



COUNCIL AGENDA STATEMENT

Meeting Date: September 10, 2024
To: Honorable Mayor & Members of the City Council
From: Daniel Saus, Utilities Director
Through: George Garrett, City Manager

Agenda Item: **Resolution 2024-82**, Approving Professional Services Agreement With Raftelis Financial Consultants, Inc., For The Continued Development and Maintenance of Marathon Utility Information System In An Amount Not To Exceed \$60,000.00; Authorizing The City Manager To Execute All Necessary Documents On Behalf Of The City And Expend Budgeted Funds; And Providing An Effective Date

BACKGROUND & JUSTIFICATION:

The proposed professional services agreement for with Raftelis Financial Consultants, Inc. (Raftelis) will provide the expertise of Mr. Tony Hairston and his staff for the maintenance and growth of the Marathon Parcel Optimization of Payments System (POOPS) and related services that has replaced our outdated MIS system. Raftelis also performs many other financial services for the city including but not limited to; forecasting and performance of assessment needs, utility billing rates, and building permit fees.

Mr. Tony Hairston has been the City’s lead contributor for the required annual financial planning for the wastewater and stormwater utilities as well as the capital program since its inception. In 2012, the City engaged Raftelis for these financial services with Mr. Hairston as the project manager.

Therefore, the resolution will approve a professional services agreement with Raftelis and authorize the City Manager to enter into the attached work authorization for professional services as described in the attached proposal for an amount not to exceed \$60,000.00 per year. Professional Services Agreement attached as Exhibit “A”.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	_____	_____
2. Other – Sewer Mandate	_____	_____

FISCAL NOTE:

Appropriations for this agreement are included annually in the Wastewater Utility Fund Budget, and other funds budgets, as applicable.

RECOMMENDATION:

Approval of Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-82**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A WORK AUTHORIZATION FOR PROFESSIONAL SERVICES FOR THE CONTINUED DEVELOPMENT AND MAINTENANCE OF THE “MARATHON UTILITY INFORMATION SYSTEM” BY RAFTELIS FINANCIAL CONSULTANTS, INC. IN AN AMOUNT NOT TO EXCEED \$60,00.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT ON BEHALF OF THE CITY AND EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City wishes to approve a Professional Services contract for the continued development and maintenance of the “Marathon Utility Information System” by Raftelis Financial Consultants, Inc. (“Raftelis”) in an amount not to exceed \$60,000.00 as described in the professional services agreement, hereto attached as Exhibit A,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. The City Council finds that the Professional Services Agreement between the City and Raftelis, for the continued development and maintenance of the “Marathon Utility Information System” is exempt from the City’s purchasing policies and procedures.

Section 3. The City Manager is authorized to execute the work authorization between the City and Raftelis, in substantially the same form and format as attached hereto as Exhibit “A,” on behalf of the City and expend budgeted funds.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10TH DAY OF SEPTEMBER 2024.

THE CITY OF MARATHON, FLORIDA

Robyn Still, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

Steve Williams, City Attorney

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
CITY OF MARATHON, FLORIDA
AND
RAFTELIS FINANCIAL CONSULTANTS, INC.**

This Consulting Agreement (“Agreement”) is entered into this ____ day of _____, 2024 (hereinafter referred to as the effective date of the agreement) by and between, City of Marathon, Florida (the “Client”), and Raftelis Financial Consultants, Inc., 227 W. Trade Street, Suite 1400, Charlotte, NC 28202 (“Raftelis”).

Witnesseth

WHEREAS, Raftelis is engaged and experienced in public finance, management, and pricing, and service delivery, and WHEREAS, The Client desires to hire Raftelis and Raftelis agrees to provide services to the Client, NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the terms and conditions set forth herein.

Article 1 – Statement of Work

Raftelis shall provide professional consulting services as set forth in the Scope of Services as specified in Exhibit “A”, attached to this agreement.

Article 2 – Time for Completion

This Agreement will become effective upon execution by both parties and shall remain in effect through September 30, 2027, unless earlier terminated in accordance with Article 13 herein. The City Manager may extend the term of this Agreement up to an additional two (2) years by written notice to Raftelis.

Article 3 – Compensation

Client shall pay to Raftelis the sum not to exceed \$60,000.00, which includes professional fees and direct expenses incurred in performing the Scope of Services outlined in Exhibit A. The parties understand that this sum is based upon the scope contained herein using the hourly rate schedule included in Exhibit B. Any expansion of the Scope of work by the Client shall involve discussion of and agreement about additional fees and time by both parties.

Raftelis shall submit invoices to the Client on a monthly basis for services rendered to the date thereof. Such invoices shall be supported by appropriate documentation; at a minimum, the task performed, the individuals working on such task, the level of each such individual, and expenses incurred. Each invoice will contain all hours and expenses from Raftelis for the month. Upon receipt of monthly invoice, the Client will remit payment of same amount to Raftelis within 30 days.

Article 4 – Additional Services

At the Client’s request, Raftelis may submit proposals for additional professional services. Each proposal submitted shall detail: (1) Scope of work for the additional services; (2) period of services to be performed; and (3) method and amount of compensation. The Client shall provide written acceptance and authorization to Raftelis prior to the commencement of work on any proposed additional services. Each proposal for additional services accepted and approved by the Client shall become part of this Agreement and shall be governed by the terms and conditions contained herein.

Article 5 – Place of Performance

Raftelis shall be responsible for maintaining its own office facilities and will not be provided with either office facilities or support by the Client.

Article 6 – Indemnification

Raftelis hereby agrees to indemnify and defend the Client, its officers, directors, managers, and employees (“Indemnified Party” or “Indemnified Parties”) and to hold the Indemnified Parties harmless against third party claims, costs, and expenses, including reasonable attorney’s fees, action, or demands against the Indemnified Parties and against damages for injury to or death of any person and for loss of or damage to all property caused by the negligent acts, errors, or omissions of Raftelis in performing this Agreement, except to the extent the claims, demands, liabilities, cost, and expenses are caused by the negligent acts, errors, or omission of an Indemnified Party.

Article 7 – Insurance

Raftelis shall maintain the types and levels of insurance during the life of this Agreement as specified below. The Client will be named as additional insured on Raftelis’ Certificates of Insurance and Raftelis will provide the Client with these Certificates of Insurance.

Commercial General Liability Insurance – \$1,000,000 for each occurrence and \$2,000,000 in the aggregate

Comprehensive Automobile Liability Insurance – \$1,000,000 combined single limit each occurrence – hired and non-owned only

Workers Compensation Insurance – Statutory limits

Professional Liability Insurance – \$5,000,000 occurrence and \$5,000,000 in excess

Excess or Umbrella Liability – \$5,000,000 occurrence and \$5,000,000 in the aggregate

Cyber Security – \$2,000,000

Article 8 – Confidential Information

Raftelis acknowledges and agrees that in the course of the performance of the services pursuant to this Agreement, Raftelis may be given access to, or come into possession of, confidential information from the Client, of which information may contain privileged material or other confidential information. Raftelis acknowledges and agrees, except as required by judicial or administrative order, trial, or other governmental proceeding, that it will not use, duplicate, or divulge to others any such information marked as “confidential” disclosed to Raftelis by the Client (“Confidential Information”) without first obtaining written permission from the Client. All tangible embodiments of such information shall be delivered to the Client or the destination of such information by Raftelis requested by the Client. The Client acknowledges Raftelis has the right to maintain its own set of work papers, which may contain Confidential Information.

Article 9 – Independent Contractor Status

It is understood and agreed that Raftelis will provide the services under this Agreement on a professional basis as an independent contractor and that during the performance of the services under this Agreement, Raftelis’ employees will not be considered employees of the Client within the meaning or the applications of any federal, state, or local laws or regulations including, but not limited to, laws or regulations covering unemployment insurance, old age benefits, worker’s compensation, industrial accident, labor, or taxes of any kind. Raftelis’ employees shall not be entitled to benefits that may be afforded from time to time to Client employees, including without limitation, vacation, holidays, sick leave, worker’s compensation, and unemployment insurance. Further, the Client shall not be responsible for withholding or paying any taxes or social security on behalf of Raftelis’ employees. Raftelis shall be fully responsible for any such withholding or paying of taxes or social security.

Article 10 – Reliance on Data

In performance of the services, it is understood that the Client and/or others may supply Raftelis with certain information and/or data, and that Raftelis will rely on such information. It is agreed that the accuracy of such information is not within Raftelis’ control and Raftelis shall not be liable for its accuracy, nor for its verification, except to the extent that such verification is expressly a part of Raftelis’ Scope of Services.

Article 11 – Standard of Performance

Raftelis will perform the services under this Agreement in accordance with the standard of professionals in its industry prevailing at the time and place the services are performed. Raftelis’ opinions, estimates, projections, and forecasts of current and future costs, revenues, other levels of any sort, and events and estimates of cost-justified system development fees shall be made on the basis of available information and Raftelis’ expertise and qualifications as a professional. Raftelis will perform the Scope of Services in conformance with the professional standards in its field of expertise prevailing at the time and place the Scope of Services are performed. Raftelis does not warrant or guarantee that its opinions, estimates,

projections or forecasts of current and future levels and events will not vary from the Client's estimates or forecasts or from actual outcomes. Raftelis identifies costs, allocates costs to customer classes and provides rate models. It does not establish rates, which is the legislative responsibility of the Client.

Article 12 – No Consequential Damages

To the fullest extent permitted by law, neither party shall be liable to the other for any special, indirect, consequential, punitive or exemplary damages resulting from the performance or non-performance of this Agreement notwithstanding the fault, tort (including negligence), strict liability or other basis of legal liability of the party so released or whose liability is so limited and shall extend to the officers, directors, employees, licensors, agents, subcontractors, vendors and related entities of such party.

Article 13 – Termination of Work

This Agreement may be terminated as follows:

1. **By Client.** (a) for its convenience on 30 days' notice to Raftelis; or (b) for cause, if Raftelis materially breaches this Agreement through no fault of Client and Raftelis neither cures such material breach nor makes reasonable progress toward cure within 15 days after Client has given written notice of the alleged breach to Raftelis.
2. **By Raftelis.** (a) for cause, if Client materially breaches this Agreement through no fault of Raftelis and Client neither cures such material breach nor makes reasonable progress toward cure within 15 days after Raftelis has given written notice of the alleged breach to Client; or (b) upon five days' notice if Work under this Agreement has been suspended by either Client or Raftelis in the aggregate for more than 30 days.
3. **Payment upon Termination.** In the event of termination, Raftelis shall be compensated for all work properly performed prior to the effective date of termination.

(Remainder of page intentionally left blank)

Article 14 – Notices

All notices required or permitted under this Agreement shall be in writing and shall be deemed deliverable when delivered in person or deposited in the United States mail, postage prepaid, addressed as follows:

If for the Client:

If for Raftelis:

George Garrett
City Manager
9805 Overseas Highway
Marathon, FL 33050

Raftelis Financial Consultants, Inc.
227 W. Trade Street
Suite 1400
Charlotte, NC 28202

Article 15 – Ownership of Work Product

All documents, data, compilations reports and studies prepared by Raftelis in performing the Scope of Services shall be the property of the Client; provided that any use other than as contemplated in this Agreement or any alteration or modification of the Work Product shall be at the sole risk of Client, and Client shall indemnify, defend and hold Raftelis harmless from any claim, demand, liability, cost or expenses incurred by Raftelis from such use or modification. Nothing contained herein shall be deemed an assignment, transfer, or divestiture of its use by Raftelis of any of its trade secrets, know-how, or intellectual property.

Article 16 – Compliance with Applicable Laws

Raftelis is an equal opportunity employer and complies with all federal, state, and local fair employment practices laws. Raftelis strictly prohibits and does not tolerate discrimination against employees, applicants, or any other covered persons because of race, color, religion, national origin or ancestry, gender identity, sexual orientation, marital status, sex, pregnancy, age, disability, past, current, or prospective service in the uniformed services, or any other characteristic protected under applicable federal, state, or local law. All Raftelis employees, other workers, and representatives are prohibited from engaging in unlawful discrimination. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, training, promotion, corrective action, compensation, benefits, and termination of employment.

Any act of discrimination committed by Raftelis in the course of its performance under this Agreement, or failure to comply with these statutory obligations when applicable, shall be grounds for termination of this Agreement.

Article 17 – General Provisions

- A. Entire Agreement: This Agreement represents the entire and sole agreement between the Parties with respect to the subject matter hereof.
- B. Waiver: The failure of either Party to require performance by the other of any provision hereof shall in no way affect the right to require performance at any time thereafter, nor shall the waiver of a breach of any provision hereof be taken to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself. All remedies afforded in this Agreement shall be taken and construed as cumulative; that is, in addition to every other remedy available at law or in equity.
- C. Relationship: Nothing herein contained shall be construed to imply a joint venture, partnership, or principal-agent relationship between Raftelis and the Client; and neither Party shall have the right, power, or authority to obligate or bind the other in any manner whatsoever, except as otherwise agreed to in writing.
- D. Assignment and Delegation: Neither Party shall assign this Agreement or any rights, duties, or obligations hereunder without the express written consent of the other. Subject to the foregoing, this Agreement shall inure to the benefit of and be binding upon the successors, legal representatives, and assignees of the Parties hereto.
- E. Severability: If any provision of this Agreement is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary to render it valid and enforceable. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of this Agreement, and this Agreement shall continue in force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.
- F. Governing Law: This Agreement shall be governed by, and construed in accordance with, the laws of the State of North Carolina.
- G. Paragraph Headings: The paragraph headings set forth in this Agreement are for the convenience of the Parties, and in no way define, limit, or describe the Scope or intent of this Agreement and are to be given no legal effect.
- H. Third Party Rights: Nothing in this Agreement shall be construed to create or confer any rights or interest to any third party or third-party beneficiary. It is the intent of the parties that no other outside, non-party claimant shall have any legal right to enforce the terms of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives.

City of Marathon, Florida

By: _____
Signature

Title

Date

Raftelis Financial Consultants, Inc.

By: _____
Signature

Title

Date

EXHIBIT A

SCOPE OF SERVICES

Project

Raftelis Financial Consultants, Inc. (Raftelis) shall maintain and update the City's Wastewater and Stormwater Financial Forecast and provide associated professional services with regard to utility rate, financial policy, and data management services. Services will be provided as requested from City staff from time to time as described herein.

Scope of Services

1. Data Acquisition and Review – Raftelis will coordinate with City staff to obtain current and recent wastewater and stormwater financial data, including customer billing data, assessment data, capital expenditures, loan accruals, loan documents, and other pertinent information in order to complete the financial analysis as enumerated herein.
2. Wastewater and Stormwater Assessment Revenue Analysis – This task includes a review of recently assessed parcels as a basis for future revenue projections.
3. Wastewater Customer Billing and Revenue Analysis – This task includes current and recent customer trends (EDUs, customers, and usage) and a revenue projection based on various rate scenarios. This task will consider the remaining connection schedule and any future development projections available from the City.
4. Capital Funding Analysis – Raftelis will review the City's capital expenditure schedules to date and projected remaining capital expenditures.
5. Summary of Existing and Projected Debt Service Obligations – Raftelis will review and summarize the City's existing debt service along with future debt service schedules based on estimated loan terms and other information provided by the City and its financial advisor.
6. Projection of Operating Expenses – Raftelis will review the year-to-date expenditure trends and project operating expenses on a budget line-item basis. Individual projections for the wastewater and stormwater systems will be provided.
7. Revenue Sufficiency and Debt Service Analysis – A five-year revenue sufficiency and debt service analysis will be completed based on the forecast of wastewater and stormwater revenues. Any projected system-wide adjustments to rates will be identified. As needed, specific rate structure adjustments will be evaluated (e.g., wastewater base charges, volume charges, volume charge caps, miscellaneous charges, etc.).

8. Documentation and Correspondence – Raftelis will summarize the results in periodic memorandum and reports as required.

9. Wastewater and Stormwater Data Services – This task includes ad hoc reporting and data analysis relative to reconciliation activities with FKAA billing data, non-ad valorem assessments, property assessor records, and other data sources.

Meetings

Webinars and on-site meetings will be scheduled as needed with approval from City.

Project Phasing and Not-to-Exceed Budget

The scope of services outlined above will be completed in the following phases with associated budget amounts shown below. The project schedule is contingent on the City’s Notice-to-Proceed date, data availability, and ongoing City project schedule requirements:

Project Phase	Description	Not to Exceed
I. Data Collection and Project Management (includes Task 1)	Data collection and review of utility policies, data collection, project schedule, and objectives. Completion: Monthly project management; data collection as needed.	\$2,500
II. Customer Analysis (includes Tasks 2 and 3)	Wastewater customer billing analysis and revenue forecast. Completion in January and July each year based on City actual schedule (2 updates included)	\$7,500
III. Capital and R&R Funding Analysis (includes Tasks 4 and 5)	Five-year capital finance plan, renewal & replacement funding plan, debt service projections, and assessment projections (2 updates included, anticipated to be minimal updates).	\$10,000
IV. Financial Forecast (includes Tasks 6 through 8)	Five-year operating expense projections, revenue requirement projections, revenue sufficiency analysis, debt service coverage analysis, and financial forecast report. Completion in January and July each year based on City actual schedule (2 updates included).	\$15,000

V. Wastewater and Stormwater Database Review (includes Task 9)	Reconciliation of FKAA billing data to City customer data records; preliminary (test) review of stormwater impervious area records.	\$10,000
VI. Assist City with Other Utility Financial Issues and Policies (Tasks as to be assigned by City)	During the course of the project, City staff may request additional support regarding specific utility policy issues and specific analysis such as plant capacity utilization analysis, contract operation review, annual budget review, CSM policy, reclaimed water policy, etc.	\$15,000
	Annual Project Budget*	\$60,000

* Annual Project Budget reflects Not-to-Exceed amounts related to financial rate and utility consulting services on a fiscal year basis.

Compensation shall be based on actual time and materials utilized billed on a monthly basis and not-to-exceed the total project budget.

EXHIBIT “B”

2024 BILLING RATES

<u>Position</u>	<u>Hourly Billing Rate [1]</u>
Vice President	\$295
Senior Manager	\$275
Manager	\$250
Director of Data Services	\$250
Principal Consultant	\$250
Senior Consultant	\$220
Consultant	\$195
Associate Consultant	\$175
Analyst	\$135
Administration	\$90

[1] Hourly billing rates effective through September 30, 2025; rates will be adjusted by not more than three percent (3%) per annum (rounded to the nearest dollar) or as mutually agreed between parties for services rendered after October 1 of each year thereafter. Such adjustments shall not affect the Project budget as set forth herein, without mutual consent of both parties.