

PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE TOWN OF WINCHENDON
AND
RAFTELIS FINANCIAL CONSULTANTS, INC.

This Consulting Agreement (“Agreement”) is entered into this 9 day of December, 2021 (hereinafter referred to as the effective date of the agreement) by and between, the Town of Winchendon (the “Client”) and Raftelis Financial Consultants, Inc., 227 W. Trade Street, Suite 1400, Charlotte, NC 28202 (“Raftelis”).

Witnesseth

WHEREAS, Raftelis has substantial skill and experience in public finance, management, and pricing, and service delivery, and

WHEREAS, The Client desires to hire Raftelis and Raftelis desires 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 to prepare a water and wastewater rate study for the Client. Raftelis will perform these services as set forth in its engagement letter sent to the Client dated November 17, 2021 and included herein as Attachment A.

Article 2. Time for Completion

This agreement will commence upon approval by the Client and remain in effect for a period of one year. Further renewals of this Agreement are at the option of the Parties and shall be in writing.

Article 3. Compensation

Client shall pay to Raftelis the sum not to exceed \$19,500, which includes professional fees and direct expenses incurred in performing the scope of services, as well as an hourly technology expense reimbursement, outlined in Attachment B. The parties understand that this sum is based upon the scope of work contained herein at Raftelis’ current standard hourly rate schedule included in Attachment B. Any expansion of the scope of work by the Client shall involve the discussion of additional fees 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 the Raftelis for the month. Upon receipt of monthly invoice, the Client will remit payment of same amount to the 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 the Client and to hold the Client harmless against any and all claims, action, or demands against the Client and against any and all damages for injury to or death of any person and for loss of or damage to any and all property arising out of the negligent acts, errors or omissions of Raftelis under this Agreement. Raftelis shall not be held responsible for any claims caused by the negligence of the Client.

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 the aggregate

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

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 if required by judicial or administrative order, trial, or other governmental proceeding pertaining to this matter, that it will not use, duplicate, or divulge to others any such information belonging to or disclosed to Raftelis by the Client without first obtaining written permission from the Client. All tangible embodiments of such information shall be

delivered to the Client by Raftelis upon termination hereof, or upon request by the Client, whichever occurs first. 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. Opinions and Estimates

Raftelis' opinions, estimates, projections, and forecasts of current and future costs, revenues, other levels of any sort, and events shall be made on the basis of available information and Raftelis' expertise and qualifications as a professional. 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 Clients'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 performed prior to the effective date of termination.

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: Town of Winchendon

Brian Croteau
Name

DPW Director
Title

109 Front St Suite 4
Address

Winchendon MA 01475

If for Raftelis:

Dave Fox
Senior Manager
Raftelis Financial Consultants, Inc.
20 Main Street, Suite 301
Natick, MA 01760

Article 15. Compliance with Applicable Laws

Raftelis agrees not to discriminate in its employment practices, and will render services under this Agreement without regard to race, color, religion, sex, national origin, veteran status, political affiliation or disabilities.

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

Article 16. 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 or delegate 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 and possible 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 Commonwealth of Massachusetts.
- 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.

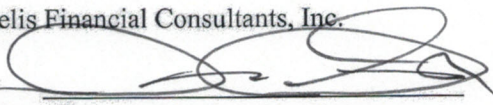
IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives.

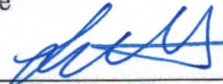
Town of Winchendon

By: 
Signature
Tom Manager
Title
12.8.21
Date

 Brian Crakeau
Witness

Raftelis Financial Consultants, Inc.

By: 
Signature
Senior Manager
Title
12.09.21
Date

 Luke Eastman
Witness

Attachment A – Statement of Work/Engagement Letter

Town of **Winchendon**



November 17th, 2021

Mr. Brian Croteau
Director of Public Works
Town of Winchendon
109 Front Street, Dept 4
Winchendon, MA 01475

Subject: Water & Wastewater Rate Study Proposal

Dear Mr. Croteau,

Raftelis is pleased to submit this proposal to the Town of Winchendon (Town) to assist with a water and wastewater rate study. Raftelis has developed this letter proposal to give you and the Town a brief overview of our firm, and outline our proposed scope of work, timeline, and price for the project. We feel strongly that a project's scope of work should be tailored to fit the client, so although we've utilized our expertise and experience performing similar studies for other communities in Massachusetts and New England when developing this scope of work, we've also relied on our understanding on the specific needs of the Town. We welcome your and the Town's feedback on the scope, and look forward to working with you to modify as necessary.

FIRM OVERVIEW

Raftelis has the largest consulting practice in the nation focusing on financial, rate, and management consulting for water, wastewater, and stormwater utilities. In 1993, Raftelis was founded to provide services that help utilities function as sustainable organizations while providing the public with clean water at an affordable price. With this goal in mind, Raftelis has grown to become the largest and one of the most respected utility financial and management consulting practices in the nation. Raftelis has experience providing these services to hundreds of utilities across the country and abroad, allowing us to provide our clients with innovative and insightful recommendations that are founded on industry best practices. Throughout our history, we have maintained a strict focus on the financial and management aspects of utilities, building a staff with knowledge and skills that are extremely specialized to the services that we provide, and thus allowing us to provide our clients with independent and objective advice.

PROPOSED SCOPE OF SERVICES

The following sections detail the scope of services we propose to complete for the Town as part of a water and wastewater rate study.

Project Kickoff and Data Collection

The first phase of the project will include a project kickoff meeting between Raftelis and key Town staff. The purpose of the meeting will be to confirm the Town's financial and rate priorities so that Raftelis can best develop a recommendation for the Town. Raftelis will then send the Town a data request for information necessary to complete the study, such as actual and budgeted operating expenses, outstanding debt service schedules, proposed capital improvements plans, and customer account and consumption data.

Development of Five-Year Financial Plans

Raftelis will develop comprehensive five-year financial plans for the Town's water and wastewater utilities. In preparing this plan, we will analyze the Town's current policies and practices for funding its operations, capital facilities plan, and debt service requirements. As appropriate, and as discussed with Town staff, we will consider various financing options, or combination of options, such as operating revenue, new debt issuances, reserve funds and miscellaneous fees.

We will assist the Town in achieving a suitable balance among the financing options when developing the proposed financial plan which will accomplish the following:

- Ensure financial sufficiency to meet operating and capital costs as well as prudent reserves;
- Minimize bill impact to the Town's customer base;
- Meet the Town's service policies and objectives;
- Fairly distribute financing responsibility to appropriate users; and
- Result in an appropriate capital structure.

Ultimately, Raftelis will recommend necessary revenue increases for both the water and wastewater funds. When possible, revenue increases will be consistent over the years to attempt to mitigate rate shock on customers. Maintaining detailed financial plans will ensure that the Town is operating in a revenue self-sufficient manner and meeting all prudent financial requirements. Raftelis understands that the Town is also interested in understanding the impacts to finances and rates associated with maintaining privatized operations of the water and wastewater plants, or to hire staff in order to perform these operations directly through the Town. Raftelis will work with the Town to model two financial planning models in order to understand the differences under each treatment operation scenario.

Revenue Recovery, Rate & Fee Design, and Customer Impact Analyses

The purpose of this task is three-fold. First, we will provide Town staff with an understanding of the principles of water and wastewater rate setting. Second, Town staff, with Raftelis' assistance, will identify and prioritize its rate setting objectives; and third, the Town and Raftelis will develop the rate structure and fee conceptual designs that will serve as the framework for the rate design phases of the project. This scope includes evaluation and calculation of three new water and wastewater rate structures. Rate priorities that will be discussed with the Town include affordability, conservation, cost of service based allocations, minimizing rate impacts, rate stability, revenue stability, and simplicity and ease of implementation. The customer impacts of the new rate structures will be considered, specifically by calculating current and proposed bills for various Town customers.

Raftelis will also review the Town's miscellaneous fees to ensure that they are reasonable, and that no additional fees could be assessed. We will take care to focus on the Town's impact and connection fees to ensure that new growth is paying its fair share when connecting to the system.

At the heart of any successful rate and financial planning study is the computer model that is used to develop and forecast revenue requirements; perform various scenario analyses quickly; and calculate rates and impacts on customers. The model must be sophisticated enough to perform the complex calculations involved in a comprehensive financial plan and rate analysis and yet still be simple enough to allow for future updates by Town staff without the need for extensive training or overhauls. The model will incorporate the rate structures and rate calculation methodologies that are identified in conversations with Town staff. During the course of the project, Town staff will be provided with working copies of rate model drafts in Microsoft Excel format as needed so that they will be able to provide input into the development of the model. At the end of the engagement, the Town will be provided with a non-proprietary, fully functioning version of the model for its future use.

DELIVERABLES

Draft Letter Report

The draft letter report will document the financial planning and rate development process, describe any recommended changes to the Town's existing rate structures and the reason for such changes, and present the results of the study. The draft letter report will also include any policies and procedures necessary to implement the recommendations of this study. An electronic copy of the draft letter report will be presented to Town staff for their review and comment.

Final Letter Memorandum & Model

Raftelis will incorporate Town staff's comments of the draft letter report into a final letter report. Upon finalization of the letter report the Town will be provided an electronic copy. In addition to the final letter report, the Town will also be provided with electronic copies of the rate model in Microsoft Excel format. We will also facilitate a training session with Town staff on the use of the model.

Presentation


We will prepare one PowerPoint presentation summarizing the financial planning and rate study process, findings, and recommendations in a clear and concise manner. We will provide a draft of this presentation to Town staff for their review and comment prior to delivering the final version. We will present this information at a public meeting of the Town's choosing.

TIME AND COST

Raftelis proposes to complete this scope of work as outlined above for a not-to-exceed cost of \$19,500. We will bill the Town on a time and material basis, so should we not need the entire budget to complete all proposed tasks, all remaining budget will be passed on to the Town in the form of savings. We propose to complete all tasks within two months of being given the notice to proceed from the Town, assuming no significant delay in information requested of the Town by Raftelis.

We are delighted to have the opportunity to work with you and the Town on this important project. Should you have any questions, please do not hesitate to contact me at (774) 243-0619.

Sincerely,



Dave Fox
Senior Manager

Attachment B – RAFTELIS’ 2021 Standard Hourly Billing Rates

<u>Position</u>	<u>Hourly Billing Rate **</u>
Chair	\$450
Chief Executive Officer/President	\$400
Executive Vice President	\$340
Vice President/Principal Consultant	\$310
Director of Governmental Services	\$310
Senior Manager	\$275
Director of Data Services	\$275
Director of Strategic Communications	\$275
Manager	\$245
Director of Florida Operations	\$225
Senior Consultant	\$215
Consultant	\$185
Creative Director	\$175
Associate	\$155
Graphic Designer	\$125
Analyst	\$110
Administration	\$80
Technology/Communications Charge*	\$10

* Technology/Communications Charge – this is an hourly fee charged monthly for each hour worked on the project to recover telephone, facsimile, computer, postage/overnight delivery, conference calls, electronic/computer webinars, photocopies, etc.

** For services related to the preparation for and participation in deposition and trial/hearing, the standard billing rates listed above will be increased by an amount up to 50%.