

## **RESOLUTION 20-34**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN UPDATED WORK ORDER AND NEGOTIATED FEE WITH MARK LAWSON RELATING TO THE DEVELOPMENT AND IMPLEMENTATION OF A RIGHT OF WAY ASSESSMENT PROGRAM, AND APPROVING A BUDGET AMENDMENT TO REAPPROPRIATE FUNDS FOR PAYMENT OF THE ASSESSMENT PROFESSIONALS PREVIOUSLY APPROVED IN RESOLUTION 19-108.**

Whereas, on July 25, 2019, the Council adopted Resolution 19-108 which approved professional services agreements for the development and implementation of a right of way assessment program together with a budget amendment to provide funding for those professional services; and

Whereas, final invoices for some of this work were not received in FY 2019, and a budget amendment is necessary to re-appropriate the unspent funds approved by Resolution 19-108 to FY 2020.

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of Panama City Beach that:

1. The appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Updated Work Order 2019-1 to the Professional Services Agreement dated September 1, 2017, between the City and Mark G. Lawson, P.A., related to the development and validation of a non ad valorem revenue source to provide funding for Front Beach Road Community Redevelopment Agency in a lump sum amount of Ninety Thousand Dollars (\$90,000), in substantially the form attached and presented to the Council today as Exhibit A, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.
2. The following budget amendment (#6) is adopted for the fiscal year beginning October 1, 2019 and ending September 30, 2020, to re-appropriate the unspent funds approved by Resolution 19-108, in

substantially the form attached as Exhibit B.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this 12<sup>th</sup> day of December, 2019.


**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_



Mike Thomas, Mayor

**ATTEST:**

  
Mary Jan Bossert, City Clerk

**WORK ORDER (Updated December 2019)**  
**No. 2019-1**

**TO:** Mark G. Lawson, P.A.  
Attention: Mark G. Lawson and James C. Dinkins

**FROM:** Holly White, Finance Director and Acting City Manager  
City of Panama City Beach, Florida

I have conferred with the Mario Gisbert and the City Attorney and appreciate your Firm's willingness to assist the City, its staff and advisors, as the City Council considered how to fairly and reasonably implement and place in repose the sharing of necessary expenses and costs associated with the Front Beach Road redevelopment area. This objective, using assessments in a manner supplemental to increment funding has been substantially achieved. The City has progressed well toward achieving the reasoned goal of fairly sharing these costs among the properties within the redevelopment area. Thank-you for agreeing to limit your fees through year end to a negotiated fee. This is the assured retrospective update to the original work order this Summer, so we can amend our budget, and pay your Firm. We appreciate your patience and assistance.

**SCOPE OF SERVICES.** In accordance with the Professional Services Agreement between the City and your firm, and direction of the City Council, Mark G. Lawson, P.A. ("MGLPA") has and has been directed and authorized to undertake the following activities:

Task 1. As necessary review and analyze relevant data and documentation including master parcel lists or summary preliminary roll-related information to be provided by others, associated budget information or projections provided by others, redevelopment plans and documents associated with the area within the City to be assessed which is to be substantially coterminous with the Front Beach Road redevelopment area, any associated interlocal agreements, redevelopment and assessment related statutes, ordinances and resolutions to be provided for review, to assist the City in determining those expenses which may be lawfully recovered through an ongoing cost recovery special assessment on a per tax parcel basis.

Task 2. Provide advice and review and comment upon the means the City uses to promptly develop a preliminary non-ad valorem assessment roll including all tax parcels proposed for assessment.

Task 3. Consider and analyze case law and general law requirements and deadlines; and collaborate with the City Attorney and other approved consultants, City staff and officials to develop and update a detailed critical events schedule including key dates for necessary actions and deliverables. This will be done with the goal and objective of imposing the assessment for FY 2019-2020 at the beginning of the Fiscal Year (October 2019) using a traditional method of collection, serve with the City Attorney as special counsel in seeking a judicial approval to use some part of the proceeds from the assessment as initially imposed to fund repayment of a capital lease or other obligation, and then promptly assisting the City in imposing the assessment for FY 2020-21 as soon as possible after January 1, 2020 using the uniform method of collection, which will be billed through the annual tax notices sent by the Tax Collector during the following month of November.

Task 4. Work with Dr. Owen Beitsch and Ennead, LLC, whose services are being separately secured by the City, the City Manager, and the City Attorney to review and comment upon the evidentiary executive summary report or memorandum, as necessary, or otherwise share memoranda annually, as needed, providing advice on cost allocation or budget analysis, addressing the apportionment methodology, and sharing means to comply with applicable law, evidentiary and procedural standards, and collaborate in developing a reasoned array of funding (amount) alternatives or recommendations as directed by the City Manager, with an eye toward repose and efficiently repeating the imposition of the assessment in future years.

Task 5. Prepare or update any updated ordinance, implementing resolution(s) or other documents authorizing and initiating the process required for the special assessment program.

Task 6. If requested, appear before the City Council to present any required implementing documents or resolutions.

Task 7. Advise upon and review any updates concerning the non-ad valorem assessment roll according to direction of the City Council.

Task 8. Facilitate required notices with City staff and other consultants; and at the City's request, additionally act as special counsel in association with the City Attorney and City management and review and comment upon any interactive means of roll presentation via the internet from a link shown on the City's website, and assist with assuring compliance with City directions and legal requirements.

Task 9. Assist the City with reviewing and approving the assessment roll, and thereafter as directed and agreed by work order, including the prosecution of an uncontested validation to assure the use of assessment proceeds may be employed to finance capital equipment.

Task 10. If requested, appear and assist the City Manager, City Attorney, and City Council with any public hearing to present and subsequent assessment resolutions; and, adoption thereof.

Task 11. Provide advice and counsel to assist the City in facilitating timely compliance with statutory prerequisites and reasonable local requirements necessary for collection of the assessments on the annual property tax bill.

**2. ACKNOWLEDGMENT OF USE OF NECESSARY CONSULTANTS.** The City has begun and confirms collaboration with Dr. Owen Beitsch an economist practicing with GAI Consultants, Inc. ("GAI"), and Ennead, LLC ("Ennead") for the purposes of developing and implementing the subject supplemental funding program. In such capacity, GAI and Ennead shall not be deemed clients or subcontractors of MGLPA as special counsel, but in privity with the City. This writing was prepared, in part, by special counsel or the City Attorney, and reflects mental impressions, conclusions, litigation strategies and legal theories developed and prepared in connection with anticipation of imminent civil litigation or adversarial administrative hearings and is intended to be exempt from inspection or examination as a public record until conclusion of both such litigation or adversarial administrative proceedings.

**3. COMPENSATION; TERM.** Fees are authorized based upon hourly rates described in the Professional Services Agreement. In addition to such rates, the Firm will be entitled to reimbursement for actual costs incurred, but not exceeding that provided by Chapter 112, Florida Statutes. These rates will not change except upon notice and acceptance by the City.

(a) Although the Firm could provide its services on an hourly time and materials basis, the Firm and City management have mutually agreed to undertake this work on a negotiated fee basis from June until December 31, 2019; and this approach has also been reviewed and recommended by the Mario Gisbert and the City Attorney as to reasonableness. However, in any event, the City shall additionally pay all reasonable costs incurred by the Firm on a monthly or periodic basis (upon provision of appropriate reimbursement back-up and detail for audit purposes).

(b) This authorization and Work Order shall continue from year to year on an as needed basis; and, unless otherwise agreed, beginning as applicable with Task 1 work beginning January 1, 2020, and each year thereafter, unless either party notifies the other in writing otherwise on or before March 1.

(c) The foregoing compensation to the Firm, does not cover amounts for published notices, printing or mailing, fees or charges of the property appraiser or tax collector, or similar expenses associated with assessment implementation, roll presentation via the internet, transcription fees or filing fees all of which will be the responsibility of the City, or any additional work not described above or for other engagements. Nor does the negotiated fee in Section 4. include any appellate work.

(d) All invoices will provide appropriate reimbursement backup and detail required by the City for audit purposes.

**4. WORK ORDER BUDGET.** The initial budget appropriation to pay your Firm under this Work Order shall be the negotiated fee amount of \$90,000 for professional services plus demonstrated and authorized expenses through December 31, 2019. City management acknowledged at the outset that additional fees and costs for this work order would most likely occur beyond any initial budget appropriation, and additional authorization will be required by an additional budget appropriation to complete the anticipated scope and objectives this year and in the future. Thank-you again for your cooperation, patience and continuing assistance in this matter.

Authorized and confirmed by:

Accepted:

\_\_\_\_\_  
Holly White, as Contract Administrator  
Date:

\_\_\_\_\_  
/s/ Mark G. Lawson  
Mark G. Lawson, P.A.  
Date: as of even date

