



RANDUM

**TO: Barbara McKinney**  
**FROM: Caroline Shaw**  
**DATE: October 22, 2020**  
**RE: Organizational Assessment for the Office of the Mayor and the City's Boards and Commissions**

**Funding Source:** 101-11-110000-53999 (Other Services and charges), 101-11-110000-53170 (Management Fees, Consultants, and Workshops)

**Total Dollar Amount of Contract:** \$38,900

**Expiration Date of Contract:** 12/31/2021

**Renewal Date for Contract:** n/a

**Department Head Initials of Approval:** CS

**Due Date For Signature:** 12/1/2020

**Record Destruction Date (Legal Dept to fill in):** 2032

**Legal Department Internal Tracking #:** 20-643

**PREVIOUSLY REVIEWED BY & RETURN SIGNED CONTRACT TO THIS ATTORNEY:**

Barbara McKinney

**ATTORNEY IS TO RETURN SIGNED CONTRACT TO THIS DEPARTMENTAL EMPLOYEE:**

Caroline Shaw

**Summary of Contract:**

The Novak Consulting Group will perform an organizational assessment for the Office of the Mayor and the City's Boards and Commissions.

**AGREEMENT BETWEEN THE  
CITY OF BLOOMINGTON HUMAN RESOURCES DEPARTMENT  
AND  
RAFTELIS**

This agreement, entered into on this \_\_\_\_ day of November, 2020 by and between the City of Bloomington Human Resources Department (hereinafter referred to as the "City") and Raftelis, WITNESSETH THAT:

WHEREAS, the City wants to conduct an organizational assessment of its Office of the Mayor and of its Boards and Commissions; and

WHEREAS, Raftelis has unique knowledge of municipal governments and a demonstrated ability to assist in accomplishing the objectives of the City; and

WHEREAS, the City desires to engage Raftelis to assist in its organizational assessment and Raftelis is willing to provide such services;

NOW, THEREFORE, in consideration of the mutual covenants contained, the parties agree as follows:

**Article 1. Scope of Services:** Raftelis shall assist the City by executing the project described in the proposal submitted October 13, 2020, which is hereby incorporated herein by reference as Exhibit A, in a satisfactory and proper manner in accordance with direction provided by the City's representative or designee.

**Article 2. Time of Performance:** Services of Raftelis shall be available upon receipt of an approved copy of this Agreement and shall begin November, 2020, with a projected completion date of March 30, 2021.

**Article 3. Personnel:** Raftelis represents that it has, or will secure at its own expense, all personnel required in performing all of the services required under this agreement. Such personnel shall not be employees of the City or have any contractual relationships with the City. All the services required hereunder will be performed by Raftelis or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state or local law to perform such services.

**Article 4. Standard of Care:** Raffelis shall be responsible for completing the Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. The City shall be the sole judge of the adequacy of Raffelis's work in meeting such standards. However, the City shall not unreasonably withhold its approval as to the adequacy of Raffelis's performance. Upon notice to the Raffelis, and by mutual agreement between the parties, Raffelis will, without additional compensation, correct any services not meeting such a standard.

**Article 5. Responsibilities of the City:** The City shall provide Raffelis all necessary information regarding requirements for the Services. The City shall furnish Raffelis all such information as expeditiously as is necessary for the orderly progress of the work, and Raffelis shall be entitled to rely on the accuracy and completeness of the information. The City designates Caroline Shaw to act on its behalf with respect to this Agreement.

**Article 6. Compensation:** Raffelis will invoice City for services rendered as work is performed on the project, based on the submission of invoices monthly. The total amount of payment in accordance with this Agreement shall not exceed \$38,900, including all professional fees and expenses. Payment will be made by the City within 45 days of receiving notices. Raffelis will submit invoices to Caroline Shaw.

Caroline Shaw  
Director of Human Resources  
City of Bloomington  
401 N. Morton Street  
Bloomington, IN 47404  
shawcaro@bloomington.in.gov.

Additional services not set forth in Article 1, or changes in services, must be authorized in writing by the City's project representative before such work is performed or before expenses are incurred. The City shall not make payment for any unauthorized work or expenses.

**Article 7. Appropriation of Funds:** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the City are at any time not forthcoming or are insufficient, through failure of any entity,

including the City itself, to appropriate funds or otherwise, then the City shall have the right to terminate this Agreement without penalty.

**Article 8. Termination for Convenience of City:** The City may terminate this Agreement at any time by giving at least fifteen days' notice in writing to Raftelis. If Raftelis is terminated by the City as provided herein, Raftelis will be paid for the services performed to the time of termination.

**Article 9. Identity of the Contractor:** Neither Raftelis nor its employees are considered to be employees of the City, for any purpose whatsoever. Raftelis is an independent contractor in the performance of the services described herein. Raftelis shall be responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment and any other federal, state or local taxes required to be withheld from employees or payable on behalf of employees.

**Article 10. Ownership of Documents and Intellectual Property:** All documents, drawings and specifications, including digital format files, prepared by Raftelis and furnished to the City as part of the Services shall become the property of the City. Raftelis shall retain its ownership rights in design, drawing details, specifications, data bases, computer software and other proprietary property. Intellectual property developed, used or modified in the performance of the Services shall remain the property of Raftelis.

**Article 11. Indemnification:** To the fullest extent permitted by law, Raftelis shall indemnify and hold harmless the City of Bloomington and its officers, agents and employees from any and all claims, demands, damages, costs, expenses or other liability arising out of bodily injury or property (collectively "Claims") but only to the extent that such claims are found on a comparative basis of fault to be caused by any negligent act or omission of Raftelis or Raftelis's officers, directors, partners, employees or sub-consultants in the performance of Services under this agreement.

**Article 12. Insurance.** During the performance of any and all Services under this Agreement, Raftelis shall maintain the following insurance in full force and effect: a) General Liability Insurance, with a minimum combined single limit of \$1,000,000 for each occurrence and \$2,000,000 in the aggregate; b) Automobile Liability Insurance, with a minimum combined single limit of \$1,000,000 for each person and \$1,000,000 for each accident; c) Workers' Compensation Insurance in accordance with the statutory requirements of Title

22 of the Indiana Code; and d) Professional Liability Insurance ("Errors and Omissions Insurance") with a minimum limit of \$1,000,000 annual aggregate. All insurance policies shall be issued by an insurance company authorized to issue such insurance in the State of Indiana. The City of Bloomington, the Department, and the officers, employees and agents of each shall be named as insured under the General Liability, Automobile, and Worker's Compensation policies, and such policies shall stipulate that the insurance will operate as primary insurance and that no other insurance of the City's will be called upon to contribute to a loss hereunder. Contractor shall provide evidence of each insurance policy to the Department prior to the commencement of work under this Agreement.

**Article 13: Conflict of Interest:** Rafftelis declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services required under this Agreement. Rafftelis agrees that no person having any such interest shall be employed in the performance of this Agreement.

**Article 14. Waiver:** No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement shall be considered to be a waiver of any other term or breach thereof.

**Article 15. Severability:** The invalidity, illegality or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision to be held void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

**Article 16. Assignment:** Neither the City nor Rafftelis shall assign any rights or duties under this Agreement without the prior written consent of the other party; provided, however, Rafftelis may assign its right to payment without the City's consent. Unless otherwise stated in the written consent to an assignment, no

assignment will release or discharge the assignor from any obligation under this Agreement.

**Article 17. Third Party Rights:** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Raffelis.

**Article 18. Governing Law and Venue:** This Agreement shall be governed by the laws of the State of Indiana. Venue of any dispute arising under this Agreement shall be in the Monroe Circuit Court, Monroe County, Indiana.

**Article 19. Non-Discrimination:** Raffelis shall comply with City of Bloomington Ordinance 2.21.020 and all other applicable federal, state and local laws and regulations governing non-discrimination in employment. Contractor understands that the City of Bloomington prohibits its employees from engaging in harassment or discrimination of any kind, including harassing or discriminating against independent contractors doing work for the City. If Contractor believes that a City has engaged in such conduct towards Contractor and/or any of its employees, Contractors or its employees may file a complaint with the City department head in charge of the Contractor's work or with the Bloomington Human Rights Commission. The City takes all complaints of harassment and discrimination seriously and will take appropriate disciplinary action if it finds any City employee engaged in such prohibited conduct.

**Article 20. Compliance with Laws:** In performing the Services under this Agreement, Raffelis shall comply with any and all applicable federal, state and local statutes, ordinances, plans and regulations.

**Article 21. E-Verify.** Raffelis is required to enroll in and verify the work eligibility status of all newly-hired employees through the E-Verify program. (This is not required if the E-Verify program no longer exists.) Raffelis shall sign an affidavit, attached as Exhibit B, affirming that Raffelis does not knowingly employ an unauthorized alien. "Unauthorized alien" is defined at 8 U.S. Code 1234a(h)(3) as a person who is not a U.S. citizen or U.S. national and is not lawfully admitted for permanent residence or authorized to work in the U.S. under 8 U.S. Code chapter 12 or by the U.S. attorney general.

Raffelis and its sub-contractors may not knowingly employ or contract with an unauthorized alien, or retain an employee or contact with a person that Raffelis or its sub-contractor subsequently learns is an unauthorized alien. If the City obtains information that the Raffelis or its sub-contractor employs or retains an

employee who is an unauthorized alien, the City shall notify Raffelis or its sub-contractor of the contract violation and require that the violation be remedied within 30 days of the date of the notice. If Raffelis or its sub-contractor verified the work eligibility status of the employee in question through the E-Verify program, there is a rebuttable presumption that Raffelis or its sub-contractor did not knowingly employ an unauthorized alien. If Raffelis or its sub-contractor fails to remedy the violation within the 30-day period, the City shall terminate the Agreement, unless the City determines that terminating the Agreement would be detrimental to the public interest or public property, in which case the City may allow the Agreement to remain in effect until the City procures a new contractor. If the City terminates the Agreement under this Article, Raffelis or its sub-contractor is liable to the City of actual damages.

Raffelis shall require any sub-contractor performing work under this Agreement to certify to Raffelis that, at the time of certification, the sub-contractor does not knowingly employ or contract with an unauthorized alien and the sub-contractor has enrolled in and is participating in the E-Verify program. Raffelis shall maintain on file all sub-contractor certifications throughout the term of the Agreement with the City.

**Article 22. Notices:** Any notice required by this Agreement shall be made in writing to the addresses specified below:

**City:**

Caroline Shaw  
City of Bloomington  
401 N. Morton  
Bloomington, IN 47404

**Raffelis**

Julia D. Novak  
Executive Vice President  
26 E. Hollister Street  
Cincinnati, OH 45219

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the City and Raffelis.

**Article 23. Intent to be Bound:** The City and Raffelis each bind itself and its successors, executors, administrators, permitted assigns, legal representatives, and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

**Article 24. Integration and Modification:** This Agreement, including all Exhibits incorporated by reference, represents the entire and integrated agreement between the City and Raffelis. It supersedes all prior and contemporaneous communications, representations and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment signed by both parties herein.

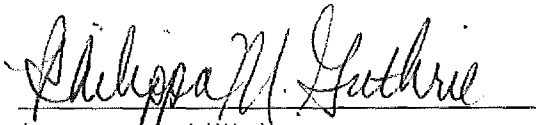
**Article 25. Non-Collusion:** Raffelis is required to certify that is has not, nor has any other member, representative or agent of Raffelis, entered into any combination, collusion or agreement with any person relative to the price to be offered by any person nor prevented any person from making an offer nor induced anyone to refrain from making an offer and that this offer is made without reference to any other offer. Raffelis shall sign an affidavit, attached hereto as Exhibit C, affirming that Raffelis has not engaged in any collusive conduct. Exhibit C is attached hereto and incorporated by reference as though fully set forth.

**Article 26. Entire Agreement.** This agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution thereof or contemporaneous herewith.

**Article 27. Construction and Severability.** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity of enforceability of any other part of this Agreement so long as the remainder of this Agreement is reasonable capable of completion.

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be executed the day and year first written above.

**CITY OF BLOOMINGTON**

  
(name and title)  
Corporation Counsel



\_\_\_\_\_  
Date

**RAFTELIS**

P. A. B...  
(name and title) CEO

11.2.2020  
Date

CITY OF BLOOMINGTON  
Legal Department  
Reviewed By: BEM  
DATE: 11/5/20

Exhibit A  
**E-VERIFY AFFIDAVIT**

The undersigned, being duly sworn, hereby affirms and says that

1. The undersigned is the President and CEO of  
(job title)  
Raffelis Financial Consultants, Inc.  
(company name)
  
2. The company named herein that employs the undersigned
  - i. Has contracted with or is seeking to contract with the City of  
Bloomington to provide services; **OR**
  - ii. Is a subcontractor on a contract to provide services to the City of  
Bloomington.
  
3. The undersigned hereby states that, to the best of his or her knowledge  
and belief, the company named herein does not knowingly employ an  
"unauthorized alien" as defined at 8 United States Code 1324i(h)(3).
  
4. The undersigned hereby states that, to the best of his/her belief, the  
company named herein is enrolled in and participates in the E-verify  
program.

Pf C B  
Signature

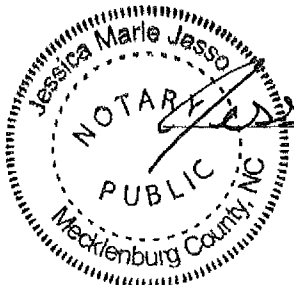
Peiffer Brandt  
Printed Name

STATE OF NORTH CAROLINA )

)SS:

COUNTY OF MECKLENBURG)

Before me, a Notary Public in and for said County and State, personally  
appeared Peiffer Brandt and acknowledged the execution of the foregoing  
this 2<sup>nd</sup> day of November, 2020.



Jessica Marie Jasso My commission expires: 12-8-24

Notary Public's Signature

Jessica Marie Jassb

Printed name of Notary Public

County of Residence: Meddenburg



Barbara McKinney <mckinneb@bloomington.in.gov>

**Re: Message from "RNP5838792D27BD"**

1 message

**Jeffrey Underwood** <underwoj@bloomington.in.gov>  
To: Barbara McKinney <mckinneb@bloomington.in.gov>  
Cc: Jeff McMillian <mcmillij@bloomington.in.gov>

Thu, Nov 5, 2020 at 11:16 AM

Approved

On Thu, Nov 5, 2020 at 11:10 AM Barbara McKinney <mckinneb@bloomington.in.gov> wrote:

Attached is 20-643, for Rafelis (which took over Novak Consulting) to do an organizational assessment of the OOTM and of boards and commissions. Thanks.

----- Forwarded message -----

From: <LegalScans@bloomington.in.gov>  
Date: Thu, Nov 5, 2020 at 11:06 AM  
Subject: Message from "RNP5838792D27BD"  
To: Barbara McKinney <mckinneb@bloomington.in.gov>

This E-mail was sent from "RNP5838792D27BD" (MP C4504).

Scan Date: 11.05.2020 11:08:49 (-0500)  
Queries to: LegalScans@bloomington.in.gov

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Barbara E. McKinney  
Director, BHRC/Assistant City Attorney  
City of Bloomington Legal Department  
401 N. Morton Street  
P O Box 100  
Bloomington, IN 47402-0100  
(812) 349-3429  
(812) 349-3441 (fax)

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