

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.

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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

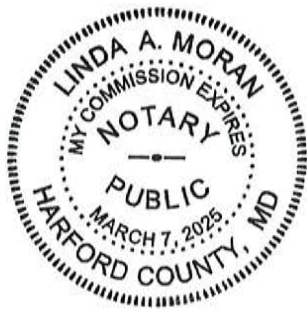
[Corporate Seal]

STATE OF Maryland)
COUNTY OF Harford)

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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

	Non-Transaction Related Services						Proposed New 2024	<u>Future Annual Adjustments</u>
	Original 2019	2020	2021	2022	2023	2024		
Senior Vice President	\$275	\$286	\$297	\$309	\$322	\$335	\$335	Lesser of 3% or Annual CPI-U Inflation Rate
First Vice President	\$250	\$260	\$270	\$281	\$292	\$304	\$304	Lesser of 3% or Annual CPI-U Inflation Rate
Vice President	\$225	\$234	\$243	\$253	\$263	\$274	\$274	Lesser of 3% or Annual CPI-U Inflation Rate
Associate Vice President	\$200	\$208	\$216	\$225	\$234	\$243	\$243	Lesser of 3% or Annual CPI-U Inflation Rate
Analyst	\$175	\$182	\$189	\$197	\$205	\$213	\$213	Lesser of 3% or Annual CPI-U Inflation Rate
Transaction Related Services								
Minimum Transaction Fee	\$40,000	\$41,600	\$43,264	\$44,995	\$46,794	\$48,666	\$47,500	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	\$1.25	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.

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