CONTRACTOR from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

13.4. The CONTRACTOR shall maintain, during the life of this Agreement, Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes.

#### **14. WAIVER OF BREACH**

14.1 The waiver by either party of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that same or any other provision.

#### **15. INDEMNITY**

15.1 The CONTRACTOR shall indemnify, defend and hold harmless, to the maximum extent permitted by law, the CITY and its officers, agents, employees and representatives, from and against any and all liability, suit, actions, proceedings, judgments, claims, losses, liens, damages, injuries (whether in contract or in tort, including personal injury, accidental death, patent infringement or property damage, and regardless, of whether the allegations are false, fraudulent or groundless), costs and expenses (including attorney's fees, litigation, arbitration, mediation, appeal expenses) to the extent arising out of or alleged to have arisen out of the acts, omissions or neglect of the CONTRACTOR or any of its agents, employees, subcontractors or by anyone the CONTRACTOR directly or indirectly employed.

15.2 The CONTRACTOR's obligation to indemnify, defend and hold harmless shall remain in effect and shall be binding upon the CONTRACTOR whether such injury or damage shall accrue, or may be discovered, before or after termination of this Agreement.

15.3 Compliance with any insurance requirements required elsewhere in this Agreement shall not relieve CONTRACTOR of its liability and obligation to defend, hold harmless and indemnify the CITY as set forth in this section.

15.4 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CITY or CONTRACTOR. Further, nothing contained in this Agreement shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in section 768.28, Florida Statutes, as amended from time to time. The provisions and limitations set forth in Section 768.28, Florida Statutes, shall apply to this Agreement to claims or actions arising in tort and/or in contract.

15.5 The CONTRACTOR's failure to comply with this section's provisions shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

## **16. ENTIRE AGREEMENT AND ORDER OF PRECEDENCE**

16.1 This Agreement consists of the terms and conditions provided herein and the CONTRACTOR's specifications and pricing (Exhibit "A"). To the extent that there exists a conflict between this Agreement and the remaining documents, the terms, conditions, covenants, and/or provisions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

16.2 This Agreement supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other Agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding. This Agreement may be executed electronically and such electronic signature shall be treated as an original signature of the party executing this Agreement electronically.

## **17. ASSIGNMENT**

17.1 Nothing under this Agreement shall be construed to give any rights or benefits to any party other than the CITY and the CONTRACTOR. All duties and responsibilities under this Agreement shall be for the sole and exclusive benefit of the CITY and the CONTRACTOR and not for the benefit or any other party. The CONTRACTOR shall not assign any right or interest in this Agreement, and shall not delegate any duty owned, without the CITY's prior written consent. Any attempted assignment or delegation shall be void and totally ineffective for all purposes, and shall constitute a material breach upon which the CITY may immediately terminate or suspend this Agreement.

17.2 In the event the CITY consents to an assignment or delegation, the assignee, delegate, or its legal representative shall agree in writing to personally assume, perform, and be bound by this Agreement's covenants, conditions, obligations and provisions.

## **18. SUCCESSORS AND ASSIGNS**

18.1 Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.



**19. WAIVER OF TRIAL BY JURY**

19.1 TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

**20. GOVERNING LAW AND REMEDIES**

20.1 The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Florida and exclusive venue shall be in Palm Beach County, Florida.

20.2 No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**21. TIME IS OF THE ESSENCE**

21.1 Time is of the essence in the completion of the purchase, delivery and installation of the lifeguard towers as specified herein.

**22. NOTICES**

22.1 All notices hereunder must be in writing and, unless otherwise provided herein, shall be deemed validly given on the date when personally delivered to the address indicated below; or on the third (3<sup>rd</sup>) business day following deposit, postage prepaid, using certified mail, return receipt requested, in any U.S. postal mailbox or at any U.S. Post Office; or when sent via nationally recognized overnight courier to the address indicated below. Should the CITY or the CONTRACTOR have a change of address, the other party shall immediately be notified in writing of such change, provided, however, that each address for notice must include a street address and not merely a post office box. All notices, demands or requests from the CONTRACTOR to the CITY shall be given to the CITY address as follows:

City of Lake Worth Beach  
Attn: City Manager/Financial Department/Procurement Division  
7 North Dixie Highway  
Lake Worth Beach, Florida 33460

All notices, demands or requests from the CITY to the CONTRACTOR shall be given to the CONTRACTOR address as follows:

Bausch Enterprises, Inc.  
Attn: Todd Bausch  
3171SE Waaler Street  
Stuart, FL 34997

## **23. SEVERABILITY**

23.1 Should any part, term or provision of this Agreement or any document required herein to be executed be declared invalid, void or unenforceable, all remaining parts, terms and provisions hereof shall remain in full force and effect and shall in no way be invalidated, impaired or affected thereby.

## **24. DELAYS AND FORCES OF NATURE**

24.1 The CONTRACTOR shall not be considered in default by reason of a delay in timely performance if such delay and failure arises out of causes reasonably beyond the control of the CONTRACTOR or its subcontractors and without their fault or negligence. Upon the CONTRACTOR's request, the CITY shall consider the facts and extent of any such delay and failure to timely perform the work for reason beyond the control of the CONTRACTOR and, if the CONTRACTOR'S delay and failure to timely perform was without it or its subcontractors' fault or negligence, as determined by the CITY in its sole discretion, the time of completion shall be extended for any reasonable time that the CITY, in its sole discretion, may decide; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time. If the CONTRACTOR is delayed at any time in the progress of the work by any act or neglect of the CITY or its employees, or by any other contractor employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONTRACTOR'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY, in its sole discretion, shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY, in its sole discretion, may decide. No extension of time shall be made for any delay occurring more than five (5) days before a claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary. The CONTRACTOR's sole remedy for a delay in completion of the work for any reason will be an extension of time to complete the work and CONTRACTOR specifically waives any right to seek any monetary damages or losses for a delay in completion of the work, including, but not limited to, waiving any right to seek monetary amounts for lost profits, additional overhead, salaries, lost productivity, efficiency losses, or any other alleged monetary losses which may be allegedly suffered by CONTRACTOR due to a delay in completion of the work.

24.2 Neither party shall be considered in default in the performance of its obligations hereunder or any of them, if such obligations were prevented or delayed by any cause, existing or future beyond the reasonable control of such party which include but are not limited to acts of God, labor disputes or civil unrest.

## **25. COUNTERPARTS**

25.1 This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. Each of the parties shall sign a sufficient number of counterparts, so that each party will receive a fully executed original of this Agreement.

## **26. PUBLIC ENTITY CRIMES**

26.1 CONTRACTOR acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a



public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. CONTRACTOR will advise the CITY immediately if it becomes aware of any violation of this statute.

## **27. PREPARATION**

27.1 This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

## **28. PALM BEACH COUNTY INSPECTOR GENERAL**

28.1 In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

## **29. ENFORCEMENT COSTS**

29.1 All parties shall be responsible for their own attorneys' fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement.

## **30. PUBLIC RECORDS**

CONTRACTOR shall comply with Florida's Public Records Laws, Chapter 119, Florida Statutes, and, if it is acting on behalf of the CITY as provided under section 119.011(2), the CONTRACTOR specifically agrees to:

- (a) Keep and maintain public records required by the CITY to perform the services under this Agreement.
- (b) Upon request from the CITY's custodian of public records, provide the CITY 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 this Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that said public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement, if the CONTRACTOR does not transfer the records to the CITY.
- (d) Upon the completion of the Agreement, transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR or keep and maintain public records required by the CITY to perform the services. If the CONTRACTOR transfers all public records to the CITY upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from

the CITY's custodian of public records, in a format that is compatible with the information technology systems of the City.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (561) 586-1660, CITYCLERK@LAKEWORTHBEACHFL.GOV OR 7 NORTH DIXIE HIGHWAY, LAKE WORTH BEACH, FLORIDA 33460.**

**31. COPYRIGHTS AND/OR PATENT RIGHTS**

31.1 CONTRACTOR warrants that there has been no violation of copyrights and/or patent rights in the manufacturing, producing or selling of the goods, shipped or ordered, as a result of this Agreement and the CONTRACTOR agrees to hold the City harmless from any and all liability, loss, or expense occasioned by any such violation.

**32. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH**

32.1 CONTRACTOR certifies that all material, equipment, etc., contained in this bid meets all OSHA requirements. CONTRACTOR further certifies that, if the material, equipment, etc., delivered is subsequently found to be deficient in any OSHA requirements in effect on date of delivery, all costs necessary to bring the material, equipment, etc. into compliance with the aforementioned requirements shall be borne by the CONTRACTOR.

**33. FEDERAL AND STATE TAX**

33.1 The CITY is exempt from Federal Tax and State Tax for Tangible Personal Property. The Procurement Official will provide the CONTRACTOR with a signed exemption certificate submitted by the CONTRACTOR. CONTRACTOR shall not be exempted from paying sales tax to their suppliers for materials to fulfill contractual obligations with the CITY, nor shall CONTRACTOR be authorized to use the City's Tax Exemption Number in securing such materials.

**34. PROTECTION OF PROPERTY**

34.1 The CONTRACTOR shall at all times guard against damage or loss to the property of the CITY or of other vendors or contractors and shall be held responsible for replacing or repairing any such loss or damage. The CITY may withhold payment or make such deductions as deemed necessary to insure reimbursement or replacement for loss or damage to property through negligence of the successful CONTRACTOR or its agents. The CONTRACTOR shall be responsible to safeguard all of their property such as tools and equipment while on site. The CITY will not be held responsible for any loss of CONTRACTOR property due to theft or vandalism.



**35. DAMAGE TO PERSONS OR PROPERTY**

35.1 The responsibility for all damage to person or property arising out of or on account of work done under this Agreement shall rest upon the CONTRACTOR, and he/she shall save the CITY and political unit thereof harmless from all claims made on account of such damages.

**36. WARRANTY**

36.1 CONTRACTOR warrants and guarantees to the CITY that goods and services provided under this Agreement shall be in accordance with the Agreement and the other documents specifically included in this Agreement. CONTRACTOR warrants that all materials and parts supplied under this Agreement shall be free from defects for a minimum of 18 months from the final acceptance of the work. CONTRACTOR guarantees that all goods and services provided under this Agreement will be free from defects for a minimum of 18 months from the final acceptance of the work. CONTRACTOR shall provide to the CITY any and all manufacturers' warranties for the goods and services being provided under this Agreement.

**37. SCRUTINIZED COMPANIES**

37.1 CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

37.2 If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

37.3 The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

37.4 The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

37.5 The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the City of the same.

37.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

### **38. E-VERIFY**

Pursuant to Section 448.095(2), Florida Statutes, the CONTRACTOR shall:

38.1 Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

38.2 Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

38.3 Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the City upon request;

38.4 Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

38.5 Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,

38.6 Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, CONTRACTOR may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

### **39. SURVIVABILITY**

39.1 Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**  
**SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement for Goods and Services (Purchase, Delivery and Installation of Lifeguard Towers) on the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

CONTRACTOR:

**BAUSCH ENTERPRISES, INC.**

By: Todd S. Bausch

Print Name: Todd S. Bausch

Title: President

[Corporate Seal]

STATE OF Florida  
COUNTY OF Martin

THE FOREGOING instrument was acknowledged before me by means of • physical presence or • online notarization on this 5 day of March 2024, by Todd Shawn Bausch, as the President [title] of **Bausch Enterprises, Inc.**, a Florida Corporation, who is personally known to me or who has produced Florida Driver License as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.

[Signature]  
Notary Public Signature

Notary Seal:

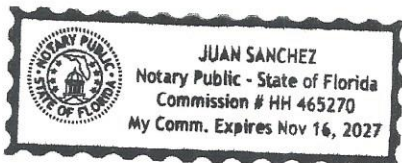




Exhibit "A"

**CONTRACTOR'S Quote (2 pages)**



Bausch Watch Tower Division



**QUOTE**

Bausch Enterprises Inc.  
3171 SE Waxler Street  
Stuart, FL 34997  
772.220.6652

DATE: FEBRUARY 19, 2024

EXPIRATION DATE: April 30, 2024

Doug Yoakum  
Aquatics Manager Ocean Rescue  
561-718-4304  
City of Lake Worth Beach

SALESPERSON	JOB	INSTALLATION METHODS	DELIVERY ESTIMATE	DELIVERY DATE	PAYMENT TERMS	DUE DATE
Todd B.	3 Zeros	Crane needed for assembly and installation	Deliver 1 unit then 2 units	TBA	To be negotiated	TBD

QTY	DESCRIPTION	UNIT PRICE	LINE TOTAL
3	Bausch "Zero" Watch Tower, standard package (please see attached description) 2 with centered aluminum low angle stairs with railings and 1 with ramp	\$66,500	\$199,500
6	Side ventilation hatches to open outward (new standard option) 2 per tower	\$0	\$0
3	Aluminum powder coated board box	\$3350	\$10,050
6	Accordion Shutter to secure Door window	\$490	\$2940
3	Interior Storage cabinet under desk	\$675	\$2025
1	Upper Storage Shelf	\$450	\$1350
1	50 Ton Crane for assembly of Tower #3 and removal of old tower #3	\$1685	\$1685
1	140 Ton Crane required for assembly, setting new towers in place, and removal of old towers #1 and #2	\$8745	\$8745
2	Delivery Charge - 2 trips	\$1050	\$2100





Phone (772) 220-6652



Fax (772) 220-6653

Location: 3171 SE Waaler St., Stuart, FL 34997

Mailing: P.O. Box 326, Port Salerno, FL 34992

August 24, 2021

To whom it may concern:

Bausch Enterprises, Inc. is the sole supplier of Bausch Watchtowers, the only aluminum lifeguard towers manufactured in the United States. To the best of our knowledge, these towers are the only in the world with a modular construction design, which allows the towers to be shipped at much lower costs and assembled on-site per customer specifications. The powder-coated aluminum construction is also unique, requiring less maintenance in the marine environment than wood construction, and offering longevity over fiberglass.

Bausch Watchtowers are also the only lifeguard towers manufactured that can be constructed with the additional customizations many year-round beach patrols would prefer, such as an 8-foot ground-to-platform height, additional secured storage for equipment underneath the tower, anodized aluminum railings, and a choice of door widths to accommodate a wider range of equipment inside the tower.

If there are any additional questions regarding Bausch Watchtowers, please contact us anytime.

Sincerely,

A handwritten signature in blue ink that reads "Todd Bausch". The signature is fluid and cursive.

Todd Bausch  
President

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 16, 2024

**DEPARTMENT:** Leisure Services

**TITLE:**

Ratification of the emergency procurement with Musco Sports Lighting, LLC for the removal of the baseball field lighting at Dave Manzo field

**SUMMARY:**

The field lighting at the Dave Manzo field at 900 22<sup>nd</sup> Ave N. was removed under the City Manager's emergency powers as a delay could have caused an immediate threat or danger to public health, safety, or welfare, or to a loss of public or private property, and/or interruption in the delivery of an essential government service.

**BACKGROUND AND JUSTIFICATION:**

The lighting at Dave Manzo field is more than 35 years old, which exceeds expected life expectancy. At present two fixtures have fallen to the ground due to corrosion of the crossarm. Each fixture weighs approximately 55 lbs. During a light test inspection, it was discovered that the crossarms holding the fixtures have corroded, risking more fixtures falling or the complete crossarm assembly falling. There are also electrical concerns with open wires exposed.

The lighting was removed until replacement lighting can be purchased. The cost to remove the lighting was \$62,500 and was approved by the Finance Department to utilize ARPA funding.

In accordance with the City Procurement Code Sec. 2-112 (F), City may utilize emergency procurement when the delay incident would cause an immediate threat or danger to public health, safety, or welfare, or to a loss of public or private property, or interruption in the delivery of an essential government service. Therefore, the City reached out to qualified purchasing cooperative Vendor, Musco Lighting LLC who has a valid agreement through Sourcewell Purchasing Cooperative, for a quotation to complete the required services. In accordance with the City Procurement Code Sc. 2-112 (e), the City may participate in cooperative purchasing agreements for procurements.

**MOTION:**

Move to approve/disapprove ratification of the emergency procurement with Musco Sports Lighting, LLC for the removal of the Dave Manzo Field lighting

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Quote

**FISCAL IMPACT ANALYSIS**

Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>
<b>Inflows/Revenues</b>					
Appropriated (Budgeted)	0	0	0	0	0
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
<b>Outflows/Expenditures</b>					
Appropriated (Budgeted)	0	0	0	0	0
Operating	\$62,500	0	0	0	0
Capital		0	0	0	0
<b>Net Fiscal Impact</b> <i>(If not budgeted)</i>	\$62,500	0	0	0	0
<b>No. of Addn'l Full-Time</b> <b>Employee Positions</b>	0	0	0	0	0

<b>New Appropriation (Not Budgeted) Fiscal Impact:</b>		
	<b>Revenue Source</b>	<b>Expenditure</b>
<b>Department</b>	Grants	General Fund
<b>Division</b>	ARPA	Recreation
<b>GL Description</b>	Transfer to General Fund	Contractual Services
<b>GL Account Number</b>	180-9010-581-91-01	001-8061-572-34-50
<b>Project Number</b>	N/A	AP2413
<b>Requested Funds</b>	\$62,500	\$62,500
<b>Remaining Balance</b>	N/A	N/A

Dave Manzo Park Baseball – Lake Worth Beach, Florida  
04/04/2024

Sourcewell

Master Project: 199030, Contract Number: 041123-MSL, Expiration: 06/16/2027

Category: Sports lighting with related supplies and services

All purchase orders should note the following:  
Sourcewell Purchase – Contract Number: 041123-MSL

Quotation Price

**Demo Existing Fixtures - .....\$62,500.00**

*Sales tax, bonding, labor, installation, and unloading of the equipment are not included.*

*Quote is confidential. Pricing and lead times are effective for 30 days only. Prices are subject to change if the order is not released within 60 days from the date of the purchase.*

Supplemental Lighting

- 1 OSQ area luminaires

Payment Terms

Final payment terms are subject to approval by Musco credit department. Final payment shall not be withheld by Buyer on account of delays beyond the control of Musco.

Email or fax a copy of the Purchase Order to Musco Sports Lighting, LLC:

Musco Sports Lighting, LLC  
Attn: Musco Contracts  
Fax: 800-734-6402  
Email: musco.contracts@musco.com

All Purchase orders should note the following:  
Sourcewell Purchase – Contract Number: 041123-MSL

Delivery Timing

8 - 10 weeks for delivery of materials to the job site from the time of order, submittal approval, and confirmation of order details including voltage, phase, and pole/luminaire locations.

Notes

Upon receipt of the purchase order, we will be onsite within 5 days to begin demo. Demo completed within 3 days.

Thank you for considering Musco for your lighting needs. Please contact me with any questions or if you need additional details.



Sales Representative  
Musco Sports Lighting, LLC  
Phone: 954-629-8446  
E-mail: [tim.imhoff@musco.com](mailto:tim.imhoff@musco.com)



# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 16, 2024

**DEPARTMENT:** Financial Services

**TITLE:**

Agreement with Stantec Consulting Services, Inc for Comprehensive Sustainability Analysis for the City for the FY 2025 Budget not to exceed \$138,279.00.

**SUMMARY:**

The Agreement will provide an update to the FY2024 Comprehensive Integrated Financial Sustainability Analysis which provided framework for the City's FY 2025 budget and budget projections through FY 2034

**BACKGROUND AND JUSTIFICATION:**

As demonstrated during the FY 2019, 2020, 2021, 2022, 2023 & 2024 budget process, Stantec FAMS-EL© Model provides a dashboard of information and variables for multi-year budgets and plans. The Model plots multiple variables in the City's differing funds and enables the City to obtain real-time information on proposed changes to those funds.

Stantec Consulting Services, Inc has provided the City with a written proposal to provide an updated Revenue Sufficiency Analysis for FY 2025 budget preparation in the amount not to exceed \$138,279.00. The City's Procurement Code, section 2-112 (g) and City Procurement Policy authorize the selection of a consultant to provide professional services with a distinctive field of expertise without competitive selection. The City's procurement code, section 2-112 (e), similarly authorizes single source procurement without competition if the single source is the only practical source or in the best interest of the City. Based on Stantec's past service and experience with the City and propriety FAMS-XL© Model, the City may enter into a direct professional services agreement with Stantec to provide an update of its Comprehensive Integrated Financial Sustainability Analysis for the City's major funds for FY 2025 budget preparation.

**MOTION:**

Move to approve/disapprove the agreement with Stantec for an updated Comprehensive Integrated Financial Sustainability Analysis for FY 2025 Budget Preparation, not to exceed \$138,279.00

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Stantec Agreement

**FISCAL IMPACT ANALYSIS**

Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>
<b>Inflows/Revenues</b>					
Appropriated (Budgeted)	0	0	0	0	0
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
<b>Outflows/Expenditures</b>					
Appropriated (Budgeted)	\$138,279	0	0	0	0
Operating	0	0	0	0	0
Capital	0	0	0	0	0
<b>Net Fiscal Impact</b>					
<i>(If not budgeted)</i>	0	0	0	0	0
<b>No. of Addn'l Full-Time</b>					
Employee Positions	0	0	0	0	0

<b>Contract Award - Existing Appropriation (Budgeted)</b>	
	<b>Expenditure</b>
Department	Various -Electric, Water, Finance, Refuse
Division	Various Accounts
GL Description	Various
GL Account Number	Various Accounts
Project Number	N/A
Requested Funds	\$138,279.00
Remaining Balance	N/A
Source of Revenue (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.)	Current Revenue

**PROFESSIONAL SERVICES AGREEMENT**  
**(FY 2024 Comprehensive Integrated Financial Sustainability Analysis)**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on \_\_\_\_\_, 2024, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Stantec Consulting Services Inc.**, a corporation authorized to do business in the State of Florida (“Consultant”).

**RECITALS**

**WHEREAS**, the Consultant has provided the City with a written proposal for a FY2024 Comprehensive Integrated Financial Sustainability Analysis; and

**WHEREAS**, the City’s procurement code, section 2-112(c), authorizes the selection of a consultant to provide professional services with a distinctive field of expertise without competitive selection; and

**WHEREAS**, the City’s procurement code, section 2-112(f), similarly authorizes a single source procurement without competition if the single source is the only practicable source or in the best interest of the City; and

**WHEREAS**, based on the Consultant’s past service and experience with the City; the Consultant’s development of its FAMS-XL© model for the City’s Enterprise Funds and General Fund; the Consultant’s distinctive field of expertise and experience in creating comprehensive integrated revenue sufficiency analysis; and, the substantial development delay in seeking similar services from another consultant, the City desires to enter into a direct professional services agreement with the Consultant to perform the FY-2024 comprehensive integrated financial sustainability analysis; and

**WHEREAS**, the purpose of this Agreement is to set forth certain terms and conditions for the provision of services by the Consultant to the City; and,

**WHEREAS**, the City finds this Agreement serves a valid public purpose.

**NOW, THEREFORE**, in consideration of the premises and mutual covenants herein contained, the sufficiency of which is hereby acknowledged by the parties, the City and the Consultant agree as follows:

**SECTION 1: INCORPORATION OF RECITALS.** The foregoing Recitals are incorporated into this Agreement as true and correct statements.

**SECTION 2: CONSULTANT’S SERVICES.** As more specifically set forth in the Consultant’s proposal (dated February 29, 2024) which is attached hereto as **Exhibit “A”** and incorporated herein, the Consultant shall update the source data, assumptions and projections within its FAMS-XL© modeling system for each of the City’s enterprise funds (water, local sewer, stormwater, sanitation, beach and electric) as well as the City’s general fund. The Consultant shall also develop a corresponding revenue sufficiency analysis report reflecting the updated projections and information regarding the City’s enterprise funds and the City’s general fund.

**SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP.** No relationship of employer or employee is created by this Agreement, it being understood that Consultant will act hereunder as an independent contractor and none of the Consultant’s, officers, directors, employees, independent contractors, representatives or agents performing services for Consultant pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and Consultant is that of independent contractors, and neither shall be considered a joint venture, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.



#### **SECTION 4: TERM, TIME AND TERMINATION.**

a. Term. The term of this Agreement shall commence upon the approval of this Agreement by the City Commission and shall be for the term necessary to complete all services as set forth in the Consultant's proposal (Exhibit "A") unless earlier terminated as stated herein. The term may be extended by written agreement of the parties for further services related to those services identified herein.

b. Time for Completion. The Consultant shall at all times carry out its duties and responsibilities as expeditiously as possible in accordance with the applicable professional standard of care and in accordance with the project schedule set forth in **Exhibit "A"**.

c. Force Majeure. Neither party hereto shall be liable for its failure to perform hereunder due to any circumstances beyond its reasonable control, such as acts of God, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The Consultant or City may suspend its performance under this Agreement as a result of a force majeure without being in default of this Agreement, but upon the removal of such force majeure, the Consultant or City shall resume its performance as soon as is reasonably possible. Upon the Consultant's request, the City shall consider the facts and extent of any failure to perform the services and, if the Consultant's failure to perform was without its or its subconsultants' fault or negligence, the schedule and/or any other affected provision of this Agreement may be revised accordingly, subject to the City's rights to change, terminate, or stop any or all of the services at any time. No extension shall be made for delay occurring more than seven (7) days before a notice of delay or claim therefore is made in writing to the City. In the case of continuing cause of delay, only one (1) notice of delay or claim is necessary.

d. Termination without cause. Either party may terminate this Agreement at any time with or without cause by giving not less than thirty (30) days written notice of termination.

e. Termination for cause. Either party may terminate this Agreement at any time in the event that the other party engages in any act or makes any omission constituting a material breach of any term or condition of this Agreement. The party electing to terminate this Agreement shall provide the other party with written notice specifying the nature of the breach. The party receiving the notice shall then have three (3) days from the date of the notice in which to remedy the breach. If such corrective action is not taken within three (3) days, then this Agreement shall terminate at the end of the three (3) day period without further notice or demand.

f. Early Termination. If this Agreement is terminated before the completion of all services by either party, the Consultant shall:

1. Stop services on the date and to the extent specified including without limitation services of any subconsultants.
2. Transfer all work in progress, completed work, and other materials related to the terminated services to the City in the format acceptable to City.
3. Continue and complete all parts of the services that have not been terminated.

g. Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination. Notwithstanding the foregoing, the parties acknowledge and agree that the City is a municipal corporation and political subdivision of the state of Florida, and as such, this Agreement (and all Exhibits hereto) are subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Notwithstanding anything in this Agreement to the contrary, in the event that

no funds are appropriated or budgeted by the City's governing board in any fiscal year to pay the costs associated with the City's obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the City to be, insufficient to pay the costs associated with the City's obligations hereunder in any fiscal period, then the City will notify Consultant of such occurrence and either the City or Consultant may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the City of any kind whatsoever; however, City shall pay Consultant for all services performed under this Agreement through the date of termination.

**SECTION 5: COMPENSATION.**

a. **Payments.** The City agrees to compensate the Consultant in accordance with the rate schedule set forth in Exhibit "A"; **provided that, the total amount to be paid the Consultant under this Agreement shall not exceed One Hundred Thirty-Eight Thousand Two Hundred Seventy-Nine Dollars (\$138,279).** The City shall not reimburse the Consultant for any additional costs incurred as a direct or indirect result of the Consultant providing services to the City under this Agreement and not set forth in Exhibit "A".

b. **Invoices.** The Consultant shall render monthly invoices to the City for services that have been rendered in conformity with this Agreement in the previous month. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will normally be paid within thirty (30) days following the City's receipt of the Consultant's invoice.

**SECTION 6: INDEMNIFICATION.** The Consultant, its officers, employees and agents shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence of the Consultant, its officers, directors, employees, representatives and agents employed or utilized by the Consultant in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Consultant, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

**SECTION 7: COMPLIANCE AND DISQUALIFICATION.** Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

**SECTION 8: PERSONNEL.** The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and authorized or permitted under federal, state and local law to perform such services.

**SECTION 9: SUB-CONSULTANTS.** The City reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and approve all qualifications of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Agreement. All sub-consultants providing professional services to the Consultant under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement. In the event that a sub-consultant does not have insurance or does not meet the insurance limits as stated in this Agreement,

the Consultant shall indemnify and hold harmless the City for any claim in excess of the sub-consultant's insurance coverage, arising out of the negligent acts, errors or omissions of the sub-consultant.

**SECTION 10: FEDERAL AND STATE TAX.** The City is exempt from payment of Florida State Sales and Use Tax. The Consultant is not authorized to use the City's Tax Exemption Number.

**SECTION 11: INSURANCE.** Prior to commencing any services, the Consultant shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and the Consultant. All such insurance policies may not be modified or terminated without the express written authorization of the City.

<b><u>Type of Coverage</u></b>	<b><u>Amount of Coverage</u></b>
Professional liability/ Errors and Omissions	\$1,000,000 per claim
Commercial general liability occurrence (Products/completed operations Contractual, insurance broad form property, Independent Consultant, personal injury)	\$1, 000,000 per \$2,000,000 annual aggregate
Automobile (owned, non-owned, & hired)	\$ 1,000,000 single limits
Worker's Compensation	\$ statutory limits

The commercial general liability and automobile policies will name the City as an additional insured and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that the Consultant has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve Consultant of its liability and obligations under this Agreement.

**SECTION 12: SUCCESSORS AND ASSIGNS.** The City and the Consultant each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

**SECTION 13: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.** All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 14: WAIVER OF JURY TRIAL.** TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

**SECTION 15: ACCESS AND AUDITS.** The Consultant shall maintain adequate records to justify all payments made by the City under this Agreement for at least three (3) years after completion of this Agreement and longer if required by applicable federal or state law. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Consultant's place of business. Notwithstanding the foregoing, the City's right to inspect, copy and audit shall not extend to the composition of the Consultant's rates and fees, percentage mark ups or multipliers but shall apply only to their application to the applicable units. In no circumstances will Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

**SECTION 16: NONDISCRIMINATION.** The Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

**SECTION 17: AUTHORITY TO PRACTICE.** The Consultant hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

**SECTION 18: SEVERABILITY.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 19: PUBLIC ENTITY CRIMES.** Consultant acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Consultant will advise the City immediately if it becomes aware of any violation of this statute.

**SECTION 20: NOTICE.** All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the CITY shall be sent to:

City of Lake Worth Beach  
Attn: City Manager/Finance Department/Procurement Division  
7 N. Dixie Highway  
Lake Worth Beach, FL 33460

and if sent to the Consultant, shall be sent to:

Stantec Consulting Services Inc.  
Attn: David Hyder, Senior Principal – Financial Services  
777 S. Harbor Island Blvd., Suite 600  
Tampa, FL 33602

The foregoing names and addresses may be changed if such change is provided in writing to the other party. Notice shall be deemed given upon receipt.

**SECTION 21: ENTIRETY OF AGREEMENT.** The City and the Consultant agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**SECTION 22: WAIVER.** Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 23: PREPARATION AND NON-EXCLUSIVE.** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

**SECTION 24: MATERIALITY.** All provisions of the Agreement shall be deemed material. In the event Consultant fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the Consultant to terminate for cause.

**SECTION 25: LEGAL EFFECT.** This Agreement shall not become binding and effective until approved by the City. The Effective Date is the date this Agreement is executed by the City.

**SECTION 26: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS.** Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

**SECTION 27: SURVIVABILITY.** Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**SECTION 28: COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, or electronically and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

**SECTION 29: PALM BEACH COUNTY IG.** In accordance with Palm Beach County ordinance number 2011-009, the CONSULTANT acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONSULTANT has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

**SECTION 30: AGREEMENT DOCUMENTS AND CONTROLLING PROVISIONS.** This Agreement consists of this Agreement and Exhibit "A". The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement and Exhibit "A", the terms and conditions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

**SECTION 31: OWNERSHIP OF DELIVERABLES.** Upon full payment of all monies owed to the Consultant, the deliverables, work product, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the Consultant in Exhibit "A" to the City ("Work Product") shall become the property of the City. The Consultant may keep copies or samples thereof and

shall have the right to use the same for its own purposes. The City accepts sole responsibility for the reuse of any such deliverables in a manner other than as initially intended or for any use of incomplete documents. **The City shall have no ownership, license to or other right to use the Consultant's FAMS-XL© Model under this Agreement. All rights title and interest in the Consultant's FAMS-XL© Model shall remain with the Consultant.**

**SECTION 32: REPRESENTATIONS AND BINDING AUTHORITY.** By signing this Agreement, on behalf of the Consultant, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the Consultant for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

**SECTION 33: PUBLIC RECORDS.** The Consultant shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- a. Keep and maintain public records required by the City to perform the service.
- b. Upon request from the City's custodian of public records or designee, provide the City 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, Florida Statutes, or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Consultant does not transfer the records to the City.
- d. Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**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 AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF LAKE WORTH BEACH, ATTN: CITY CLERK, AT (561) 586-1662, CITY CLERK@LAKEWORTHBEACHFL.GOV, 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460.**

**SECTION 34: CONFIDENTIAL AND PROPRIETARY INFORMATION.** Each party (the "Receiving Party") will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software ("Confidential Information") obtained from the other party (the "Disclosing Party"); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is

or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party's Confidential Information, (iv) that is already in the Receiving Party's possession at the time of disclosure, or (v) that is required to be released by law.

**SECTION 35: EXPORT ADMINISTRATION.** Each party agrees to comply with all export laws and regulations of the United States ("Export Laws") to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

**SECTION 36: NO THIRD-PARTY BENEFICIARIES.** There are no third-party beneficiaries under this Agreement.

**SECTION 37: SCRUTINIZED COMPANIES.**

a. The Consultant certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if the Consultant or any of its subcontractors are found to have submitted a false certification; or if the Consultant or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

b. If this Agreement is for one million dollars or more, the Consultant certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if the Consultant, or any of its subcontractors are found to have submitted a false certification; or if the Consultant or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

c. The Consultant agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

d. The Consultant agrees that the certifications in this section shall be effective and relied upon by the City for the term of this Agreement, including any and all renewals.

e. The Consultant agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the Consultant shall immediately notify the City of the same.

f. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

**SECTION 38: E-VERIFY**

Pursuant to Section 448.095(2), Florida Statutes, the Consultant shall:

a. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;



- b. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an “unauthorized alien” as defined in Section 448.095(1)(k), Florida Statutes;
- c. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the City upon request;
- d. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
- e. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
- f. Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the Consultant may not be awarded a contract for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

**SECTION 39: LIMITATION OF LIABILITY.** In no event shall either party be liable for any indirect, incidental, special or consequential damages whatsoever (including but not limited to lost profits or interruption of business).

**SECTION 40: CONSULTANT LIMITATION OF LIABILITY.**

**PURSUANT TO SECTION 558.0035, FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.**

**REMAINDER OF THIS PAGE LEFT BLANK**  
**SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF the parties hereto have made and executed this Professional Services Agreement (FY-2024 Comprehensive Integrated Financial Sustainability Analysis) on the day and year first above written.

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

By: \_\_\_\_\_  
Mellissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director



[Corporate Seal]

CONSULTANT: STANTEC CONSULTING SERVICES, INC.

By: \_\_\_\_\_  
*Andrew Burnham*

Print Name: Andrew Burnham

Title: Vice President

STATE OF Florida )  
COUNTY OF Hillsborough )

THE FOREGOING instrument was acknowledged before me by means of  physical presence or  online notarization on this 22nd day of March, 2024, by Andrew Burnham as the Vice President [title] of Stantec Consulting Services Inc., a Florida Corporation, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that he or she is duly authorized to execute the foregoing instrument and bind the CONTRACTOR to the same.



Notary Seal:

*Geri L. Reese*  
Notary Public Signature

**EXHIBIT "A"**

**(Consultant's Proposal, 11 pages)**



February 29, 2024

Mr. Yannick Ngendahayo  
Finance Director  
City of Lake Worth Beach  
7 North Dixie Highway  
Lake Worth Beach, FL, 33460

Re: FY 2024 Comprehensive Integrated Financial Sustainability Analysis

Dear Mr. Ngendahayo:

As requested, Stantec has prepared this proposed Agreement for the above referenced Project. The following sections present the scope of services included in this proposal and our proposed work plan and fee to accomplish the scope of services.

### **Scope of Services**

The proposed scope of services for this proposed Agreement is as follows:

1. Update the source data, assumptions, and projections within our FAMS Modeling System which has been customized for each of the City's Enterprise Funds (Water, Local Sewer, Stormwater, Sanitation, Beach and Electric) as well as the City's General Fund and have been updated annually since 2015.
2. Meet with Staff in interactive online work sessions to review preliminary results for each fund. Make adjustments as necessary and present results to City Commission.
3. Develop a corresponding revenue sufficiency analysis report reflecting the updated projections and information regarding the City's Enterprise Funds and the City's General Fund.

### **Meetings**

Stantec will conduct the following conference calls, on-site meetings (if possible and appropriate) and interactive work sessions during the project. Each is described in the Project Work Plan and Cost Estimate Schedule, and a summary of the meetings is presented below. Meetings with City staff will be conducted using online conferences to review data, assumptions, and results.

1. Stantec will conduct (1) one kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions for all seven funds.
2. Stantec will conduct multiple online interactive review session with City staff to review data, assumptions, and preliminary results for each of the seven funds.
3. Stantec will conduct one onsite presentation of the results of the analysis to City Commission during a regularly schedule work session.



**Proposed Work Plan and Consultant’s Compensation**


Stantec has developed the Appendix a Project Work Plan and Fee Estimate Schedule (Schedule) which presents our proposed work plan and fee to conduct the analysis. The above referenced Schedule presents the tasks and sub-tasks that will be required to accomplish the goals of the study as specified in the Scope of Services, and 2) shows that the Study can be completed for a fixed fee of **\$138,279**, inclusive of out-of-pocket expenses. The table below shows a breakdown of the work between funds. Stantec can begin work on this assignment immediately and estimate that it can be completed within approximately 150 days of receipt of all required data.

**City of Lake Worth Beach**

FY 2024 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS

***Fee Summary by Fund***



 FEE SUMMARY BY FUND	Inclusive of Expenses	
WORK ELEMENT 1	GENERAL FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$29,019
WORK ELEMENT 2	ELECTRIC UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$28,072
WORK ELEMENT 3	WATER FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$19,654
WORK ELEMENT 4	LOCAL SEWER FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$19,654
WORK ELEMENT 5	SANITATION UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$14,320
WORK ELEMENT 6	STORMWATER UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$14,131
WORK ELEMENT 7	BEACH FUND FINANCIAL SUSTAINABILITY ANALYSIS	\$13,429
<b>TOTAL ALL FUNDS</b>		<b>\$138,279</b>

Stantec appreciates the opportunity to present this proposal and look forward to working with you on this project. If you have any questions, please do not hesitate to call me at (202) 585-6391.

Very truly yours,

David Hyder  
Senior Principal - Financial Services

If the terms of this proposed Agreement are acceptable, please affix the appropriate signature below and return a copy to us for our files:





**CONSULTANT:** Stantec Consulting Services Inc.  
777 Harbour Island Boulevard, Suite 600, Tampa, FL 33602

**CLIENT:** City of Lake Worth Beach, Florida

**SCOPE OF SERVICES:** FY 2024 Comprehensive Integrated Financial Sustainability Analysis


**COMPENSATION:** A Fixed Fee of \$138,279 as set out in the attached Project Work Plan & Fee Estimate Schedule, billed monthly based upon percentage work complete by task.

**EFFECTIVE DATE:** This Agreement will be effective on the date last executed below. Receipt by CONSULTANT of this executed Agreement from CLIENT will serve as a Notice to Proceed.

The services shall be performed by the Consultant in accordance with the provisions of this Agreement and any attachments. This Agreement supersedes all prior agreements and understandings and may only be changed by written amendment executed by both parties.

**STANTEC CONSULTING SERVICES INC.**

**CITY OF LAKE WORTH BEACH, FLORIDA**

By:   
Name: David Hyder  
Title: Senior Principal  
Date: February 29, 2024

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## **Detailed Task Plan**

This Appendix presents the detailed task plan that Stantec proposes to execute to accomplish the scope of this project. The detailed task plan is presented in the Project Work Plan and Fee Estimate Schedule (Schedule) on the following pages.



**City of Lake Worth Beach**  
 FY 2024 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule

PROJECT TASKS	Hourly rate →	ESTIMATED MAN-HOURS				Total Project
		Project Principal \$330.75	Project Manager \$259.00	Project Consultant \$198.45	Project Analyst \$160.38	
<b>WORK ELEMENT 1 GENERAL FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>						
<b>TASK 1 Initiate the Project</b>						
1.1 Prepare preliminary work plan, timeline for tests, and initial data request list prior to kick-off meeting.		1	1	1	1	4
1.2 Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.		1	1	1	1	4
1.3 Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.		1	1	1	1	4
<b>TASK 2 Populate the model and perform analysis, including evaluation of cost reduction and revenue diversification scenarios.</b>						
2.1 Obtain, verify and input financial, property, and other data into Burton & Associates' proprietary FAMS XL10 General Fund Sustainability Model, project year end results for the current year and run the model and produce preliminary output for identified scenarios, including a ten year financial management plan that will include the following:		1	2	10	24	45
o Property data base by parcel						
- Complete data base of all parcels in the City with relevant information such as taxable value, exemptions, current tax, etc., including adjustment factors for each parcel, or parcels by property classes, for future years.						
- Above referenced property data base integrated so that changes in assumptions for future years are linked to the calculation algorithms of the model						
o Operations and Maintenance (O&M) Budget and projections						
- O&M budget categories, initial year budget and projections of budget in future years.						
- Inflation factors for each O&M budget cost category.						
o Capital Improvements Program (10 year)						
- Project listing by year (including alternative Master Plan/OP scenarios)						
- Identification of funding source by project by year for each scenario						
o Borrowing Program (for each Master Plan/OP scenario)						
- Borrowing required (by source) for fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs						
- Timing of bond issue(s)/loan(s) to provide required borrowed funds						
- Annual debt service of bond issue(s)/loan(s)						
o Revenue Sufficiency Analysis						
- Annual revenue projections for all GF revenue sources, including variable annual adjustment factors for each revenue source.						
- Annual plan to provide sufficient revenues for each scenario evaluated through adjustments to O&M costs, capital costs, millage rates, etc.						
o Sources and Uses of Funds Analysis						
o Funds Analysis						
- Spend down limits (minimum reserve requirements) by fund.						
- Beginning and ending funds balances by fund by year						
o Analysis of prior and current year performance versus performance criteria.						
2.2 Make adjustments to FAMS 10 model alternative scenarios for the Fund.		0	1	1	2	4
2.3 Review results with consulting team, make required adjustments and create alternative scenarios.		2	2	4	6	14
2.4 Meet with City staff in online interactive work sessions to review preliminary results.		1	1	1	1	4
2.5 Make adjustments as required based upon input from City staff in the prior sub-task.		0	1	2	4	7
2.6 Meet with City staff in a second interactive work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.		1	1	1	1	4
2.7 Make adjustments as required based upon input from City staff in the prior sub-task.		0	1	2	4	7
<b>TASK 3 Present findings to City Management and Commission</b>						
3.1 Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.		2	2	2	1	7
3.2 Review presentation with City Staff & Management and make adjustments to presentation.		1	1	1	1	4
3.3 Present the results of the analysis to City Commission in a workshop.		1	1	1	1	4
3.4 Make adjustments based upon input and direction from City Commission.		0	1	2	4	7
3.5 Conduct a second presentation of the results to City Commission in a workshop.						
3.6 Make adjustments as required based upon the review with City Commission in the prior subtask.						
<b>TASK 4 Document the results in a Report.</b>						
4.1 Document the results of the analysis in a Draft Report.		1	1	4	8	14
4.2 Make adjustments based upon input from City staff and prepare the Final Report.		1	1	1	1	4
4.3 Present the results of the Final Report to the City Commission.		1	1	1	1	4
<b>TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 1</b>		<b>11</b>	<b>20</b>	<b>42</b>	<b>62</b>	<b>139</b>
<b>TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 1</b>		<b>\$4,961</b>	<b>\$5,182</b>	<b>\$8,335</b>	<b>\$10,254</b>	<b>\$28,732</b>
<b>ESTIMATED FEES AS % OF TOTAL PROJECT COST</b>						<b>28%</b>
<b>TOTAL ESTIMATED COST - WORK ELEMENT 1</b>						<b>\$28,019</b>

--- At Hourly Rates as Required ---  
 --- At Hourly Rates as Required ---



**City of Lake Worth Beach**  
 FY 2024 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule

PROJECT TASKS	ESTIMATED MAN-HOURS				Total Project
	Project Principal	Project Manager	Project Consultant	Project Analyst	
<b>WORK ELEMENT 2 ELECTRIC UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>					
<b>TASK 1 Project Initiation, Data Collection &amp; Data Review</b>					
1.1 Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.	0	1	1	1	3
1.2 Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.	1	1	1	1	4
1.3 Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.	0	1	1	1	3
<b>TASK 2 Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecast of System Revenue Requirements</b>					
2.1 Obtain, verify and input financial and billing data into Burton & Associates proprietary FAMS XL © model, run the model and produce preliminary output, including a ten year financial management program that will include the following for the electric utility system:	1	1	10	24	42
o Capital Improvements Program					
- Project listing by year					
- Alternative financing options for capital projects					
- Optimum funding source by project by year					
o Borrowing Program					
- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs.					
- Timing of bond issue(s)/loan(s) to provide required borrowed funds					
- Annual debt service of bond issue(s)/loan(s)					
o Revenue Sufficiency Analysis					
- Annual revenue projections					
- Annual operations and maintenance expense projections					
- All other annual revenue requirements such as RRR, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.					
- Alternative plans of annual percentage rate adjustments to the electric rates to provide sufficient revenues for each service.					
o Sources and Uses of Funds Analysis					
o Funds Analysis					
- Spend down limits (minimum reserve requirements) by fund					
- Beginning and ending funds balances by fund by year					
2.2 Make adjustments to FAMS to model alternative scenarios for the Fund.	0	1	1	2	4
2.3 Review results with consulting team, make required adjustments and create alternative scenarios.	1	3	4	6	14
2.4 Meet with City staff in interactive online work sessions to review preliminary results.	1	2	1	1	5
2.5 Make adjustments as required based upon input from City staff in the prior sub-task.	0	1	2	4	7
2.6 Meet with City staff in a second interactive online work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.	1	1	1	1	4
2.7 Make adjustments as required based upon input from City staff in the prior sub-task.	0	1	2	4	7
2.8 Conduct and Compile a Comparative Rate Survey	0	1	1	2	4
<b>TASK 3 Present Findings to City Management and Commission</b>					
3.1 Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.	1	2	2	1	6
3.2 Review presentation with City Staff & Management and make adjustments to presentation.	1	1	1	1	4
3.3 Present the results of the analysis to City Commission in a workshop.	1	1	1	1	4
3.4 Make adjustments based upon input and direction from City Commission.	0	1	2	4	7
3.5 Conduct a second presentation of the results to City Commission in a workshop.					
3.6 Make adjustments as required based upon the review with City Commission in the prior subtask.					
			--- At Hourly Rates as Required ---		
			--- At Hourly Rates as Required ---		
<b>TASK 4 Document the results in a Report.</b>					
4.1 Document the results of the analysis in a Draft Report.	0	1	4	8	13
4.2 Make adjustments based upon input from City staff and prepare the Final Report.	0	1	1	1	3
4.3 Present the results of the Final Report to the City Commission.	1	1	1	1	4
<b>TOTAL ESTIMATED MAN HOURS - WORK ELEMENT 2</b>		22	43	64	138
<b>TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 2</b>	\$2,977	\$5,700	\$8,533	\$10,584	\$27,794
<b>ESTIMATED DATA \$ - WORK ELEMENT 2</b>					\$278
<b>TOTAL ESTIMATED COST - WORK ELEMENT 2</b>					\$28,072



**City of Lake Worth Beach**  
 FY 2024 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule

Project Tasks		Hourly Rate	Project Principal \$330.75	Estimated Project Manager \$259.09	Man-Hours Project Consultant \$198.45	Project Analyst \$165.38	Total Project
<b>WORK ELEMENTS 3 &amp; 4 WATER AND LOCAL SEWER FINANCIAL SUSTAINABILITY ANALYSIS</b>							
<b>Task 1</b>	<b>Project Initiation, Data Collection &amp; Data Review</b>						
1.1	Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kick-off meeting.		1	1	1	1	4
1.2	Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.		1	1	1	1	4
1.3	Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.		1	2	2	2	7
<b>Task 2</b>	<b>Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecasting System Revenue Requirements</b>						
2.1	Input annual and billing data into 2 separate versions of our FAMS-CLIP financial planning module, run the modules, and produce preliminary output, including ten-year financial management plans for the Water and Local Sewer Funds that will include the following: <ul style="list-style-type: none"> <li>(A) Capital Improvement Program and Capital Financing Plan:               <ul style="list-style-type: none"> <li>- Project listing by year, including integration of specific scenarios as required</li> <li>- Alternative funding sources for capital projects</li> <li>- Development of a capital financing plan, including identification of timing and amount of borrowing requirements</li> </ul> </li> <li>(B) Borrowing Program:               <ul style="list-style-type: none"> <li>- Borrowing required by source to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds, SICO or other programs or bank loans</li> <li>- Timing of bond issues (amounts) to provide required borrowed funds</li> <li>- Annual debt service of bond issues (interest)</li> </ul> </li> <li>(C) Revenue Sufficiency Analysis:               <ul style="list-style-type: none"> <li>- Annual revenue projections, include a breakdown of revenues from sale of services, connection fees, and other revenues</li> <li>- Annual operations and maintenance expense projections</li> <li>- All other annual revenue requirements such as RR, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.</li> </ul> </li> <li>(D) Sources and Uses of Funds Analysis</li> <li>(E) Financial Policy Review:               <ul style="list-style-type: none"> <li>- Reserve Levels (Minimum Fund Balance Policies) for each fund</li> <li>- Beginning and ending funds balances by fund by year</li> </ul> </li> </ul>		1	1	16	24	42
2.2	Make adjustments to FAMS to model alternative scenarios for the Fund.		0	2	2	2	12
2.3	Review results with consulting team, make required adjustments and create alternative scenarios.		1	2	2	2	15
2.4	Meet with City staff in interactive online work sessions to review preliminary results.		2	2	2	2	8
2.5	Make adjustments as required based upon input from City staff in the prior sub-task.		1	2	3	3	10
2.6	Meet with City staff in a second interactive work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the last year for rate making.		2	2	2	2	8
2.7	Make adjustments as required based upon input from City staff in the prior sub-task.		0	1	2	4	7
2.8	Conduct and Complete a Comparative Rate Survey		0	1	2	4	7
<b>Task 3</b>	<b>Present Findings to City Manager, Council and Commission</b>						
3.1	Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.		1	1	2	4	8
3.2	Review presentation with City Staff & Management and make adjustments to presentation.		1	1	1	1	4
3.3	Present the results of the analysis to City Commission in a workshop.		1	1	1	1	4
3.4	Make adjustments based upon input and direction from City Commission.		1	1	2	4	8
3.5	Conduct a second presentation of the results to City Commission in a workshop.						
3.6	Make adjustments as required based upon the review with City Commission in the prior subtask.						
<b>Task 4</b>	<b>Document the results of the Report</b>						
4.1	Document the results of the analysis in a Draft Report.		1	2	3	4	23
4.2	Make adjustments based upon input from City staff and prepare the Final Report.		1	2	3	4	15
4.3	Present the results of the Final Report to the City Commission.		1	1	1	1	4
<b>TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 3 &amp; 4</b>			<b>17</b>	<b>26</b>	<b>58</b>	<b>91</b>	<b>102</b>
<b>TOTAL ESTIMATED COST - WORK ELEMENT 3 &amp; 4</b>			<b>\$5,649</b>	<b>\$6,739</b>	<b>\$11,510</b>	<b>\$15,050</b>	<b>\$38,919</b>
<b>ALLOCATION TO WATER AND LOCAL SEWER</b>							
WATER							<b>\$19,654</b>
LOCAL SEWER							<b>\$19,654</b>





**City of Lake Worth Beach**  
 FY 2024 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
 Project Work Plan & Cost Estimate Schedule

PROJECT TASKS	ESTIMATED MAN HOURS				TOTAL PROJECT
	Project Principal	Project Manager	Project Consultant	Project Analyst	
<b>WORK ELEMENT 5</b>					
<b>SANITATION UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>					
<b>Task 1</b>					
1.1 Project Initiation, Data Collection & Data Review					
1.1.1 Prepare preliminary work plan, timeline for tasks, and initial data request list prior to kickoff meeting.	0	0	1	1	2
1.1.2 Conduct kick-off conference call to review project objectives, schedule, key issues, approach, available data, and key assumptions.	1	1	1	1	4
1.1.3 Review initial data/documentation provided by staff and submit supplemental requests and/or clarifications.	0	1	1	1	3
<b>Task 2</b>					
2.1 Obtain, verify and input financial and billing data into Burton & Associates proprietary FAMS XL 10 model. set-up and run the model and produce preliminary output. Including a ten year financial management program that will include the following:	0	1	1	4	6
o Capital Improvements Program					
- Project listing by year					
- Alternative financing options for capital projects					
- Optimum funding source by project by year					
o Borrowing Program					
- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs					
- Timing of bond issue(s)/loan(s) to provide required borrowed funds					
- Annual debt service of bond issue(s)/loan(s)					
o Revenue Sufficiency Analysis					
- Annual revenue projections					
- Annual operations and maintenance expense projections					
- All other annual revenue requirements such as R&R, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.					
- Alternative plans of annual percentage rate adjustments to the water and wastewater rates to provide sufficient revenues for each service					
o Sources and Uses of Funds Analysis					
o Funds Analysis					
- Spend down limits (minimum reserve requirements) by fund					
- Beginning and ending funds balances by fund by year					
2.2 Make adjustments to FAMS to model alternative scenarios for the Fund.	0	1	1	2	4
2.3 Review results with consulting team, make required adjustments and create alternative scenarios.	0	1	1	1	3
2.4 Meet with City staff in interactive online work sessions to review preliminary results.	1	1	1	1	4
2.5 Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	2	3
2.6 Meet with City staff in a second interactive work session to review adjusted results and determine final plan of annual rate revenue adjustments and the revenue requirements for the test year for rate making.	0	1	1	1	3
2.7 Make adjustments as required based upon input from City staff in the prior sub-task.	0	0	1	1	2
2.8 Conduct and Compile a Comparative Rate Survey	0	0	1	1	2
<b>TASK 3</b>					
<b>Present Findings to City Management and Commission</b>					
3.1 Prepare a presentation of the results of the analysis, including status quo and alternative scenarios identified during the project.	1	1	1	1	4
3.2 Review presentation with City Staff & Management and make adjustments to presentation.	1	1	1	1	4
3.3 Present the results of the analysis to City Commission in a workshop.	1	1	1	1	4
3.4 Make adjustments based upon input and direction from City Commission.	0	1	1	2	4
3.5 Conduct a second interactive review session with City Commission as required.					
3.6 Make adjustments as required based upon the review with City Commission in the prior subtask.					
<b>TASK 4</b>					
<b>Document the results in a Report.</b>					
4.1 Document the results of the analysis in a Draft Report.	0	1	2	4	7
4.2 Make adjustments based upon input from City staff and prepare the Final Report.	0	1	1	1	3
4.3 Present the results of the Final Report to the City Commission.	1	1	1	1	4
TOTAL ESTIMATED MAN HOURS WORK ELEMENT 5		14	19	28	60
TOTAL ESTIMATED CONSULTING FEE WORK ELEMENT 5	\$1,985	\$3,627	\$3,771	\$4,796	\$14,179
ESTIMATED EXPENSES WORK ELEMENT 5					\$142
TOTAL ESTIMATED COST WORK ELEMENT 5					\$14,321

At Hourly Rates as Required —  
 At Hourly Rates as Required —



**City of Lake Worth Beach**

FY 2024 COMPREHENSIVE INTEGRATED FINANCIAL SUSTAINABILITY ANALYSIS  
Project Work Plan & Cost Estimate Schedule

PROJECT TASKS	ESTIMATED MAN-HOURS				TOTAL MAN-HRS
	Project Prime Cost \$738,25	Project Material \$358,09	Project Contractor \$126,45	Project Support \$109,38	
<b>WORK ELEMENT 6 STORMWATER UTILITY FUND FINANCIAL SUSTAINABILITY ANALYSIS</b>					
<b>Task 1 Project Initiation, Data Collection &amp; Data Review</b>					
1.1	1	1	1	1	4
1.2	1	1	1	1	4
1.3	0	1	1	1	3
<b>Task 2 Revenue Sufficiency Analysis - Develop a Multi-Year Financial Forecast of System Revenue Requirements</b>					
2.1	1	1	1	4	7
<ul style="list-style-type: none"> <li>o Capital Improvements Program               <ul style="list-style-type: none"> <li>- Project listing by year</li> <li>- Alternative financing options for capital projects</li> <li>- Optimum funding source by project by year</li> </ul> </li> <li>o Borrowing Program               <ul style="list-style-type: none"> <li>- Borrowing required (by source) to fund CIP projects not funded by other sources to include but not necessarily be limited to revenue bonds and State or other programs.</li> <li>- Timing of bond issue(s)/loan(s) to provide required borrowed funds</li> <li>- Annual debt service of bond issue(s)/loan(s)</li> </ul> </li> <li>o Revenue Sufficiency Analysis               <ul style="list-style-type: none"> <li>- Annual revenue projections</li> <li>- Annual operations and maintenance expense projections</li> <li>- All other annual revenue requirements such as R&amp;R, minor capital, transfers to other funds, current debt service/loan payments, replenishment of reserves, etc.</li> <li>- Alternative plans of annual percentage rate adjustments to the water and wastewater revenues for each service.</li> </ul> </li> <li>o Sources and Uses of Funds Analysis</li> <li>o Funds Analysis               <ul style="list-style-type: none"> <li>- Spend down limits (minimum reserve requirements) by fund</li> <li>- Beginning and ending funds balances by fund by year</li> </ul> </li> </ul>					
2.2	0	0	1	2	3
2.3	0	1	1	1	3
2.4	0	1	1	1	3
2.5	0	1	1	2	3
2.6	0	1	1	1	3
2.7	0	0	1	1	2
2.8	0	0	1	1	2
<b>TASK 3 Present findings to City Management and Commission</b>					
3.1	1	0	1	1	3
3.2	1	1	1	1	4
3.3	1	1	1	1	4
3.4	0	0	1	2	3
3.5	0	0	1	1	2
3.6	0	0	1	1	2
--- All Hourly Rates as Required ---					
<b>TASK 4 Document the results in a Report</b>					
4.1	0	1	2	4	6
4.2	0	1	1	1	3
4.3	1	1	1	1	4
<b>TOTAL ESTIMATED MAN-HOURS - WORK ELEMENT 6</b>					
7 12 19 29 67					
<b>TOTAL ESTIMATED CONSULTING FEE - WORK ELEMENT 6</b>					
1.00%					
<b>TOTAL ESTIMATED COST - WORK ELEMENT 6</b>					
\$2,315 \$3,109 \$3,771 \$4,796 \$13,991 \$140 \$18,123					



Attachment

Independent Municipal Advisor Exemption

February 15, 2024

City of Lake Worth Beach, Florida is aware of the “Municipal Advisor Rule” of the Securities and Exchange Commission and the “independent municipal advisor” exemption from the definition of “advice.” City of Lake Worth Beach, Florida hereby notifies Stantec Consulting Services Inc. that it wishes them to continue to provide recommendations on user fees and financial forecasting related to the issuance of municipal securities. City of Lake Worth Beach, Florida is represented by the firm of Davenport & Company, which it has retained to, among other things, assist the City in evaluating any and all of such recommendations. City of Lake Worth Beach, Florida will rely on Davenport & Company for advice. **Therefore, City of Lake Worth Beach, Florida understands that Stantec Consulting Services Inc. is not a municipal advisor and is not subject to the fiduciary duty established in Section 15B(c)(1) of the Securities and Exchange Act.** This certificate may be relied upon until February 15, 2025. Stantec Consulting Services Inc. understands that it must also send a copy of this certificate to Davenport & Company.

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** April 16, 2024

**DEPARTMENT:** Financial Services

**TITLE:**

Agreement with Davenport and Company, LLC, to provide comprehensive financial advisory services

**SUMMARY:**

The Agreement authorizes Davenport and Company to provide comprehensive financial advisory services for the City.

**BACKGROUND AND JUSTIFICATION:**

The City has ongoing needs for financial advisory services as it moves forward with financial modeling and debt structuring for future infrastructure improvements and utility upgrades. There is also the need for monitoring the market for possible re-financing alternatives that might save on debt servicing costs incurred by the City and improve its financial condition. This agreement will also allow assisting the City's Financial Management Team in developing best practices for financial management, providing guidance on bond sales, implementing debt structuring techniques and performing financial evaluations of various options and strategies for potential financing of the future needs of the City.

In March 2019, the City entered into the agreement with Davenport and Company, LLC for Financial Advisory Services, which the City awarded after a competitive solicitation process. Based on the Consultant's past experience with providing the desired services to local governments including the City since 2019, their performance on the current agreement and the Consultant's distinctive field of expertise, the City desires to directly contract with the Consultant. The City's procurement code, section 2-112(c), authorizes the selection of a consultant to provide professional services with a distinctive field of expertise without competitive selection.

The term of the Agreement is for three (3) years with two (2) additional single year renewal options.

**MOTION:**

Move to approve/disapprove the agreement with Davenport and Company, LLC for financial advisory services.

**ATTACHMENT(S):**

Fiscal Impact Analysis  
Davenport Agreement



**FISCAL IMPACT ANALYSIS**

Five Year Summary of Fiscal Impact:

<b>Fiscal Years</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>
<b>Inflows/Revenues</b>					
Appropriated (Budgeted)	0	0	0	0	0
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
<b>Outflows/Expenditures</b>					
Appropriated (Budgeted)	23,750	0	0	0	0
Operating	0	47,500	47,500	47,500	47,500
Capital	0	0	0	0	0
<b>Net Fiscal Impact</b> <i>(If not budgeted)</i>	0	0	0	0	0
<b>No. of Addn'l Full-Time</b> <b>Employee Positions</b>	0	0	0	0	0

<b>Contract Award - Existing Appropriation (Budgeted)</b>	
	<b>Expenditure</b>
<b>Department</b>	<b>General Fund</b>
<b>Division</b>	<b>Non-Departmental</b>
<b>GL Description</b>	<b>Contractual Services</b>
<b>GL Account Number</b>	<b>001-9010-519.34-50</b>
<b>Project Number</b>	<b>N/A</b>
<b>Requested Funds</b>	<b>23,750</b>
<b>Remaining Balance</b>	<b>53,674</b>
<b>Source of Revenue</b> (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.)	<b>Current Revenues</b>

**PROFESSIONAL SERVICES AGREEMENT**  
**(Financial Advisory Services)**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on \_\_\_\_\_, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Davenport & Company LLC**, a Virginia Limited Liability Company authorized to do business in the State of Florida (“Consultant”).

**RECITALS**

**WHEREAS**, on March 19, 2019, the City entered an agreement with the Consultant for Financial Advisory Services, which the City awarded after a competitive solicitation process (RFP#19-203); and

**WHEREAS**, the City desires to continue using the professional service of the Consultant for Financial Advisory Services; and

**WHEREAS**, the City’s procurement code, section 2-112(c), authorizes the selection of a consultant to provide professional services with a distinctive field of expertise without competitive selection; and

**WHEREAS**, based on the Consultant’s past experience with providing the desired services to local governments including the City since 2019 and the Consultant’s distinctive field of expertise, the City desires to directly contract with the Consultant; and

**WHEREAS**, the Consultant has provided the City with a written proposal to provide Financial Advisory Services; and

**WHEREAS**, the City finds CONSULTANT’s proposal to be reasonable and acceptable; and

**WHEREAS**, the purpose of this Agreement is to set forth certain terms and conditions for the provision of services by the Consultant to the City; and,

**WHEREAS**, the City finds entering this Agreement with the Consultant serves a valid public purpose.

**NOW, THEREFORE**, in consideration of the premises and mutual covenants herein contained, the sufficiency of which is hereby acknowledged by the parties, the City and the Consultant agree as follows:

**SECTION 1: INCORPORATION OF RECITALS.** The foregoing Recitals are incorporated into this Agreement as true and correct statements.

**SECTION 2: CONSULTANT’S SERVICES.**

2.1 CONSULTANT shall provide professional advisory services, as more fully described in the Scope of Services which is attached hereto as **Exhibit “A”**.

2.2 The CONSULTANT represents to the CITY that the Scope of Services provided under this Agreement shall be in accordance with accepted and established trade practices and procedures recognized in the CONSULTANT's trade in general and that the services shall conform to the highest standards and in accordance with this Agreement.

2.3 The CONSULTANT represents that it will maintain all applicable licenses required for the work to be completed under this Agreement. The CONSULTANT further warrants its capability and experience to perform the work provided for herein in a professional and competent manner.

2.4 The Scope of Services shall be performed by the CONSULTANT or under its supervision and all personnel engaged in performing the Scope of Services shall be fully qualified and, if required, authorized or permitted under the state and local law to perform such Scope of Services. All of the CONSULTANT's personnel (and all subcontractors), while on CITY premises, shall comply with all CITY requirements governing safety, conduct and security.

2.5 The Scope of Services shall be completed in accordance with the terms and conditions set forth in the RFP and this Agreement.

**SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP.** No relationship of employer or employee is created by this Agreement, it being understood that Consultant will act hereunder as an independent contractor and none of the Consultant's, officers, directors, employees, independent contractors, representatives or agents performing services for Consultant pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this Agreement. The relationship between the City and Consultant is that of independent contractors, and neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

**SECTION 4: TERM, TIME AND TERMINATION.**

(a) Term. The term of this Agreement shall be for three (3) years, with an option to renew the for two (2) additional one-year terms upon the mutual agreement of both parties. The option (s) to renew may be exercised by the City Manager, unless there is an increase to the Consultant's compensation, in which case, the renewal must be approved by the City Commission. Notwithstanding the term, the parties may terminate this Agreement as stated herein.

(b) Time for Completion. Time is of the essence in the performance of this Agreement. The Consultant shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the project schedule set forth by the City.

(c) Force Majeure. Neither party hereto shall be liable for its failure to perform hereunder due to any circumstances beyond its reasonable control, such as acts of God, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The Consultant or City may suspend its performance under this Agreement as a result of a force majeure without being in default of this Agreement, but upon the removal of such force majeure, the Consultant or City shall resume its performance as soon as is reasonably possible. Upon the Consultant's request, the City shall consider the facts and extent of any failure to perform the services and, if the Consultant's failure to perform was without its or its subconsultants' fault or negligence, the schedule and/or any other affected provision of this Agreement may be revised accordingly, subject to the City's rights to change, terminate, or stop any or all of the services at any time. No extension shall be made for delay occurring more than seven (7) days before a notice of delay or claim therefore is made in writing to the City. In the case of continuing cause of delay, only one (1) notice of delay or claim is necessary.

(d) Termination without cause. Either party may terminate this Agreement at any time with or without cause by giving not less than thirty (30) days written notice of termination.

(e) Termination for cause. Either party may terminate this Agreement at any time in the event that the other party engages in any act or makes any omission constituting a material breach of any term or condition of this Agreement. The party electing to terminate this Agreement shall provide the other party with written notice specifying the nature of the breach. The party receiving the notice shall then have three (3) days from the date of the notice in which to remedy the breach. If such corrective action is not taken within three (3) days, then this Agreement shall terminate at the end of the three (3) day period without further notice or demand.



(f) Early Termination. If this Agreement is terminated before the completion of all services by either party, the Consultant shall:

1. Stop services on the date and to the extent specified including without limitation services of any subconsultants.
2. Transfer all work in progress, completed work, and other materials related to the terminated services to the City in the format acceptable to City.
3. Continue and complete all parts of the services that have not been terminated.

(g) Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination. Notwithstanding the foregoing, the parties acknowledge and agree that the City is a municipal corporation and political subdivision of the state of Florida, and as such, this Agreement (and the Exhibit hereto) are subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Notwithstanding anything in this Agreement to the contrary, in the event that no funds are appropriated or budgeted by the City's governing board in any fiscal year to pay the costs associated with the City's obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the City to be, insufficient to pay the costs associated with the City's obligations hereunder in any fiscal period, then the City will notify Consultant of such occurrence and either the City or Consultant may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the City of any kind whatsoever; however, City shall pay Consultant for all services performed under this Agreement through the date of termination.

#### **SECTION 5: COMPENSATION.**

(a) Compensation. The City agrees to compensate the Consultant in accordance with the rate schedule set forth in **Exhibit "A"**. The City shall not reimburse the Consultant for any additional costs incurred as a direct or indirect result of the Consultant providing services to the City under this Agreement and not set forth in Exhibit "A".

(b) Invoices. The Consultant shall submit an itemized invoice to the City for approval prior to receiving compensation. The Consultant shall be paid within thirty (30) days of receipt of an approved invoice for work.

(c) If the City disputes any invoice or part of an invoice, City shall notify the Consultant within a reasonable time after receipt of the invoice. City reserves the right to offset, reduce or withhold any payment to the Consultant until the dispute is resolved.

**SECTION 6: INDEMNIFICATION.** The Consultant, its officers, employees and agents shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence, of the Consultant, its officers, directors, employees, representatives and agents employed or utilized by the Consultant in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Consultant, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

**SECTION 7 COMPLIANCE AND DISQUALIFICATION.** Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.



**SECTION 8: PERSONNEL.** The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by the Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and authorized or permitted under federal, state and local law to perform such services.

**SECTION 9: FEDERAL AND STATE TAX.** The City is exempt from payment of Florida State Sales and Use Tax. The Consultant is not authorized to use the City's Tax Exemption Number.

**SECTION 10: INSURANCE.** Prior to commencing any services, the Consultant shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and the Consultant. All such insurance policies may not be modified or terminated without the express written authorization of the City.

<u>Type of Coverage</u>	<u>Amount of Coverage</u>
Professional liability/ Errors and Omissions	\$1,000,000 per occurrence
Commercial general liability (Products/completed operations Contractual, insurance broad form property, Independent Consultant, personal injury)	\$1, 000,000 per occurrence  \$2,000,000 annual aggregate
Automobile (owned, non-owned, & hired)	\$ 1,000,000 single limits
Worker's Compensation	\$ statutory limits

The commercial general liability and automobile policies will name the City as an additional insured on primary, non-contributory basis and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that the Consultant has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve Consultant of its liability and obligations under this Agreement.

**SECTION 11: SUCCESSORS AND ASSIGNS.** The City and the Consultant each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

**SECTION 12: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES.** All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

**SECTION 13: WAIVER OF JURY TRIAL.** TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

**SECTION 14: ACCESS AND AUDITS.** The Consultant shall maintain adequate records to justify all payments made by the City under this Agreement for at least three (3) years after completion of this Agreement and longer if required by applicable federal or state law. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Consultant's place of business. In no circumstances will Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

**SECTION 15: NONDISCRIMINATION.** The Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

**SECTION 16: AUTHORITY TO PRACTICE.** The Consultant hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

**SECTION 17: SEVERABILITY.** If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

**SECTION 18: PUBLIC ENTITY CRIMES.** Consultant acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Consultant will advise the City immediately if it becomes aware of any violation of this statute.

**SECTION 19: NOTICE.** All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the CITY shall be sent to:

City of Lake Worth Beach  
Attn: City Manager  
7 N. Dixie Highway  
Lake Worth Beach, FL 33460

and if sent to the Consultant, shall be sent to:

Davenport & Company, LLC  
Attn: Joseph Mason  
901 E. Cary Street, Suite 1100  
Richmond, Virginia 23219



The foregoing names and addresses may be changed if such change is provided in writing to the other party. Notice shall be deemed given upon receipt.

**SECTION 20: ENTIRETY OF AGREEMENT.** The City and the Consultant agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

**SECTION 21: WAIVER.** Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

**SECTION 22: PREPARATION AND NON-EXCLUSIVE.** This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

**SECTION 23: MATERIALITY.** All provisions of the Agreement shall be deemed material. In the event Consultant fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to the Consultant to terminate for cause.

**SECTION 24: LEGAL EFFECT.** This Agreement shall not become binding and effective until approved by the City. The Effective Date is the date this Agreement is executed by the City.

**SECTION 25: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS.** Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

**SECTION 26: SURVIVABILITY.** Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

**SECTION 27: COUNTERPARTS.** This Agreement may be executed in one or more counterparts electronically, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement.

**SECTION 28: PALM BEACH COUNTY IG.** In accordance with Palm Beach County ordinance number 2011-009, the Consultant acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The Consultant has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

**SECTION 29: AGREEMENT DOCUMENTS AND CONTROLLING PROVISIONS.** This Agreement consists of this Agreement and Exhibit "A". The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement and Exhibit "A", the terms and conditions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.



**SECTION 30: OWNERSHIP OF DELIVERABLES.** The deliverables, work product, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the Consultant in Exhibit "A" to the City shall become the property of the City. The Consultant may keep copies or samples thereof and shall have the right to use the same for its own purposes. The City accepts sole responsibility for the reuse of any such deliverables in a manner other than as initially intended or for any use of incomplete documents.

**SECTION 31: REPRESENTATIONS AND BINDING AUTHORITY.** By signing this Agreement, on behalf of the Consultant, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of the Consultant for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

**SECTION 32: PUBLIC RECORDS.** The Consultant shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City's custodian of public records or designee, provide the City 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, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Consultant does not transfer the records to the City.
- (d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**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 AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF LAKE WORTH BEACH, ATTN: CITY CLERK, AT (561) 586-1662, CITY CLERK@LAKEWORTHBEACHFL.GOV, 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460.**

**SECTION 33: CONFIDENTIAL AND PROPRIETARY INFORMATION.** Each party (the "Receiving Party") will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software ("Confidential Information") obtained from the other party (the "Disclosing Party"); provided, however, that the Receiving



Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party's Confidential Information, (iv) that is already in the Receiving Party's possession at the time of disclosure, or (v) that is required to be released by law.

**SECTION 34: EXPORT ADMINISTRATION.** Each party agrees to comply with all export laws and regulations of the United States ("Export Laws") to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

**SECTION 35: NO THIRD-PARTY BENEFICIARIES.** There are no third-party beneficiaries under this Agreement.

**SECTION 36: SCRUTINIZED COMPANIES.**

37.1 CONSULTANT certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in the boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONSULTANT or any of its subcontractors are found to have submitted a false certification; or if the CONSULTANT or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of this Agreement.

37.2 If this Agreement is for one million dollars or more, the CONSULTANT certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONSULTANT, or any of its subcontractors are found to have submitted a false certification; or if the CONSULTANT or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

37.3 The CONSULTANT agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

37.4 The CONSULTANT agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.

37.5 The CONSULTANT agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONSULTANT shall immediately notify the CITY of the same.

37.6 As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

**SECTION 37: E-VERIFY.** Pursuant to Section 448.095(2), Florida Statutes, beginning on January 1, 2021, the Consultant shall:

(a) Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement)

to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

(b) Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statutes;

(c) Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the City upon request;

(d) Comply fully, and ensure all subcontractors comply fully, with Section 448.095, Florida Statutes;

(e) Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized Aliens; Employment Prohibited) shall be grounds for termination of this Agreement; and,

(f) Be aware that if the City terminates this Agreement under Section 448.095(2)(c), Florida Statutes, the Consultant may not be awarded a contract for at least one (1) year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK**  
**SIGNATURE PAGE FOLLOWS**

IN WITNESS WHEREOF, the parties hereto have made and executed this Professional Services Agreement (Financial Advisory Services) as of the day and year set forth above.

**CITY OF LAKE WORTH BEACH, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Betty Resch, Mayor

By: \_\_\_\_\_  
Melissa Anne Coyne, MMC, City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL  
SUFFICIENCY

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

CONSULTANT:

**DAVENPORT & COMPANY, LLC**

By: Joseph Mason  
Name: Joseph Mason, Senior Vice President

[Corporate Seal]

STATE OF Maryland )  
COUNTY OF Harford )

Type text here

THE FOREGOING instrument was acknowledged before me by means of • physical presence or  
• online notarization on this 3 day of April, 2024, by Joseph Mason, as the  
Senior Vice President [title] of Davenport & Company LLC, a Virginia Limited Liability Company  
authorized to do business in the State of Florida, who is personally known to me or who has  
produced Driver's License as identification, and who did take an oath that he or she is duly authorized to  
execute the foregoing instrument and bind the CONSULTANT to the same.

Notary Seal:



Linda A. Moran  
Notary Public Signature

**Exhibit "A"**  
**(Consultant's proposal dated March 27, 2024 – four pages)**



## MEMORANDUM

To: Valentina Sustaita, Assistant Finance Director – Purchasing | Financial Services  
*City of Lake Worth Beach, Florida*

CC: Yannick Ngendahayo, Finance Director, *City of Lake Worth Beach, Florida*

From: Kyle A. Laux, Senior Vice President, *Davenport & Company LLC*  
Joseph D. Mason, Senior Vice President, *Davenport & Company LLC*  
Austin W. Sacks, Associate Vice President, *Davenport & Company LLC*

Date: March 27, 2024

Subject: Proposal for Financial Advisory Services

---

### Background:

Davenport & Company LLC (“Davenport”) has had the opportunity to serve as the City of Lake Worth Beach’s (the “City”) Financial Advisor since 2019 when we were selected via a competitive RFP process. During that time period we’ve worked collaboratively with the City to achieve a number of milestones including:

1. Establishing the City's first Combined Utility Revenue Financing credit structure and achieving strong investment grade credits for the combined system. This has allowed the City to cost effectively and efficiently finance needed Utility Enterprise Capital Projects (i.e. Electric, Water, Sewer, Stormwater) in a manner not previously available to the City;
2. Establishing the City's first Non-Ad Valorem Revenue credit structure and also achieving strong investment credit ratings for this financing structure. This structure has allowed the City to finance General City capital projects in a cost effective and efficient manner;
3. The combination of these newly established financing programs resulted in the City being able to make over \$100 million in capital investment across a full range of service areas (i.e. Electric, Water, Sewer, Beach, General City) while – at the same time – enhancing the credit standing of the City;
4. Developed and advised the City on updating and enhancing its Financial Policy Guidelines;
5. Coordinated interactions with the National Credit Rating Agencies in an effort to strengthen the City's access to the Credit Markets for needed capital investments for both General City and Utility Enterprise funds;

6. Developed multi-year financial and capital planning analyses, allowing the City to plan in a multi-year fashion for its capacity to finance needed capital projects across the entire range of City service areas; and
7. Continuing to work with City Staff across a range of other topic areas (economic development, investments, general financial matters) serving as an extension of the City's senior leadership on a broad range of matters.

Davenport understands that the City desires to enter into a new agreement for a three-year period. We are excited at the prospect of continuing our partnership with the City as it seeks to further maximize its ability to make capital investments City across a range of programs (i.e. Water/Sewer/Electric capital, Pool/Casino projects, Economic Development, other General City capital investment needs) in the most efficient and cost-effective manner possible. The current environment for planning is especially challenging as cities across Florida and the country face the continuing challenge of inflationary pressures on their operating and capital budgets, declining federal funding as special COVID19 programs wind down (i.e. ARPA, etc.), increasing regulatory requirements, and a national economic picture that is slowing. Davenport is especially well suited to continue to help the City manage this landscape given our existing institutional knowledge of the City and its unique strengths and challenges, as well as our broad and deep base of experience as a leading financial advisor in the country. To this end, please find our proposal below to continue serving as Financial Advisor to the City.

**Scope of Services** – Davenport understands that the City desires to use the same Scope of Services as exists in our 2019 contract. This is acceptable to Davenport. The City will continue to have access to the same team of highly seasoned professionals in Kyle Laux and Joe Mason along with our full complement of professionals that currently number 30+ - all located in the mid-Atlantic and Southeast. The 2019 contract is attached for reference. Except as modified herein, all other terms and conditions of the 2019 contract are incorporated herein.

**Compensation** – Davenport proposes to maintain the same compensation structure as our original 2019 contract. We would propose adjusting certain elements of the compensation structure to recognize the impact of inflation during the past 5 years, although the adjustments Davenport is requesting are below the level of headline inflation seen in the broader economy.



**Lake Worth Beach, Florida**  
**Davenport 2024 Financial Advisory Compensation Proposal**

	<b>Non-Transaction Related Services</b>						<b>Proposed New 2024</b>	<b><u>Future Annual Adjustments</u></b>
	<b>Original 2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>		
Senior Vice President	\$275	\$286	\$297	\$309	\$322	\$335	<b>\$335</b>	Lesser of 3% or Annual CPI-U Inflation Rate
First Vice President	\$250	\$260	\$270	\$281	\$292	\$304	<b>\$304</b>	Lesser of 3% or Annual CPI-U Inflation Rate
Vice President	\$225	\$234	\$243	\$253	\$263	\$274	<b>\$274</b>	Lesser of 3% or Annual CPI-U Inflation Rate
Associate Vice President	\$200	\$208	\$216	\$225	\$234	\$243	<b>\$243</b>	Lesser of 3% or Annual CPI-U Inflation Rate
Analyst	\$175	\$182	\$189	\$197	\$205	\$213	<b>\$213</b>	Lesser of 3% or Annual CPI-U Inflation Rate
<b>Transaction Related Services</b>								
Minimum Transaction Fee	\$40,000	\$41,600	\$43,264	\$44,995	\$46,794	\$48,666	<b>\$47,500</b>	N/A. Fixed for three year term
Proposed Inflationary Adjustment to Hourly and Minimum Transaction Fee*		4%	4%	4%	4%	4%		
<small>*Note: actual inflation during this time period averaged roughly 5.35%</small>								
Per Bond Fee	\$1.25	\$1.25	\$1.25	\$1.25	\$1.25	\$1.25	<b>\$1.25</b>	N/A. Fixed for three year term
No Change Requested								

**Expenses** - No changes requested from original 2019 contract for direct out-of-pocket expenses. Language will be updated regarding 4% additional fee versus the 2019 contract as follows:

**New Language:** Davenport also anticipates an additional fee equal to 4% of the fee compensation.

**Prior Language:** In addition, the Contractor shall be reimbursed at four percent (4%) of the fee amount for indirect expenses such as conference calls, printing, binding, postage, and other incidental expenses.

***Proposed Next Steps / Conclusion***

We take great pride in our pro-active approach to providing Financial Advisory services to cities like Lake Worth Beach. Should the City and City Commission accept our proposal we will continue to provide the same high level and holistic service the City has to come to expect from our team. To this end, we would propose the following next steps:

1. **Month of April** – meeting at the City to discuss / coordinate on current City priorities including Utility Enterprise Capital Plan of Finance, other City capital funding priorities, FY2025 Budget planning, Economic Development initiatives, other initiatives of the City;
2. **Month of May** – Davenport presents Plan of Finance for Utility Enterprise capital projects to the City and City Commission;
3. **June/July** – Davenport enacts Capital Plan of Finance for the Utility Enterprise Capital Projects AND prepares/presents a Financial Overview to the City Commission in advance of the FY2025 Budget Process;
4. **July** – Close on Utility Capital Funding.

### **Municipal Advisor Disclaimer**

The enclosed information relates to an existing or potential municipal advisor engagement.

The U.S. Securities and Exchange Commission (the "SEC") has clarified that a broker, dealer or municipal securities dealer engaging in municipal advisory activities outside the scope of underwriting a particular issuance of municipal securities should be subject to municipal advisor registration. Davenport & Company LLC ("Davenport") has registered as a municipal advisor with the SEC. As a registered municipal advisor Davenport may provide advice to a municipal entity or obligated person. An obligated person is an entity other than a municipal entity, such as a not for profit corporation, that has commenced an application or negotiation with an entity to issue municipal securities on its behalf and for which it will provide support. If and when an issuer engages Davenport to provide financial advisory or consultant services with respect to the issuance of municipal securities, Davenport is obligated to evidence such a financial advisory relationship with a written agreement.

When acting as a registered municipal advisor Davenport is a fiduciary required by federal law to act in the best interest of a municipal entity without regard to its own financial or other interests. Davenport is not a fiduciary when it acts as a registered investment advisor, when advising an obligated person, or when acting as an underwriter, though it is required to deal fairly with such persons.

This material was prepared by public finance, or other non-research personnel of Davenport. This material was not produced by a research analyst, although it may refer to a Davenport research analyst or research report. Unless otherwise indicated, these views (if any) are the author's and may differ from those of the Davenport fixed income or research department or others in the firm. Davenport may perform or seek to perform financial advisory services for the issuers of the securities and instruments mentioned herein.

This material has been prepared for information purposes only and is not a solicitation of any offer to buy or sell any security/instrument or to participate in any trading strategy. Any such offer would be made only after a prospective participant had completed its own independent investigation of the securities, instruments or transactions and received all information it required to make its own investment decision, including, where applicable, a review of any offering circular or memorandum describing such security or instrument. That information would contain material information not contained herein and to which prospective participants are referred. This material is based on public information as of the specified date, and may be stale thereafter. We have no obligation to tell you when information herein may change. We make no representation or warranty with respect to the completeness of this material. Davenport has no obligation to continue to publish information on the securities/instruments mentioned herein. Recipients are required to comply with any legal or contractual restrictions on their purchase, holding, sale, exercise of rights or performance of obligations under any securities/instruments transaction.

The securities/instruments discussed in this material may not be suitable for all investors or issuers. Recipients should seek independent financial advice prior to making any investment decision based on this material. This material does not provide individually tailored investment advice or offer tax, regulatory, accounting or legal advice. Prior to entering into any proposed transaction, recipients should determine, in consultation with their own investment, legal, tax, regulatory and accounting advisors, the economic risks and merits, as well as the legal, tax, regulatory and accounting characteristics and consequences, of the transaction. You should consider this material as only a single factor in making an investment decision.

The value of and income from investments and the cost of borrowing may vary because of changes in interest rates, foreign exchange rates, default rates, prepayment rates, securities/instruments prices, market indexes, operational or financial conditions or companies or other factors. There may be time limitations on the exercise of options or other rights in securities/instruments transactions. Past performance is not necessarily a guide to future performance and estimates of future performance are based on assumptions that may not be realized. Actual events may differ from those assumed and changes to any assumptions may have a material impact on any projections or estimates. Other events not taken into account may occur and may significantly affect the projections or estimates. Certain assumptions may have been made for modeling purposes or to simplify the presentation and/or calculation of any projections or estimates, and Davenport does not represent that any such assumptions will reflect actual future events. Accordingly, there can be no assurance that estimated returns or projections will be realized or that actual returns or performance results will not materially differ from those estimated herein. This material may not be sold or redistributed without the prior written consent of Davenport.

Version 01.01.24 AS | KL | JM