

# *Hawkins*

DELAFIELD & WOOD LLP

**PROPOSAL TO SERVE  
AS LEGAL ADVISOR FOR P3 AND  
DEVELOPMENT / CONSTRUCTION PROJECTS  
TO THE CITY OF RIVIERA BEACH,  
THE RIVIERA BEACH COMMUNITY  
REDEVELOPMENT AGENCY,  
AND  
THE RIVIERA BEACH UTILITY SPECIAL DISTRICT  
RFP No. 1024-21-2**

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April 23, 2021

Office of the City Clerk  
City of Riviera Beach  
600 West Blue Heron Boulevard, Suite #140  
Riviera Beach, FL 33404

**Re: Proposal to Serve as Legal Advisor for P3 and Development/Construction Projects to the City of Riviera Beach, the Riviera Beach Community Redevelopment Agency, and the Riviera Beach Utility Special District in Response to RFP No. 1024-21-2**

Ladies and Gentlemen:

**The Right P3 Legal Advisor for the Job:** Hawkins Delafield & Wood LLP ("Hawkins") appreciates the opportunity to present our qualifications and proposal to serve as P3 legal advisor to the City of Riviera Beach (the "City"), the Riviera Beach Community Redevelopment Agency ("CRA"), and the Riviera Beach Utility Special District ("USD") in connection with the establishment of public private partnerships ("P3s") to fund public buildings projects undertaken by the City, CRA, and USD including, but not limited to: the Riviera Beach Fire Station 88 and a new municipal complex for the City; a mixed use commercial and residential project and a mixed use waterfront project for CRA; a design-build water utility plant; and other P3 and non-P3 projects for the City, CRA, and USD as they arise. Hawkins is fully prepared to provide legal advisory services to the CRA and the USD, as well as to the City, in connection with these public works projects. This submittal is made in response to "RFP No. 1024-21-2 Legal Services for Implementation of Public Private Partnerships Projects and Development/Construction Projects" (the "RFP").

We are leading national legal experts in the public buildings and water facilities planning, procurement, construction, operation and financing field using the design-build-finance-maintain (DBFM or P3) and other alternative project delivery methods, and specialize in the legal services requested in the this RFP: structuring project transactions; preparing solicitation documents; evaluating proposals; drafting and negotiating final contracts and interim agreements, terms, and conditions; achieving commercial and financial close; and providing strategic assessments and legal advice relating to the procurement and negotiations.

The firm is pleased to submit **one** original and **six** hard copies of our submittal, as well as **two** digital copies on USB drives. Further information about our firm generally may be found on our website: <https://www.hawkins.com/services/practices/public-private-partnerships> and <https://www.hawkins.com/services/industries/public-buildings>. We are

confident that this proposal clearly distinguishes Hawkins as the right law firm for the P3 projects to be undertaken by the City.

**Hawkins is a Unique Public Contract and Financing Legal Boutique.** Hawkins is a 90-lawyer public works procurement, contract and finance legal boutique that is uniquely qualified among law firms for this work. We would like to emphasize that twelve of our lawyers practice *full time* in the specialty practice of serving as owner's lead counsel in the P3 and alternative project delivery field. Our P3 infrastructure group has represented public agencies on *over 250 projects in 25 states* delivered using the design-build, design-build-operate-maintain and design-build-finance-operate-maintain (P3) delivery methods in all infrastructure sectors, a number which is unsurpassed among American law firms. Our firm has extensive expertise and experience in alternative project delivery and P3 transactions both regionally and nationally, has maintained a substantial specialized legal practice for more than 30 years in this field, is widely recognized as a pioneer and industry leader, and is fully capable of performing all required P3 special counsel legal advisory services to the highest standards. We are transactional attorneys, and the heart of our practice is representing state and local governments in alternative project delivery, P3, public contract, and public finance matters, all of which serve a basic public purpose.

### **HAWKINS' PUBLIC BUILDINGS P3 PROJECTS**

**Hawkins is the Leading National Public Buildings P3 Law Firm.** Hawkins has the leading national owner's advisory law practice in P3 *public buildings* projects in the United States. Many competing firms' P3 expertise is concentrated in the transportation sector; Hawkins' P3 expertise, by contrast, is in the public buildings sector, as well as broadly across all infrastructure sectors. We have served or are serving as owner's legal advisor in the following major public building P3 projects, drafting and negotiating the RFQ, RFP and Project Agreement for completed projects – each of these is described in more detail in Section 2 of our proposal:

**Sarasota County, Florida Government Center Project.** Hawkins represents Sarasota County, Florida as P3 legal advisor on the planned procurement of a new government center project for the County. The Sarasota County project will replace aging public administration facilities and consolidate multiple departmental groups for modernization and greater efficiency and take into account e-work and autonomous transportation considerations.

**California's New Long Beach Court Building.** The Long Beach project was the seminal project in the national P3 courthouse field, and has been operational since 2016. Hawkins served as owner's P3 lead counsel and directed and coordinated the procurement, contract and financing legal work. Our RFQ, RFP and project agreement documents set the standard in this industry. Long Beach also won several industry leadership awards.

**Howard County, Maryland Courthouse.** Hawkins served as owner's P3 legal advisor on the Howard County P3 project, directing the procurement and handling the contract and financing legal work for the County's new \$150 million circuit courthouse, including the pioneering use of a new "hybrid" financing approach. The transaction closed in October, 2018, and occupancy readiness is scheduled for mid-2021. We played a central role in completing the procurement in only one year from RFQ issuance to commercial and financial close, one of the fastest procurements on record. This groundbreaking project won *four industry awards for excellence, including 2019 P3 Bulletin Awards for Best Social Infrastructure Project and Best Financial Structure*. An excellent case study of the Howard County P3 Courthouse and our work for the County can be found at <https://www.hawkins.com/project-profiles/howard-county-circuit-courthouse-p3-project>.

**Clackamas County, Oregon Court Building Project.** Our firm currently is engaged to represent Clackamas County, Oregon as P3 legal advisor on the new Clackamas County courthouse, another current major public building DBFM procurement under active development. P3 was selected after an extensive business case review of potential delivery methods in which Hawkins participated and provided extensive supporting legal research. The

project will consolidate several county judicial functions and replace an aging court building with significant safety and functionality limitations.

**New York State Empire State Development – Javits Convention Center Expansion Project.** Hawkins served as owner’s lead procurement and contract counsel for the \$1,500,000,000 Jacob K. Javits Convention Center expansion project. The project was procured on a competitive proposal basis using the firm fixed price design-build project delivery method. The Javits expansion project was the first major public building procurement undertaken in New York on a design-build basis, as New York continues to expand its use of alternative project delivery for public works. The Javits Center is the busiest convention center in the United States and hosts more than 175 events annually.

**San Francisco, California – Citywide Fiber Optic Broadband Project.** Hawkins served as owner’s lead counsel for the City and County of San Francisco in the planned procurement of a new city-wide fiber optic broadband project using the design-build-finance-operate-maintain delivery method, intended to provide gigabit speed internet services to all residences and businesses in San Francisco.

**Houston, Texas – Justice Complex Project.** In Texas, Hawkins served as lead legal advisor to the City of Houston in the State’s first proposed social infrastructure P3 project. The Houston Justice Complex was planned as a one million square foot, \$500+ million downtown building for the Houston Police Department and the City’s municipal courts, replacing aging and undersized facilities.

**New York State Dormitory Authority – Consolidated State Laboratory Project.** Hawkins represented the New York State Department of Health (through the Dormitory Authority of the State of New York, NYSDOH’s lead consultant) as lead legal advisor on New York’s second large-scale social infrastructure project delivered on a P3 or design-build basis. The \$600+ million new laboratory facility was planned to consolidate several existing older DOH-operated labs in the Albany area requiring upgrades and modernization into a single state-of-the-art laboratory complex. Hawkins drafted the special legislation required for the project.

**Travis County, Texas Courthouse.** Hawkins served as legal advisor to Travis County in the preparation of a comprehensive and definitive business case “value for money” study of potential project delivery methods for the new Travis County court building, in which P3 was the recommended delivery method using a “hybrid” project financing model. The later procurement legal work was handled by a local firm.

**State of Delaware Courthouses.** Hawkins also served as the P3 legal advisor to the State of Delaware on its proposed family court building project, a group of three courthouses to replace aging facilities in each of the three Delaware counties. As in Travis County, we served in a central role developing and advising on a comprehensive and definitive business case value for money study of P3 and other possible alternative delivery methods for the courthouses. P3, using the “hybrid” project financing approach, was recommended by the selection committee.

**Hawkins’ Forms of Contract Documents.** Hawkins’ RFQ, RFP and contract documents, widely recognized for their excellence, have been copied, adapted and used by in-house and outside counsel in major public buildings P3 projects, including the Long Beach Civic Center project and the Miami-Dade courthouse project, a concrete market recognition of the value of our firm’s approach, terminology, structuring terms and conditions, and contract language.

#### **WHY PUBLIC BUILDING-SPECIFIC P3 EXPERIENCE IS IMPORTANT**

Public building P3 projects (or design-build-finance-maintain (DBFM) projects), in common with all other P3 projects, are based on a competitive best value procurement process; long term life-cycle contracting; and private project financing. Public building P3’s, however, by contrast to transportation and other heavy civil infrastructure projects, involve elements of



work particular to public buildings and judicial uses. These include detailed space planning and other program requirements; highly refined considerations of architectural excellence; detailed building commissioning and occupancy readiness performance standards; public safety and security standards; and hundreds of “functional units” with related “availability” standards, involving service fee “deductions” for non-compliance. Hawkins is highly experienced and skilled in the contractual expression of these standards and requirements, working closely with the owner’s technical and financial advisors.

### **35+ P3 PROJECTS**

**Private Project Financing of Public Infrastructure (P3).** In more than 35 major P3 transactions on which Hawkins serves or served as special counsel representing municipal clients or lenders, private financing of new public infrastructure assets using private equity and either taxable or tax-exempt debt was utilized.

**Representative P3 Projects.** Hawkins participation in P3 infrastructure project transactions includes projects distinguished by their innovative character and significance to the public agency owner and the P3 market generally. Among our P3 engagements are:

#### **Public Buildings and Social Infrastructure P3’s**

- > Sarasota County, Florida – New County Administration Building P3 Project
- > Clackamas County, Oregon – New Court Building P3 Project
- > State of California – New Long Beach Court Building P3 Project
- > Howard County, Maryland – New Courthouse P3 Project
- > San Francisco – Citywide Fiber Optic Broadband P3 Project
- > State of New York – Consolidated Laboratory P3 Project

#### **Water P3’s**

- > San Diego County Water Authority, California – Carlsbad Seawater Desalination P3 Project
- > San Antonio Water System, Texas – Vista Ridge Regional Water Supply P3 Project
- > Sacramento Regional County Sanitary District, California – Biosolids Management P3 Project
- > Cranston, Rhode Island – Wastewater Treatment and Biosolids Management P3 Project

#### **Transportation P3’s**

- > Florida Department of Transportation – Port of Miami Tunnel P3 Project
- > Port Authority of New York and New Jersey – LaGuardia Airport Central Terminal Building P3 Project
- > Massachusetts Bay Transportation Authority – P3 Fare Transformation Program
- > Texas Department of Transportation – SH 288 P3 Project

#### **Power and Renewable Energy P3’s**

- > San Diego, California – Landfill Gas-to-Energy P3 Projects
- > Washington, D.C. Water and Sewer Authority – Solar P3 Project
- > Central Contra Costa Sanitary District, California – Bioenergy P3 Project
- > Klamath Falls, Oregon – Cogeneration Facility P3 Project

#### **Solid Waste P3’s**

- > Montgomery County, Maryland – Resource Recovery and Rail Haul P3 Project
- > Onondaga County, New York – Waste-to-Energy P3 Project
- > Virgin Islands Waste Management Authority – Resource Recovery and Recycling P3

- Project
- > New York City – Waste-to-Energy and Rail and Barge Waste Export P3 Projects

**P3 League Tables.** Hawkins ranks second in both total P3 deal value and number of P3 transactions completed in the United States. We are the only law firm among those ranked that focuses its practice exclusively on the representation of public agencies.

INFRAMATION US P3 LEAGUE TABLES: LAW FIRMS JULY 2009 TO JULY 2019*			
Rank	Law Firm	P3 Deal Value (\$USD M)	P3 Transactions
1	*****	***	19
2	Hawkins Delafield & Wood	14,858	12
3	*****	***	9
4	*****	***	8
5	*****	***	10

\*This chart reflects P3 projects (design-build-finance-operate-maintain) only, and does not account for other alternative delivery methods, such as design-build, progressive design-build, design-build-operate, and design-build-operate-maintain, in which Hawkins also has industry-leading experience and expertise.

#### HAWKINS' DESIGN-BUILD WATER PROJECTS

**Hawkins is an Industry Leader in Water Sector Projects.** In the water sector as well, Hawkins has developed and maintains the leading legal advisory practice in the United States for projects procured on an alternative delivery or P3 basis. We have, over two decades, served as special counsel to municipal utilities and public agencies on over 100 water and wastewater project procurements. Some of our flagship water sector projects are as follows:

**San Diego County Water Authority – Carlsbad Seawater Desalination P3 Project.** (*Design-Build-Finance-Operate-Maintain*). Hawkins represented the San Diego County Water Authority as special contract counsel in the development of California's first major reverse osmosis seawater desalination project (a 50 mgd plant built under a design-build-finance-operate public-private partnership) from 2003 to 2013. The \$800 million desalination facility and pipeline project, constructed in Carlsbad at the site of an existing power plant, has served to substantially expand San Diego County's reliable supply of local water sources. Our firm participated as lead counsel in the contract negotiations with Poseidon Resources, the project company, and played a key role in structuring the transaction so that it could secure investment grade credit ratings. Hawkins drafted and negotiated the comprehensive project term sheet, the 30-year DBFO project contract (structured as a water purchase agreement and involving annual payments of \$100 million), the water transmission pipeline DB agreement, and related project and security agreements. Commercial and financial close both took place in December 2012 and the project became operational in late 2015, providing a critically needed new supply of water in the midst of California's extended drought. Stonepeak Infrastructure Partners provided the long-term equity investment and JP Morgan and Barclays acted as the bond underwriters. The design-builder was Kiewit/Shea JV and Israel-based international desalination firm IDE Technologies serves as the system process provider and the plant operator.

**San Antonio Water System – SAWS Vista Ridge Regional Water Supply P3 Project.** (*Design-Build-Finance-Operate-Maintain*). Our firm represents the San Antonio Water System in its alternative delivery procurements of projects intended to increase the water resources available to meet the needs of SAWS' rapidly growing service territory. Hawkins first completed a construction-manager-at-risk procurement for a large groundwater desalination project now in operation, and then led the SAWS negotiating team on the successful procurement of a \$1

billion, 30-year water transmission and purchase agreement with Garney Construction Company. Commercial close occurred in late 2014, and financial close was achieved in November 2016. Under the agreement the project company is obligated to acquire the rights to 50,000 acre feet of fresh water under groundwater leases with land owners in rural Burleson County; secure all necessary groundwater pumping and transportation permits from the local groundwater management district; obtain rights-of-way from private property owners for the project alignment; design and build wells, pumping stations, 140 miles of transmission mains, and a terminal in Bexar County; and interconnect the new system to SAWS' existing distribution system. The project company also has long-term operating, maintenance, repair and replacement responsibility for the project. SAWS is obligated under the agreement to take delivery of and purchase product water made available to it over the contract term. Garney, through its various affiliates, will provide equity, build the project under a design-build contract, cause it to be operated pursuant to an operating services agreement, and furnish groundwater pursuant to groundwater leases obtained by local groundwater aggregator Blue Water Systems.

**Breadth of Water Sector Experience and Practice Scale.** Section 2 of this Proposal expands on our record of success in the water sector and describes Hawkins' many water sector projects delivered using the design-build procurement method, among other alternative project delivery methods. Our record of water sector service includes:

- > **100+ design-build water projects nationally**
- > **48 design-build wastewater projects nationally**
- > **14 design-build residuals projects nationally**
- > **30+ water projects involving expansions and upgrades**
- > **250 U.S. design-build and progressive design-build projects in all infrastructure sectors**
- > **10+ WIFIA-financed design-build water projects**
- > **30+ SRF-financed design-build water projects**

Hawkins is the only law firm in the country that has committed itself to an owner-side water project procurement practice of this duration and on this scale. We work with all of the major consulting engineering firms practicing in the field; have negotiated design-build, design-build-operate-maintain, design-build-finance-operate, P3, asset management and concession contracts with most of the major water contractors; and are active participants in AWWA, DBIA, WEF, GWI, USCM, NCPPP and other water industry forums. Several of Hawkins' projects are recipients of Project Finance Magazine, DBIA, Bond Buyer and other major awards recognizing project excellence, including the widely recognized Carlsbad Seawater Desalination Project for the San Diego County Water Authority described above.

Among the public agency clients we represent or have represented regionally in major water project procurements are:

Northwest

- > Seattle (WA)
- > Spokane County (WA)
- > Stockton (CA)
- > Tacoma (WA)
- > Vancouver (WA)
- > Victoria CRD (Canada)
- > Wilsonville (OR)

Northeast

- > MWRA (Boston)
- > New York City
- > Newport (RI)
- > Springfield (MA)
- > Washington, DC (WASA)
- > Washington Suburban Sanitary Commission (MD)

Southwest

- > Houston (TX)
- > Pima County (AZ)
- > San Antonio (TX)
- > San Diego (CA)
- > San Diego County Water Authority (CA)

Southeast

- > Charlotte (NC)
- > Fulton County (GA)
- > Hialeah-Miami (FL)
- > Nashville (TN)
- > PRASA (Puerto Rico)

- > Santa Fe (NM)
- > Trinity River Authority (TX)
- > Sarasota (FL)

**Why Water Sector-Specific Design-Build Experience is Important.** Design-build projects are based on a competitive, best value procurement process. Water sector projects, in contrast to transportation and other heavy civil projects, involve elements of work particular to water treatment. These include especially water treatment quality and quantity performance guarantees. Hawkins, over a 25-year period, has led the development of such guarantees through its work on major water treatment projects for Phoenix, Seattle, San Antonio, Santa Fe, and two dozen California water sector projects. Our original contract and procurement forms have been widely copied, demonstrating quite clearly Hawkins' recognized industry leadership and role as thought-leaders in this field.

#### **FLORIDA P3 AND ALTERNATIVE DELIVERY PROJECTS EXPERIENCE GENERALLY**

Hawkins has served as special counsel in the procurement, drafting and negotiation of several major alternative delivery and P3 projects in Florida. These projects, summarized below, have given the firm a working familiarity with Florida procurement law and practice.

Hialeah. Used the design-build-operate-maintain contracting method to procure one of the largest brackish groundwater desalination projects in Florida (10 mgd, expandable to 17.5 mgd).

Sarasota County. Development of a new sludge management project on an alternative project delivery basis using a sludge drying, pelletizing, composting or stabilizing technology to be competitively determined. Our work here includes drafting the RFP, and drafting and negotiating the design-build-operate-maintain-finance contract with the selected vendor.

Port of Miami Tunnel. A tunnel linking the Port of Miami and the cruise ship docks directly to downtown Miami's interstate highway connections under an FDOT concession. Availability payments from FDOT payable under the project agreement secured the loan. TIFIA loan amount: \$340 million.

I-595 Corridor Roadway Improvements Project. Improvements to I-595 built under a concession awarded by FDOT. This "managed lane" project was the first "availability payment" P3 project financed by TIFIA, under which payments are to be made subject to the receipt of service and also subject to state appropriations. TIFIA loan amount: \$600 million.

I-4 Corridor Improvements. Hawkins has had the privilege to serve as special counsel to the Federal Highway Administration for the TIFIA program since the inception of the outside counsel program. Hawkins successfully negotiated and closed a \$949,464,766 secured TIFIA loan with Florida Department of Transportation's selected developer for the I-4 Ultimate Project in Orange County bringing significant infrastructure improvements to the Orlando area.

Florida Housing Finance Agency. Hawkins has served as Co-Bond Counsel to Florida Housing for the past sixteen years. In addition to our work with Co-Bond Counsel to Florida Housing, Hawkins is currently working on or recently worked on housing initiatives with the Tampa, Orlando, Jacksonville and St. Petersburg Housing Authorities.

#### **ADDITIONAL DISTINGUISHING QUALIFICATIONS**

**Procurement Projects for 8 of the 10 Largest Cities Nationally.** Hawkins has represented governmental clients as lead counsel in the procurement of major design-build, P3 and other alternative delivery infrastructure projects in 8 of the 10 largest cities in the nation,



either on behalf of the city itself or a public agency serving the city or region. These include projects for the following cities among the 10 largest:

- > New York City
- > Los Angeles
- > Houston
- > Phoenix
- > San Antonio
- > San Diego
- > Dallas
- > San Jose

Our firm has also served as owner's lead procurement and contract counsel for infrastructure projects in or serving these additional cities among the 25 largest:

- > Jacksonville
- > Seattle
- > Charlotte
- > Fort Worth
- > Boston
- > Washington, DC
- > Nashville
- > San Francisco

Hawkins infrastructure procurement clients include, as well, dozens of other smaller, mid-size and large public agencies in all regions of the country.

**Procurement Projects for States and Territories.** Hawkins has also represented numerous states, and state and federal public agencies, as owner's lead counsel on major public works procurements using design-build, P3 and other alternative project delivery procurement approaches, including:

- > Alaska
- > California
- > Delaware
- > Georgia
- > Maine
- > Maryland
- > Massachusetts
- > Navy Department
- > New Jersey
- > New York
- > Puerto Rico
- > Rhode Island
- > Virgin Islands
- > Washington

**County Clients.** Hawkins represents or has represented the following county clients as lead counsel in major alternative delivery and P3 project procurements:

- > Bergen (NJ)
- > Broome (NY)
- > Burlington (NJ)
- > Clackamas (OR)
- > Fulton (GA)
- > Hawaii (HI)
- > Howard (MD)
- > Kauai (HI)
- > Kern (CA)
- > Monmouth (NJ)
- > Monroe (NY)
- > Montgomery (MD)
- > Morris (NJ)
- > Orange (CA)
- > Onondaga (NY)
- > Pima (AZ)
- > Rockland (NY)
- > Sacramento (CA)
- > Santa Cruz (CA)
- > Sarasota (FL)
- > Somerset (NJ)
- > Spokane (WA)
- > Travis, (TX)
- > Ventura (CA)
- > Wake (NC)
- > Westchester (NY)

**Procurement Expertise.** Alternative delivery and P3 projects are effectuated by the drafting, negotiation and execution of a contract which incorporates some combination of design, construction, financing, operation and maintenance responsibilities into a single project agreement – anywhere from two to five contracts in one. These are complex and comprehensive legal agreements, and need to be handled by a highly experienced special counsel firm deeply familiar with the particular infrastructure sector, with the market for such projects, and with the construction, design-build, operating services, equity and commercial and investment banking firms that are active in this specialized field. Our firm offers the City highly seasoned business, transactional, and sector specific legal expertise critical to the

process of properly effectuating the project under the selected delivery method. This expertise, derived from the detailed work of actually drafting scores of project agreements as legal advisor to the municipal owner in multiple infrastructure sectors (particularly the public buildings sector), is central to the professional services necessary for projects of this nature.

**Public Finance Leadership.** Hawkins' public infrastructure procurement and contract practice is strongly complemented by our top-tier public finance practice, in which we are consistently ranked first or second nationally as underwriter's counsel and bond counsel. The firm, since 1980, has served as *bond counsel or underwriter's counsel on over 14,000 issues of municipal bonds with a total principal amount exceeding \$1 trillion*. One quarter of these issues, valued at about \$250 billion, involved private activity bonds. Our work for public agencies at the intersection of alternative and traditional forms of building and financing public works makes us uniquely qualified to advise public sector clients when considering and undertaking alternative delivery and P3 project approaches.

#### **PUBLIC AGENCY REPRESENTATION EXCLUSIVELY; NO CONFLICTS OF INTEREST**

Hawkins represents state and local governments and project owners, exclusively, in its alternative project delivery and P3 legal advisory practice. This concentration on the municipal side has allowed us to develop a highly refined understanding of governmental contracting powers; negotiate with an unusually wide array of contractors and infrastructure developers; and concentrate on contracting approaches that best protect the public interest and achieve fundamental public purposes. This policy also has allowed us to see almost every conceivable private sector approach to proposing projects and negotiating contracts. Competing law firms' experience is often largely on the corporate side, with the attendant loyalties and perspectives that such representation naturally entails. Hawkins, under a long-standing policy established in order to avoid any potential conflicts of interest, does not represent any construction company, engineering firm, operating services or facilities management provider, or infrastructure developer. Accordingly, Hawkins does not face the prospect, when serving as special counsel for a governmental client, of having either a legal conflict of interest or a business conflict of interest.

#### **PERFORMANCE BASED BUILDING COALITION**

Hawkins is a founding sponsor of the Performance Based Building Coalition. PBBC is a group of more than 50 contractors and consultants actively engaged in the development of and advocacy for P3 public buildings projects around the country. Our P3 activities focus on changes to the federal tax code to place social infrastructure P3's on an equal tax-exempt footing with municipally-financed projects; revisions to state procurement laws accommodating P3 projects; and educating public officials as to the advantages of the P3 approach to project delivery.

#### **CONCLUSION**

**Client Responsiveness and Quality of Service.** At Hawkins, we take great pride in the service that we consistently provide our clients. This is demonstrated in our seasoned and thoughtful advice, the high-quality of the documents we produce and, above all, the accessibility and responsiveness to our clients' needs and requests. We would like to emphasize that we place a strong focus on working cooperatively with our clients and the entire consulting team to appropriately and cost-effectively allocate responsibility for project development in a manner that will maximize the value that each professional brings to the transaction.

**Fees and Cost Control.** The firm recognizes the City's need to conduct the procurement and contract negotiations as efficiently and economically as possible, and we are prepared to work with the City to develop a legal services work plan and budget that meet their goal. Our proposed initial work plan is set out in Section 4 of our proposal, and our cost control approach is described in Section 5. The depth and breadth of our P3, design-build and

alternative delivery law practice and the extensive document and research library and seasoned judgment we have developed over three decades consistently allow us to perform these services on a high value-added basis and in fewer hours of attorney time (which is the key factor in cost control), and to help clients make sound and informed decisions, saving expense, time, risk and conflict in the process.

**Critical Mass Practice.** Hawkins is able to provide a distinguished level of P3 legal experience and capabilities for public buildings and water projects built on a P3 or other alternative delivery basis only because we practice nationally as well as in Florida in these particular specialized infrastructure fields, as well as in all of the other infrastructure sectors in which our P3 competitors practice. Our election to specialize so extensively in the public building and water project P3 fields has allowed us to achieve a “critical mass” of government center, water project, and other public building infrastructure projects successfully delivered using P3 and other alternative delivery contracting approaches. This is the qualification, in particular, that most sets Hawkins apart.

**Further Information.** The nature of professional services is such that a variety of matters may have a bearing on the City’s consideration in retaining a legal advisor. Since it is difficult to anticipate all of these possible factors in our proposal, we encourage you to contact us should you wish to discuss any matters that are not covered in our proposal or obtain a clarification on any particular point. We understand the City is ready to move forward expeditiously, and we are prepared to devote the full resources of Hawkins to assisting the City in getting the projects off to a fast and effective start.

**Firm Commitment.** Thank you again for the opportunity to submit our statement of qualifications and proposal in response to your RFP. We are enthusiastic about the prospect of being of service to the City in its P3 and development/construction procurements, and utilizing Hawkins’ experience and expertise to assist the City in implementing the projects in a manner that will be of maximum benefit to the City, serve an essential public purpose, minimize risk to the City and maintain the degree of control over public assets that the City desires.

Sincerely yours,



Eric S. Petersen

**HAWKINS DELAFIELD & WOOD PROPOSAL  
TO SERVE AS LEGAL ADVISOR FOR P3 AND  
DEVELOPMENT/CONSTRUCTION PROJECTS**

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**PROPOSAL ATTACHMENTS**

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**SECTION 1**

**ORGANIZATIONAL INFORMATION, KEY PERSONNEL, AND RESUMES**

## SECTION 1

### ORGANIZATIONAL INFORMATION, KEY PERSONNEL, AND RESUMES

**Municipal Focus.** Hawkins has approximately 90 lawyers in nine offices representing state and local governments in alternative project delivery, public-private partnership (“P3”), public contract and public finance matters, the largest such “boutique” municipal practice law firm in the country. Our public contracts group and public finance group are national leaders in their respective fields. A full description of our firm generally can be found at <https://www.hawkins.com>.

**Overview.** Hawkins is the largest municipal contract and finance legal boutique in the country. Representation of local, state and federal governments, public authorities and districts is the core of our practice. The firm has 90 attorneys specializing in the state and local government field, and related real estate, tax, project finance and securities matters. Our public contracts group and public finance group are nationally recognized and hold top-tier market share positions in their respective specialties. Hawkins is a leader in serving as public contract counsel, bond counsel, underwriters’ counsel, or special counsel for all types of alternative project delivery, public-private partnership and public finance transactions. The number and variety of governmental clients that are represented by the firm, and our continuing involvement in the development of new procurement, contracting, structuring, and financing techniques for these clients, demonstrate our current leadership in the public contracting and public finance fields.

**Organization.** The firm was organized in 1854 as a general practice law firm and has been specializing in municipal, business and finance law for over 115 years. Our attorneys have achieved a nationwide reputation of excellence in advising clients on the legal aspects of contract and financial transactions. Hawkins has offices in New York, Newark, Los Angeles, San Francisco, Sacramento, Portland, Hartford, Washington and Ann Arbor.

**Municipal Focus.** The primary focus of the firm’s practice, in addition to its public contracts work, is in the field of municipal law and public finance, particularly the issuance of securities by states, public agencies and authorities, municipalities and other governmental issuers. Hawkins has been a nationally recognized bond counsel firm for over one hundred years. In recent years the firm has consistently been ranked, based on the dollar volume of issues approved, as the first or second bond counsel firm nationally in industry rankings. The firm is currently retained as bond counsel, underwriter’s counsel, special tax counsel and contract negotiation counsel in connection with public financings of all types throughout the United States. Publicly sponsored projects and programs in which the firm regularly participates include those for public power, transportation, education, student loan, hospital, housing, convention center, water and sewer, solid waste disposal and resource recovery, industrial development and airport purposes, as well as general obligation financings for various governmental purposes such as highways, schools and governmental buildings. Hawkins is also often engaged as a legal consultant to states, counties and municipalities in connection with such matters as consolidation of indebtedness, annexation, drafting of contracts for municipal services, structuring of joint municipal facilities involving joint or several indebtedness, and as advisors to municipalities as to the effect on such clients of action or financing by other entities, both public and private.

**Public Purpose.** Hawkins believes that public purpose considerations are vital to the determination to undertake any form of alternative delivery or public-private partnership project. In connection with public infrastructure assets, it is important for owners to consider constitutional and statutory structures designed to advance a particular public purpose. Hawkins, in its alternative delivery and P3 practice, has significant experience with long-term contracting, in which such considerations are taken into account and the continuing public interest in the assets (and the public service provided by the private firm) is appropriately

protected through handback, holdback, monitoring, security and other requirements. Service standards, responsibility for ongoing capital maintenance, requirements for capital modifications, and rights of termination for public convenience are of particular concern in long-term partnerships.

**National Alternative Delivery and P3 Practice.** Hawkins has served as special procurement and contract counsel to state and local governments on more than 250 infrastructure projects in 25 states around the country, and is a national leader and pioneer in this field. Our public contracts group has 10 attorneys devoting 100% of their time to projects procured on an alternative delivery and P3 basis, providing our state and local government clients with experienced resources among the deepest available from any American law firm. We have conducted our alternative delivery and P3 practice for more than 30 years continuously together at the same firm. Alternative delivery and P3 project agreements which Hawkins has drafted and negotiated on behalf of municipal government have had terms ranging from five to 75 years, and values ranging from \$5 million to \$40 billion. Our experience encompasses not only the social infrastructure field but the water, solid waste, transportation and power and renewable energy sectors as well, and all forms of P3 and design-build based contracts. The depth and breadth of this multi-sector practice, and the personal commitment which the attorneys in our public contracts group have made to this important field, are unique among law firms.

**Breadth and Depth of Expertise.** We have drafted and negotiated the contracts necessary to complete virtually every kind of civil infrastructure project, and have counseled our governmental clients on all of the issues related to alternative delivery and P3 financing and contract structures, performance guarantees, pricing or rate setting clauses, covenants, defaults and other risks and responsibilities inherent in these transactions in multiple contexts. Hawkins also assists our municipal clients in addressing the public purpose issues that often arise in the context of negotiating project agreements, protecting the public interest and effectuating public purpose goals expertly and efficiently.

**Leading Practitioners.** Our work as lead counsel to so many governmental clients over such an extended period on such a range of alternative delivery and P3 projects has placed us in the front rank of professional practitioners, whether from legal or other disciplines. Contract, RFQ, RFP and proposal evaluation concepts, approaches, terminology, and forms that Hawkins authored and developed are in wide use today in the alternative project delivery and P3 industry. We regularly follow up with clients on completed projects for ideas and suggestions on how to improve the procurement process and contract documentation. In addition, the firm's position as one of the premier bond counsel firms in the country gives us the ideal background to help structure and negotiate financeable agreements with private companies, whether financing for the project is provided by the state or local government or by a project company on a project financing basis.

#### **HAWKINS PROJECT TEAM**

Eric Petersen will be the partner responsible for any engagement resulting from this submittal. Eric will have general supervisory responsibility for coordinating the firm's work and will, as well, perform project principal work relating to this project. Partners Lloyd Lowy and Rick Sapir will also be actively engaged as project partners as appropriate in support of Eric's work as partner-in-charge. Additional support will be provided by senior associate Andrew Ligon and other associates in the group.

#### **STAFFING DEPTH AND WORK ALLOCATION**

**Depth.** The firm has made a major personnel commitment to its public contracts group. The partners and associates in the public contracts group devote all of their time to procuring and contracting for major infrastructure projects on an alternative delivery and P3 basis, and have extensive experience and are nationally recognized for their expertise in the field. The depth of staffing at the firm ensures efficient and effective use of time and continuity

of service from planning through successful contract negotiations, and provides a quality and level of representation that is highly capable of expertly protecting our clients' interests and serving our clients' goals.

**Resumes and Work Allocation.** Resumes of the partners in the public contracts group that would be directly involved in providing the requested legal services are included below in this section of our submittal. The firm makes it a practice to have each segment of work involved in any retainer handled by the attorney or paraprofessional whose experience and hourly rate will result in the lowest cost rendering of quality service to the client. The experience of our firm in this field virtually eliminates any learning curve costs to clients, and the availability of Hawkins' document precedent library will minimize any "re-creating the wheel" expenses. As a result, our services have consistently proved to be very cost effective.

#### **DEDICATED RESOURCES AND RESPONSE TIME**

Hawkins will make the full resources of the public contracts group, as well as the firm as a whole, at your service available to carry out the required legal services on a quick turnaround basis. Because of our staffing depth and the long-term personal commitment of attorneys involved in the alternative project delivery and public-private partnership contracting field, the firm will be able to perform this work on any schedule you may establish, and remain fully committed for the duration of the assignment, without impacting our service either to you or to our existing municipal clients. Accordingly, our responses to address emerging issues or immediate problems encountered during the procurement and negotiations will be prompt, efficient, adept and highly professional.

#### **FIRM COMMITMENT**

**Meeting the Proposed Timeframe.** Our legal advisory service to you will carry the very highest priority for Hawkins. The individuals identified in this proposal are prepared to make any schedule adjustments necessary to represent you as legal advisor to the firm's highest standards notwithstanding the inevitable vicissitudes in implementing complex transactions of this nature. We do not anticipate any difficulties in meeting your schedule. This confidence is based on the fact that the primary strength of Hawkins, as opposed to other firms that only periodically or sporadically serve public sector clients, is our total and long-standing commitment of resources to public contracting, public finance and governmental clients. Our ability to commit several experienced attorneys to a transaction creates a well-founded confidence that we will be able to meet your schedule in a manner you will find most satisfactory.

**Standards of Service.** In rendering legal services generally, Hawkins takes most seriously its charge to assist, counsel and protect the interests of its clients in the activities with which the firm is involved, in addition to the traditional task of rendering independent judgments with respect to the items on which the firm's opinion may be requested. Hawkins makes a special effort in its alternative project delivery and public private partnership practice to give clients the full benefit of our broad experience in the tax, real estate, environmental, public finance and project finance areas. Hawkins also seeks to become thoroughly conversant with the particular needs of each client and to strive continuously to keep these needs in mind in working on structuring issues and documentation.

**Special Counsel.** Standardized procurement documents, project agreements, asset sale agreements and security instruments do not exist in the public contracts area. Each industry participant, of course, has tried to make its forms the recognized model, but with limited success. Despite common elements, each project has numerous distinctive features and particular requirements. Varying financial structures, contractor preferences, governmental needs and practices, and general risk orientation among the many participants all contribute to the uniqueness of each project. Special counsel is generally responsible for assisting in the preparation of and review of responses to requests for proposals and



negotiating and drafting the contractual agreements. In this role, Hawkins will work closely with you, advise you as to business risks, negotiating strategy, legal considerations, and any ultimate financing requirements, and will work directly with your principal representatives in effectuating the transaction. Hawkins' own market-tested contract precedents, of course, will be used to the maximum extent reasonably practicable.

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## HAWKINS LAWYERS

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### PUBLIC PURPOSE

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Represent municipal project owners, not contractors

Concentrate on understanding and implementing the fundamental public purpose inherent in each project

Highly value our working relationships with public works officials

Practice as a traditional, collegial law firm partnership specializing in public infrastructure development

Devote substantial time to building the alternative delivery and P3 industry because we believe in its value for public works

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### LEADERSHIP

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Know and harmonize the best of US and international alternative delivery and P3 practice

Are active participants in all infrastructure sectors, not simply a single sector

Assure contract financeability based on our industry-leading positions in project finance and municipal finance

Bring top-tier tax-exempt bond expertise to the table

Incorporate useful learning from transactions in which we did not participate

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### CLARITY

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Turn complex concepts into clear and well-organized contract language

Strive to write contracts that are comprehensive while not being difficult to comprehend

Are skilled in explaining core concepts to clients first encountering alternative delivery and P3

Understand technical concepts and write plain and workable contractor performance guarantees

Skillfully synthesize interconnected project objectives and contract provisions

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### EFFICIENCY

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Get quickly to the essence of legal, contract and financing challenges

Have no learning curve in alternative delivery and P3, and therefore don't waste client time

Think through issues the first time, avoiding extensive re-dos

Efficiently divide project lawyering responsibilities with regional counsel

Structure well organized procurements

Care about the practicalities of contract administration, and regularly refine contract mechanisms to lessen administrative burdens

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### FORESIGHT

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Foresee and advise on project issues likely to arise all the way to the end of term

Assist clients in establishing realistic goals and expectations

Counsel clients without undue caution borne of inexperience

Guide clients in avoiding common missteps

Don't hesitate to say so if they see client or contractor misperception or misdirection

Believe contractors should not be encouraged to take excessive risk on commercial terms – it usually comes back around

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### EXECUTION

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Insist on the early preparation of a formal memorandum of law as to procurement and contracting powers

Devise creative and practical solutions to make transactions work

Are patient and persistent through the vicissitudes of extended procurement timeframes

Visit clients after commercial and financial close to check specifically for feedback and lessons learned

Take pride in bringing parties together to achieve a common objective

**Eric S. Petersen**  
Partner

Eric Petersen is an infrastructure procurement, contract and finance lawyer who has spent his entire four-decade career at Hawkins. He was instrumental in building the firm's public-private partnership (P3) and alternative project delivery practice representing public agencies on a strong foundation of public finance, project finance, construction, tax and environmental law experience. Eric has served as owner's lead counsel on over 100 major public works contract and financing procurements in more than two dozen states using alternative project delivery. These have resulted in DB, PDB, DBOM, DBFOM, P3, CMAR and asset management contracts valued at over \$20bn, including contracts for projects in the water, social infrastructure, transportation, power and renewable energy and solid waste industries.

He has represented cities, counties, states, public authorities, municipal utilities, JPA's and special districts across the United States, and his professional experience encompasses all forms of public-private contracting arrangements under which public works facilities are designed, built, operated, maintained, owned and financed. Eric served as lead attorney on several groundbreaking and award-winning American P3 transactions, drafting and negotiating the DBFOM (P3) project agreements on behalf of the State of California for the \$400mm New Long Beach Court Building Project (a Bond Buyer deal of the year), the San Diego County Water Authority for the \$900mm Carlsbad Seawater Desalination Project (a Project Finance Magazine deal of the year), and the San Antonio Water System for the \$900mm Vista Ridge Regional Supply Project (a Project Finance Magazine and Global Water Intelligence Deal of the Year). Other landmark projects include New York State's \$1.2bn Javits Convention Center Expansion DB project and DBIA award-winning DB and DBOM water projects for Santa Fe and Phoenix. Eric specializes in water and public building projects, where he is recognized as one of the most accomplished practitioners in the country.

Among the many other Hawkins public sector clients Eric has represented in his national alternative project delivery and P3 practice are the States of New York, California, New Jersey, Connecticut, Georgia and Rhode Island, as well as the United States and the Commonwealth of Puerto Rico, and in the Northwest – Seattle, San Francisco, San Jose, Sacramento, Stockton, Spokane County, and Victoria CRD; in the Northeast – New York City, MWRA and MBTA (Boston), Washington, D.C. (WASA), Newport, Springfield, Monmouth County, WSSC (MD) and Howard County; in the Southwest – San Diego, Los Angeles, Orange County, Phoenix, Pima County, Houston, and TRA (Dallas); and in the Southeast – Charlotte, Nashville, Fulton County, Hialeah-Miami Dade and San Juan.

Eric is a co-founder of the U.S. National Council for Public-Private Partnerships, the U.S. Conference of Mayors Water Council and the Performance Based Buildings Coalition, and regularly presents at conferences organized by leading industry associations on topics critical to the P3 and alternative project delivery field.

*A comprehensive list of Eric's work as owners' side legal advisor in alternative delivery and P3 projects follows.*



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**PRACTICE AREAS**

Alternative Project Delivery  
Project Finance  
Public-Private Partnerships

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**INDUSTRIES**

Power and Renewable Energy  
Public Buildings  
Solid Waste  
Transportation  
Water

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**EDUCATION**

Brown University, B.A., With Honors  
University of Chicago Law School, J.D.

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**ADMITTED**

New York

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**PUBLICATIONS**

Editor, Thomas Jefferson's *Light and Liberty – Reflections on the Pursuit of Happiness* (Random House)

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**WATER PROJECTS**

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**Hialeah and Miami, FL** – Groundwater Desalination Water Treatment Project (DBOM)

**Houston, TX** – Water Treatment Project (Progressive DB)

**Klamath River Renewal Corporation (CA and OR)** – Dam Removal and Habitat Restoration Project (DB)

**Lawrence, MA** – Water Treatment Project (DBOM)

**Massachusetts Water Resources Authority, MA** – Norembaga Covered Water Storage Project (DB)

**New York, NY** – Croton Water Treatment Project and Catskills-Delaware Water Treatment Project (Asset Management)

**Phoenix, AZ** – Lake Pleasant Water Treatment Project (DBOM)

**Puerto Rico Aqueduct and Sewer Authority, PR** – Water and Wastewater System (Asset Management)

**San Antonio Water System, TX** – Vista Ridge Regional Water Supply Project (DBFOM-P3)

**San Antonio Water System, TX** – Groundwater Desalination Water Treatment Project (CMAR)

**San Diego County Water Authority, CA** – Carlsbad Seawater Desalination Project (DBFOM-P3)

**San Diego County Water Authority, CA** – Twin Oaks Valley Water Treatment Project (DBOM)

**San Diego County Water Authority, CA** – Olivenhain Water Pipeline Project (DB)

**San Jose Water Company, CA** – Water Treatment Project (Progressive DB)

**San Juan Capistrano, CA** – Groundwater Desalination Water Treatment Project (DBOM)

**Santa Fe, NM** – Buckman Direct Diversion Project (DB)

**Seattle, WA** – Tolt River Water Treatment Project (DBOM)

**Southern Nevada Water Authority, NV** – Water Pipeline Project (DB)

**Waterbury, CT** – Water Project (Asset Management)

**Woodland and Davis, CA** – Surface Water Treatment Project (DBOM)

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**WASTEWATER PROJECTS**

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**Bergen County, NJ** – Wastewater Treatment Project (Asset Management)

**Cranston, RI** – Wastewater Treatment and Biosolids Management Project (DBFOM-P3)

**Fulton County, GA** – Camp Creek Wastewater Treatment Project (DBOM)

**Holyoke, MA** – Wastewater Treatment and CSO Project (DBFOM-P3)

**Lynn, MA** – Wastewater Treatment and CSO Projects (DBOM)

**Naugatuck, CT** – Wastewater Treatment and Biosolids Management Project (DBFOM-P3)

**Newport, RI** – Wastewater Treatment Project (DBOM)

**Pima County, AZ** – Roger Road Wastewater Treatment and Reclamation Project (DBOM)

**Spokane County, WA** – Wastewater Treatment Project (DBOM)

**Springfield, MA** – Wastewater Treatment Project (DBOM)

**Stockton, CA** – Wastewater Treatment Project (DBOM)

**Victoria Capital Region District, British Columbia, Canada** – Wastewater Treatment Project (DBF)

**Wilsonville, OR** – Wastewater Treatment Project (DBOM)



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**BIOSOLIDS AND BIOENERGY PROJECTS**

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**Burlington County, NJ** – Biosolids Management Project (DBOM)

**Central Contra Costa Sanitary District, CA** – Biosolids and Bioenergy Project (DBFOM-P3)

**Charlotte, NC** – Biosolids Management Project (DB/Service Contract).

**Fresno, CA** – Biosolids Management Project (DBOM)

**Massachusetts Water Resources Authority** – Fore River Biosolids Management Project (Asset Management)

**Padre Dam Municipal Water District, CA** – Biosolids Management Project (DB)

**Rockland County, NY** – Biosolids Management Project (DBOM)

**Sacramento Regional County Sanitation District, CA** – Biosolids Management Project (DBFOM-P3)

**San Diego, CA** – Landfill Gas Co-Generation Project (DBFOM-P3)

**San Diego, CA** – Landfill Gas-to-Energy Expansion Project (DBFOM-P3)

**San Jose, CA** – Bioenergy Project (DB)

**Trinity River Authority, TX** – Biosolids Management Project (CMAR)

**Washington, D.C. Water and Sewer Authority** – Blue Plains Biosolids Management Project (DB)

**Washington, D.C. Water and Sewer Authority** – Blue Plains Combined Heat and Power Project (DBOM)

**Washington Suburban Sanitary Commission, MD** – Biosolids and Bioenergy Project (DB)

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**SOCIAL INFRASTRUCTURE PROJECTS**

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**State of California** – New Long Beach Court Building (DBFOM-P3)

**Houston, TX** – Justice Complex Project (DBFOM-P3)

**Howard County, MD** – Court Building Project (DBFOM-P3)

**City of New York** – Various Design-Build Public Buildings and Improvements (DB)

**State of New York** – Consolidated Laboratory Project (DBFOM-P3)

**State of New York** – Javits Convention Center Expansion Project (DB)

**San Francisco, CA** – Citywide Fiber Optic Broadband Project (DBFOM-P3)

**Travis County, TX** – Travis County Civil and Family Courthouse (DB/DBFOM-P3)

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**TRANSPORTATION PROJECTS**

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**State of Arizona** – Superstition Freeway Project (DBFOM-P3)

**Massachusetts Bay Transportation Authority** – Automated Fare Collection System Project (DBFOM-P3)

**State of New Jersey** – New Jersey Turnpike P3 Project (Concession-P3)

**Government of Poland** – A2 Autostrada Project (DBFOM-P3)

**Port Authority of NY and NJ** – LaGuardia Airport Central Terminal Building (DBFOM-P3) (Lender's Counsel)

**State of Rhode Island** – RhodeWorks Statewide Bridge Reconstruction Program (Truck Tolling)

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**SOLID WASTE AND ENERGY PROJECTS**

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**Anaheim, CA** – Municipal Solid Waste Franchise Project (Service Contract)

**Broome County, NY** – Waste-to-Energy Project (DBOM)

**Connecticut Resources Recovery Authority, CT** – Bridgeport Waste-to-Energy Project (DFBOM-P3)

**Halifax, Nova Scotia, Canada** - Waste-to-Energy Project (DBFOM-P3)

**Huntington, NY** – Waste-to-Energy and Materials Recovery Projects (DBFOM-P3)

**Los Angeles, CA** – Waste-to-Energy Project (DBFOM-P3)

**Mojave Desert JPA, CA** – Materials Recovery Facility (DBOM)

**Monmouth County, NJ** – Waste-to-Energy and Materials Recovery Projects (DBOM)

**Montreal Regional Municipalities, Quebec, Canada** – Waste-to-Energy Project (DBFOM-P3)

**Moreno Valley, CA** – Electric Power Project (DB)

**Nashville, TN** – District Heating and Cooling Project (DBOM)

**Newport Beach, CA** – Municipal Solid Waste Hauling Project (Franchise)

**New York, NY** – Brooklyn Navy Yard Waste-to-Energy Project (DBFOM-P3)

**New York, NY** – Municipal Solid Waste Rail Haul Export Program (8 major DB/Asset Management/Export Contracts)

**Orange County, CA** – Municipal Solid Waste Importation Program (Asset Management/Import Contracts)

**Sacramento, CA** – Materials Recovery Project (DBOM)

**San Juan, Puerto Rico** – Waste-to-Energy Project (DBFOM-P3)

**Seattle, WA** – Transfer Station Project (DBOM)

**State of Georgia** – Hazardous Waste Management Project (DBFOM-P3)

**Ventura Regional Sanitation District, CA** – Materials Recovery Project (DBOM)

**Westchester County, NY** – Waste-to-Energy Project (DBFOM-P3)

**Eric (Rick) J. Sapir**  
Partner

Rick Sapir joined Hawkins upon graduation from law school in 1986 as an associate in the solid waste and municipal utilities group. He soon began working on waste-to-energy projects which launched his career as a public contracts lawyer in the solid waste, recycling, water, wastewater, residuals, renewable energy and social infrastructure fields. Rick has worked exclusively as owner's representative and has helped structure, procure, draft and negotiate contracts involving every form of complex alternative delivery method.

Rick has served as lead negotiating counsel for over 100 engagements on complex public contracts. His practice spans North America where he has served as special counsel for the development of environmental facilities in over 20 States, three Provinces and two Territories. Rick's services regularly include advising on project planning and delivery matters, structuring of the procurement to ensure compliance with law and to maximize the optimal competition, preparation of procurement documents, helping clients review, clarify, understand and evaluate proposals, and the drafting and negotiation of the key project agreements.

Among the clients that Rick has assisted with complex infrastructure projects are: the City of Los Angeles (Waste-to-Energy); California American Water (Drinking Water Desal); Camden County Municipal Utilities Authority (Residuals Processing and Solar); Tacoma, WA (Wet Weather Wastewater Upgrade); City of Fillmore, CA (Wastewater Treatment); Monmouth County, NJ (Waste-to-Energy, Baling, Landfill Gas-to-Energy, Leachate Treatment, Recycling, Household Hazardous, Waste, Bulky Waste Transportation and Disposal and Solar); Metro Vancouver (Waste-to-Energy); Virgin Islands Waste Management Authority (RDF, Baling/Transfer); Fulton County, GA (Wastewater Treatment); Nashville, TN (Residuals Processing); San Marcos, TX (Water and Wastewater); Halifax Metropolitan Authority (Waste-to-Energy); County of Hawaii (Waste-to-Energy); New Hanover County, NC (Waste-to-Energy, MRF, Transfer, Transportation and Disposal); Northeast Maryland Waste Disposal Authority (Waste-to-Energy); Wake County, NC (Landfill Gas-to-Energy, Landfill DBOM); Spokane County, WA (Wastewater); Orangeville, Ont. (Wastewater); Glasgow, KY (Landfill Gas-to-Energy); Rahway Valley Sewerage Authority, NJ (Cogen and Residuals Processing); Clarkstown, NY (Transfer Station); Greensboro, NC (Recycling and Transfer, Transportation and Disposal); New Jersey School Construction Authority (School) and New Jersey City University (Dormitories).

Rick has been the Legal Advisory Member of the New Jersey Chapter of the Solid Waste Association of North America and is an active member of the New Jersey Association of Environmental Authorities and the New Jersey/New York/Connecticut Chapter of the Design Build Institute of America. Rick has lectured on solid waste and municipal utility issues before several forums including the Solid Waste Association of North America, the National Council for Public-Private Partnerships, Biocycle, Water Environment Federation, the Compost Council, the EPA LMOP Program, the Public Securities Association, the New Jersey Association of Environmental Authorities, the New York City Bar Association and the New York State Legislative Commission on Solid Waste, and he is a faculty member for a class provided at the annual Wastecon Conference regarding the development of waste-to-energy facilities.



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**PRACTICE AREAS**

Alternative Project  
Delivery  
Project Finance  
Public-Private  
Partnerships

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**INDUSTRIES**

Education  
Power and Renewable  
Energy  
Public Buildings  
Solid Waste  
Transportation  
Water

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**EDUCATION**

Union College, B.A.  
Fordham University  
School of Law, J.D.

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**ADMITTED**

New Jersey  
New York  
Connecticut

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**Lloyd S. Lowy**  
Partner

Lloyd Lowy is an attorney with more than 25 years' experience in a wide variety of real estate and finance transactions. He has represented both institutional lenders and borrowers in complex real estate developments; ground lessors in long-term development projects; purchasers and sellers of interests in real estate; and landlords and tenants in space lease and sublease transactions. Lloyd has significant experience in the negotiation of construction and design agreements and in representing various participants in real estate developments financed with the proceeds of tax-exempt and taxable municipal securities. A number of Lloyd's projects have received significant industry recognition, including designation as "Real Estate Deal of the Year" by the Washington Business Journal, "Deal of the Year" and "Innovative Deal of the Year," respectively, by the Bond Buyer, and "New Jersey's Leading Infrastructure Project" by the New Jersey Alliance for Action.

Lloyd has substantial experience representing governmental entities in real estate matters, including the development of facilities for governmental use through public-private partnerships and alternative project delivery methods. He has represented public entities in negotiating long-term ground leases for the development of commercial and recreational projects, including multi-phased projects, and has represented public entities in selling municipal property, as well as in acquiring and developing property for their own use. Among the public entities that Lloyd has represented are the District of Columbia, the County of Los Angeles, the Dormitory Authority of the State of New York, the Metropolitan Transportation Authority, the New York City Transit Authority, the New York City Industrial Development Agency, the New York State Canal Corporation, the New York Thruway Authority, the City of Mount Vernon Industrial Development Agency, the United States Postal Service, Westchester County, Clarkstown, New York, the Town of Cheektowaga, New York, New Jersey City University, the San Antonio Water System, and the Virgin Islands Waste Management Authority.

In addition to his work on behalf of governmental entities Lloyd has represented financial institutions involved in the development and financing of a variety of high profile projects, using P3 delivery methods or otherwise, including the \$4.5 billion redevelopment of La Guardia Airport in New York City; the reconstruction of 3 World Trade Center, 4 World Trade Center and 7 World Trade Center at "ground zero" in lower Manhattan; the development of high-rise housing on major military bases; the development of One Bryant Park in midtown Manhattan – the first skyscraper to earn a LEED platinum rating; the DC USA Project, a retail destination project in Washington, D.C.; the development of the Walter E. Washington Convention Center Hotel in Washington, D.C.; and the redevelopment of the former Stapleton International Airport in Denver, Colorado. The financial institutions Lloyd has represented include Goldman Sachs, Citibank, Bank of America, JPMorgan Chase, Wells Fargo and Lehman Brothers.



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**PRACTICE AREAS**

Alternative Project Delivery  
Bank Counsel  
Bond Counsel  
Borrower's Counsel  
Project Finance  
Public-Private Partnerships  
Real Estate Counsel  
Underwriter's Counsel

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**INDUSTRIES**

Economic Development  
Cultural Institutions  
Education  
Health Care  
Housing  
Public Buildings  
Solid Waste  
Transportation  
Water

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**EDUCATION**

Harvard College, B.A.  
NYU School of Law, J.D.

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**ADMITTED**

New York  
District of Columbia

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**SECTION 2**

**HAWKINS' QUALIFICATIONS AND EXPERIENCE -  
P3 PROJECT PROCUREMENTS GENERALLY**

## SECTION 2

### HAWKINS' QUALIFICATIONS AND EXPERIENCE – P3 PROJECT PROCUREMENTS GENERALLY

#### KEY QUALIFICATIONS

**Introduction.** In our proposal cover letter we summarize Hawkins' core qualifications to serve as the City's legal advisor for implementation of public private partnerships projects and development/construction projects. In this Section 2, we elaborate on and supplement the background and qualifications information provided in our proposal cover letter. More specifically, this Section 2 describes our expertise in P3's, public works competitive bidding and processes, design-build, and design-build-operate-maintain contracting.

**Leading Public Buildings and Water Specialists.** Hawkins' public buildings and water P3 and alternative project delivery work is a "niche" legal practice. The firm has drafted and negotiated the contracts necessary to plan and complete a variety of public building and water sector transactions. Our national practice parallels the business reach of the contractors seeking these contracts, who generally operate across the country and typically use nationally experienced corporate counsel. We have fully thought through the performance guarantee and other risk and responsibility issues inherent in these transactions in multiple contexts, and can help protect the public interest and effectuate public purpose goals for social infrastructure and water projects expertly and efficiently.

**Public Buildings and Water Project Record of Achievement.** Hawkins has served as owner's lead legal advisor on a significant number of social infrastructure and water projects planned or procured on a P3 or alternative delivery basis. In the public buildings sector, these include government center, court building, police headquarters, public health laboratory, and convention center projects. In the water sector, these include drinking water and wastewater treatment plant, groundwater desalination, reclaimed water distribution system, transmission pipeline, and pump station projects, among others. Summaries of these and other public buildings and water projects on which we have played a central legal advisory role on behalf of the public agency sponsor are provided below in this Section 2.

**All Sectors.** We practice actively and extensively in all infrastructure sectors: water and wastewater; solid waste; public buildings and social infrastructure; transportation; and power and renewable energy – not just in the two sectors emphasized here. This wide range of alternative delivery and P3 work, in addition to the depth of our specialization in the public buildings and water sectors particularly, significantly distinguishes our firm's capabilities.

**Record of Success.** Our projects have an excellent record of successful implementation. There have been almost no bid protests (and none successful); minimal change orders (except marginal change orders that were public agency-originated); and no contractor cost overruns borne by the public (except marginal cost overruns caused by carefully defined uncontrollable circumstances as to which the contract provided specifically negotiated relief).

**Contractor Familiarity.** Hawkins' work on the public side of these transactions has given us the opportunity to review and evaluate proposals from several dozen of the major infrastructure developers, equity investors, engineers, construction firms, operating services providers, and facility managers active in the alternative delivery and P3 business; to understand individual company preferences and approaches; to negotiate with these contractors and their corporate counsel; and to explore key issues of common concern to the private contractors. This thorough familiarity with the contractors and with the industry as a whole allows Hawkins to offer our clients expert legal advice on commercial and market issues

in planning and executing these transactions, and to avoid learning-curve issues often faced by occasional practitioners.

**Contract Counterparties.** Among the engineering, architectural, construction, design-build, finance, operations and facilities management firms with which we have negotiated alternative delivery and P3 contracts on behalf of state and local governments are the following:

- |                          |                     |                       |
|--------------------------|---------------------|-----------------------|
| > Abengoa                | > Forum             | > Pennsylvania P & L  |
| > Accenture              | > Gilbane           | > PEPCO               |
| > AECOM                  | > HDR               | > Plenary             |
| > Alberici               | > Hensel Phelps     | > Johnson Controls    |
| > Allied Waste           | > Heery             | > Poseidon Resources  |
| > American Ref-Fuel      | > HOK               | > Republic Waste      |
| > American Water         | > Honeywell         | > Scheidt and Bachman |
| > Ameresco               | > IDE               | > Southwest Water     |
| > Archer Western         | > Infrared          | > Severn Trent        |
| > Balfour Beatty         | > Inima/OHL         | > Skanska             |
| > BFI                    | > Lend Lease        | > Stantec             |
| > Black & Veatch         | > Lyles             | > Star America        |
| > CDM                    | > John Laing        | > Stonepeak           |
| > CH2M/OMI               | > Lankford          | > Synagro             |
| > CSX                    | > Foster Wheeler    | > Tishman             |
| > Clark                  | > Fortistar         | > Turner              |
| > Combustion Engineering | > Kiewit            | > TVS                 |
| > Constellation          | > Mandeville        | > United Water        |
| > Covanta (Ogden)        | > McCarthy          | > USA Waste           |
| > Cubic                  | > Meridiam          | > Veolia Water        |
| > Earth Tech             | > Minnesota Methane | > Warburg Pincus      |
| > Edgemoor               | > MWH               | > Waste Management    |
| > Engie                  | > Norfolk Southern  | > Wheelabrator        |
| > Epcor                  | > Parsons           | > Xerox               |
| > Filanc                 | > PC (Pizzagalli)   | > Zachary             |
| > Fentress               | > PCL               |                       |

**Work With Technical Consultants.** We have worked closely with a large number of technical consulting firms advising municipal project owners on alternative delivery and P3 projects for more than three decades. Our technical co-consultants have included a large number of architectural and engineering advisory firms active in this field:

- |                           |                       |                        |
|---------------------------|-----------------------|------------------------|
| > AECOM                   | > CH2M                | > Navigant             |
| > Archadis/Malcolm Pirnie | > Cushman & Wakefield | > Parsons              |
| > Black & Veatch          | > DLR Group           | > Partnerships BC      |
| > Brinkley Sargent        | > Greely & Hansen     | > Ricci Greene         |
| > Brown & Caldwell        | > Grimm & Parker      | > Smith Culp           |
| > Cannon Design           | > Hazen & Sawyer      | > Stantec/MWH          |
| > CBRE                    | > HDR                 | > Trussel Technologies |
| > CDM Smith               | > Louis Berger        | > West Yost            |

**Hybrid P3s.** Owners are sometimes reluctant to select P3 as a project delivery method out of concern over the higher cost of capital associated with project debt issued on a taxable basis (where private activity bond volume cap is unavailable). Hawkins has been an advocate for the potential of “hybrid P3s”, in which a portion of the project debt is issued on a conventional private project finance basis, and a portion is financed from the proceeds of highly rated, tax-exempt general obligation or system revenue debt. The firm served as lead legal advisor on the Howard County, Maryland courthouse P3 project, which was structured in this

manner so as to achieve the optimal balance of risk transfer and cost of capital in a first of its kind social infrastructure P3.

**State Constitutions, Statutes and Legislative Authorization.** Hawkins has been a principal draftsman or reviewer of proposed federal legislation and of state legislation in California, New Jersey, New York, Rhode Island, Connecticut, Arizona and Texas establishing legal authority for P3 and alternative delivery procurement authority in the social infrastructure and other public works sectors. On behalf of the Performance Based Building Coalition, Hawkins co-authored proposed legislation pending in Congress to establish a new category of private activity bonds for governmental buildings that would allow P3 private project financing for social infrastructure facilities on a tax-exempt basis. We are familiar with a variety of state constitutional provisions affecting private project financings of public works. The firm also is regularly called upon to interpret legislation on behalf of public agency clients and to review the impact of proposed amendments to state legislation affecting existing or proposed social infrastructure financing programs and the legal structures governing these programs. We are therefore uniquely positioned to anticipate the effect that future changes in law might have on social infrastructure financing programs and to structure and review state legislation and project contracts to protect against and correctly apportion this risk.

**Innovators.** Hawkins has originated or advanced many new and useful solutions to the challenges of public procurements and contracting using alternative project delivery and public-private partnerships, in areas ranging from RFQ and RFP structuring to contract terms, administration, concepts and forms.

**Award-Winning Projects.** Many of the P3 and other design-build based projects on which Hawkins has served as lead counsel to the municipal project owner for procurement management and contract drafting and negotiations have been honored with distinguished national and international awards or otherwise recognized as industry groundbreaking transactions. These include the following:

- > Project Finance Magazine Deal of the Year
- > Design-Build Institute of America Deal of the Year
- > Bond Buyer Deal of the Year
- > Project Finance International Deal of the Year
- > Global Water Intelligence Deal of the Year
- > Project Finance Magazine Americas Transportation Deal of the Year
- > Design-Build Institute of America National Design-Build Award
- > Design-Build Institute of America Award of Merit
- > New Jersey's Leading Infrastructure Project Award

Many of such awards have been given to multiple Hawkins projects over the years.

**Successfully Completed Transactions.** A large majority of the transactions and programs in which Hawkins has served as lead counsel have actually been closed and implemented and are currently operating, serving the public purpose objectives of the sponsoring governments. This record of success in making projects and transactions happen, rather than merely conceptualized and never implemented, is foremost among the qualifications that we believe best distinguish Hawkins.

**Active Industry Participation.** The firm's infrastructure group partners are regular presenters at social infrastructure industry forums, including those sponsored by:

- > The Bond Buyer
- > Design-Build Institute of America
- > National Council of Public-Private Partnerships
- > P3 Connect



- > Performance Based Buildings Coalition
- > Public Works Financing

**Related Real Estate Expertise.** The attorneys of Hawkins are experienced in handling a broad range of real estate transactions. They have represented both institutional lenders and borrowers in complex real estate financings; ground lessors in development projects; purchasers and sellers of interests in real estate; and tenants and subtenants in lease and sublease negotiations. They are also experienced in guiding their clients through all phases of the construction process and in advising their clients as to environmental and land use issues. The firm's real estate practice includes the representation of both governmental entities and private sector clients, including not-for-profit organizations.

**P3 Real Estate Projects.** Unlike their counterparts at most other law firms, the real estate attorneys at Hawkins specialize in representing parties to large development projects in which, pursuant to long-term ground leases or otherwise, the risks and rewards of ownership are shared among for-profit developers and lenders and governmental or other not-for-profit institutions. For example, we have represented lenders, developers and owners in the privatized development of housing and utility infrastructure on Navy bases and other military installations, and have represented the District of Columbia in several major economic development projects. In addition, we have represented Citibank recently on several large construction financings involving a variety of governmental subsidies. We also represented the Dormitory Authority of the State of New York in connection with the development of a new office building for the New York State Comptroller, the United States Postal Service in connection with large-scale developments at Lincoln Square in Manhattan, and the Mount Vernon Industrial Development Agency in connection with the development of a regional shopping mall. Other "public-private" projects in which the firm has been actively involved include the construction of a new administration building and a new behavioral sciences building for the University of Medicine and Dentistry of New Jersey, the construction on numerous university campuses of "privatized" student housing, and the "privatization" of the wastewater collection and treatment system of Cranston, Rhode Island.

**Avoiding the Characterization of Government Payment Obligations as Debt in P3 Transactions.** Often in P3 project financing transactions, as a requisite to assuring the financeability of the projects, Hawkins has been called upon to opine that such project agreements or service contracts are valid, binding and enforceable as against the governmental entities involved. This, in turn, has typically required us to make sure that the governmental entities' payment obligations are sufficiently contingent (either because they are dependent upon the satisfactory provision of recurring services by the contractors or because they are "subject to annual appropriation") so that they do not constitute unauthorized "debt" of such entities for purposes of constitutional debt limitations, referendum requirements, capital budgeting requirements, debt limits, and other restrictions arising under state law.

**Leasing, Selling, Divesting and Concessioneing Public Infrastructure Assets.** Public infrastructure asset divestitures (concessions or leases) in which Hawkins has served as special counsel to the divesting governmental agency include those for the State of New Jersey (proposed long term lease and concession of the New Jersey Turnpike); Cranston, Rhode Island (long term concession and leasing of wastewater system); San Jose, California (proposed long term leasing of water system); and the United States Navy (long term lease of utility infrastructure at several naval bases in the eastern United States). Each divestiture or proposed divestiture was accompanied by a long term contract for the continuation of the utility service.

## **SOCIAL INFRASTRUCTURE P3 AND DESIGN-BUILD PROJECTS**

**California (State Administrative Office of the Courts) – New Long Beach Court Building P3 Project.** *(Design-Build-Finance-Operate-Maintain).* Hawkins served as lead counsel to the State of California (Judicial Council of California, Administrative Office of the Courts) from 2007 to 2010 for the \$400 million New Long Beach Court Building. This project was a groundbreaking P3 project for the State, and a landmark event in P3 development of social infrastructure in the United States. Hawkins was the legal architect of the transaction. Our firm was centrally involved in the statutorily-required assessment of whether DBFO (P3) or traditional design-bid-build should be selected as the project delivery method, and in the extensive discussions with the State’s Department of Finance about this novel approach in order to secure the DOF’s formal approval of the project and the project agreement. Hawkins also participated centrally in the drafting of the RFQ and RFP; in the review of the submittals that the State received in response to each; and in the selection of the most advantageous proposer. Finally, our firm drafted the DBFO project agreement and related project and security documents, and led the State’s negotiating team over the 10-month negotiating period. Commercial and financial close both took place in December 2010. Ground was broken in April 2011, and completion and occupancy occurred in late 2013. At the invitation of the Chief Justice of the State of California, Hawkins made a presentation on the P3 project to the Judicial Council of California, the 25 member judicial policy and court system oversight body established by the State Constitution. The project company with which the project agreement was signed was formed and led by Meridiam Infrastructure, which invested the equity. The design-builder was Clark Design-Build; AECOM was the architect; and the facilities manager Johnson Controls. BNP Paribas led the six-bank European lending consortium, which made taxable bank loans to the project company to finance the project. Hawkins led the negotiations with each of those companies and their counsel. Private Contractor: **Long Beach Judicial Partners.**

**New York State Empire State Development – Javits Convention Center Expansion Project.** *(Design-Build).* Hawkins served as owner’s lead procurement and contract counsel for the \$1,500,000,000 Jacob K. Javits Convention Center expansion project. The project was procured on a competitive proposal basis using the firm fixed price design-build project delivery method. In its capacity as legal advisor to the New York Convention Center Development Corporation, ESD and its legal department, the firm drafted the request for qualifications, the request for proposals, and the design-build contract and related appendices, and assisted in the contract negotiation and proposal evaluation processes, working closely with leading state officials responsible for alternative project delivery. The Javits expansion project was the first major public building procurement undertaken in New York on a design-build basis, as the State continues to expand its use of alternative project delivery for public works. The Javits expansion project will be certified LEED silver, and includes a truck marshaling facility for 220 trucks; 90,000 square feet of new exhibit space; 45,000 square feet of state-of-the-art meeting room space; a 55,000 square foot ballroom; a green roof terrace and pavilion accommodating 1,500 people for outdoor events; 27 new loading docks; and new kitchen and food service areas and back-of-house and administrative space. The Javits Center is the busiest convention center in the United States and hosts more than 175 events annually. Private Contractor: **Lend Lease – Turner Joint Venture.**

**Howard County, Maryland – Court Building Project.** *(Design-Build-Finance-Operate-Maintain-P3).* In Maryland, our firm represented Howard County, Maryland as lead legal advisor on the County’s planned 230,000 square feet new 8-set courthouse and parking structure P3 project, designed to replace its existing 150 year-old courthouse. The Howard County courthouse, the first P3 public building project in the State, attracted intense interest from well-qualified teams seeking to build the social infrastructure P3 market in the United States. Hawkins, serving as lead counsel, played a central role in confirming the selection of P3 as the preferred delivery method and in structuring the transaction, and had drafting responsibility for the request for qualifications and request for proposals. We also drafted and

negotiated the P3 project agreement and appendices and led the negotiations in individual meetings with the three prequalified P3 teams. Private Contractor: **Edgemoor-Star America Judicial Partners LLC**.

**San Francisco, California – Citywide Fiber Optic Broadband Project.** *(Design-Build-Finance-Operate-Maintain)*. Hawkins served as owner’s lead counsel for the City and County of San Francisco in the planned procurement of a new city-wide fiber optic broadband project using the design-build-finance-operate-maintain delivery method. The innovative \$1.5 billion project was expected to provide gigabit speed internet services to all residences and businesses in San Francisco. We worked with the City to address development, financing, revenue generation, ISP leasing, performance guarantee and use and disposition of current assets structuring issues in the process of advancing the RFQ, RFP and project agreement drafting and project implementation process. Private Contractor: Deferred.

**Houston, Texas – Justice Complex Project.** *(Design-Build-Finance-Operate-Maintain)*. In Texas, Hawkins served as lead legal advisor to the City of Houston in the State’s first proposed social infrastructure P3 project. The Houston Justice Complex will be a one million square foot, \$500+ million downtown building for the Houston Police Department and the City’s municipal courts, replacing aging and undersized facilities. Our responsibilities included assistance with confirming the P3 project delivery method selection, RFP drafting, and financing plan development, as well as drafting the project agreement, lease and related documents and organizing and advising financial commercial and financial close. Private Contractor: Deferred.

**New York State Dormitory Authority – Consolidated State Laboratory Project.** *(Design-Build/P3)*. Hawkins represented the New York State Department of Health (through the Dormitory Authority of the State of New York, NYSDOH’s lead consultant) as lead legal advisor on New York’s second large-scale social infrastructure project delivered on a P3 or design-build basis. The \$600+ million new laboratory facility will consolidate several existing older DOH-operated labs in the Albany area requiring upgrades and modernization into a single state-of-the-art laboratory complex. Hawkins drafted the special legislation required for the project, which was originally planned as a P3 project and has been reconstituted for procurement on a design-build basis. Our legal advisory responsibilities included assistance as to project delivery method selection and review of real estate, labor and environmental issues. Private Contractor: Deferred.

**New York State Dormitory Authority – Comptroller’s Building.** *(Design-Build)*. Hawkins acted as counsel to the Dormitory Authority of the State of New York (DASNY) in its capacity as developer of the State Comptroller’s Building on State Street in Albany, New York. In addition to financing the development through the issuance of tax-exempt bonds, DASNY was charged, by special legislation, with the role of acquiring the site, entering into a design-build agreement with a private developer, coordinating design with relevant State agencies and departments, and overseeing construction. The firm’s role included participating in the initial planning of the development process, sequence and financing structure, preparation of the contracts of sale for the acquisition of the site, participation in the negotiation of a project management agreement among the involved State agencies, participation in the negotiation of the design-build agreement, participation in the negotiation of the condominium plan to which the building was subjected in order to facilitate a financing with multiple series of bonds payable from different revenue streams, and negotiation and preparation of an installment sale agreement for one of the condominium units.

**Travis County, Texas – New Courthouse.** *(P3/Design-Build)*. Hawkins represented Travis County, Texas in connection with the County’s business case and value for money study of P3 and alternative project delivery approaches to the development of its new family and civil courthouse, teamed with Ernst and Young. Our firm prepared a full memorandum of law addressing procurement, contract and finance issues and options in connection with the



project, and assisted in review and determination of appropriate alternative delivery methods. The County selected either DB or DBFO (P3) as the preferred methods, and ultimately determined to procure the project using a design-build procurement approach.

**New York City School Construction Authority – Coal Fired Boilers Replacement Project.** *(Design-Build-Finance-Operate-Maintain).* Hawkins served as lead counsel to the New York City School Construction Authority in connection with a major program to replace aging coal-fired boilers in more than 100 New York city public schools. Our work included crafting a workable competitive proposal procurement approach under current law; RFQ and RFP drafting; and drafting and negotiating the P3 project agreement with the selected contract team. The project was ultimately deferred, and implemented on a conventional basis.

**New Jersey City University-Residence Hall Project.** *(Design-Build-Finance-Operate-Maintain).* Hawkins served as lead special counsel to New Jersey City University in connection with an innovative public-private partnership to construct a new residence hall for 425 students on the University’s campus that will help anchor mixed use development at the site. Hawkins assisted in the review and negotiation of the P3 project documents including a ground lease and a management agreement. The project received the “New Jersey’s Leading Infrastructure Project Award” from the New Jersey Alliance for Action.

**New York City Economic Development Corporation Projects.** *(Design-Build).* Hawkins was engaged by NYC EDC to assist in drafting template forms of RFQs, RFPs and contracts that can be used for the implementation of design-build projects in the social infrastructure and transportation sectors in New York City. Hawkins’ work was instrumental in assisting NYC EDC in establishing a design-build program that will allow it to effectively facilitate the procurement of future design-build projects. Our services include infrastructure workshops, best practices presentations, and providing overviews on risk management, procurement basics, and terms and conditions options.

#### **OTHER GOVERNMENTALLY-SPONSORED REAL ESTATE PROJECTS**

**Military Housing P3 Projects.** In collaboration with various of the U.S. military services, Hawkins developed the prototype for the public-private partnership development of housing for military personnel on military bases. These transactions, involving the ground lease of property on military bases to a private developer and the creation of new housing units owned by the developer, were financed by the issuance of privately placed corporate debt of the developer that is to be repaid from federal housing subsidies and require intensive financing as well as real estate and environmental expertise. Hawkins has executed these transactions throughout the United States, and military housing transactions have been structured by Hawkins to provide for offerings both stateside (Rule 144A) and in Europe (Regulation S). Some have been accomplished with the assistance of conduit financing by governmental entities, such as the creation of housing for Fort Hamilton, New York, financed by the issuance of bonds of the New York City Housing Development Corporation. Our work on military housing P3s includes the creation of a model for financing apartment housing for single Navy sailors who are assigned to a base when their ship is not deployed. The first of these transactions, involving the creation of high-rise apartment housing in the San Diego Naval Complex, was awarded an “Innovative Deal of the Year” by The Bond Buyer.

**Battery Park City Commercial and Residential Development Projects.** Battery Park City is one of the most successful government-sponsored communities in the United States combining planned commercial and residential development with parks and public open space. In consultation with the City of New York, the Battery Park City Authority controls the planning, infrastructure and site development of Battery Park City, a 92-acre neighborhood on the southwest tip of Manhattan fronting the Hudson River. Hawkins participated in the planning of Battery Park City from its conception in the 1960s, to the drafting of its authorizing statute in 1968, to the drafting of its initial ground leases and its first tax-exempt bond issue in



the early 1970s, through to its most recent mega-financing on October 16, 2003. For 35 years Hawkins has worked side-by-side with representatives of government and private sector developers to achieve the paragon of public/private cooperation by devising legal structures that afford the greatest flexibility to private sector developers in terms of financing sources and structures.

**Gallery Place and Mandarin Hotel Projects, Washington, D.C.** Hawkins acted as special transaction counsel to the District of Columbia in connection with two major redevelopment projects that were subsidized with the proceeds of District tax increment financings. The Gallery Place project is a mixed use development comprising retail, residential office and entertainment components intended to spur the revitalization of the area around the MCI Center in downtown Washington, D.C. The Mandarin project is the development of a five star hotel in the Portals section of the District. In order to establish parameters for the District's funding of the subsidy and to ensure that the projects were timely completed and thereafter operated in the manner upon which the subsidy was based, in each transaction Hawkins negotiated a development agreement between the District and the private sector developers, as well as interparty arrangements with the developers' private equity investors and their institutional lenders.

**Stapleton International Airport (Denver) Mixed Use Redevelopment Project.** The former Stapleton International Airport, a 4,000 acre site, is being redeveloped by a subsidiary of Forest City Enterprises in multiple phases as a mixed use community in accordance with an overall master plan. Hawkins represented the underwriters in providing financing for the development of the initial redevelopment trunk and in-tract infrastructure. The source of repayment for the financing is the anticipated increment in sales and real property taxes resulting from successful redevelopment. Accordingly, Hawkins' role included the review and analysis of both the extensive infrastructure development arrangements among various governmental entities and the master developer, as well as the arrangements for the private development by retailers and home builders that would be necessary for the project to generate sufficient tax increments to service the debt.

**Washington, D.C. Mixed Use Development Project.** Hawkins acted as counsel to the construction lender and the purchaser of tax increment bonds issued by the purchaser of the garage in a transaction involving the development of a 500,000 square foot retail and entertainment center pursuant to a land disposition agreement between a District of Columbia redevelopment agency and a private developer that involved establishment of condominium ownership regime and purchase of a portion of the facility by a major big box retailer and the purchase of the parking garage by a governmental entity.

## **WATER DESIGN-BUILD AND P3 PROJECTS**

### **Drinking Water Projects**

**Seattle, Washington - Drinking Water Treatment.** In Seattle, our firm drafted the 15-year design-build-operate-maintain contract for the City's new 120 mgd Tolt River water treatment plant in the Cascade Mountains, and substantially advised the City in conceptualizing and implementing the procurement process. This transaction is widely regarded as a seminal event in public-private contracting in the drinking water industry. The contract included significant water treatment guarantees beyond those mandated by current law, as well as special security-for-performance provisions which came into play when the vendor's credit standing declined. The plant has been successfully operating for more than a decade. Private Contractor: **Azurix (American Water)**.

**Phoenix, Arizona - Drinking Water Treatment.** *(Design-Build-Operate-Maintain)*. Hawkins served as the outside legal advisor to the multi-discipline study team that completed a seminal, in-depth study of 11 alternative project delivery methods for the proposed 80 mgd

Lake Pleasant Water Treatment Plant. We then represented Phoenix as special counsel in the successfully completed design-build-operate-maintain procurement for the Lake Pleasant plant now completed and under operation, utilizing Arizona's omnibus alternative project delivery legislation. The plant treats Central Arizona Project Colorado River water to enhanced standards and under very high periodic turbidity conditions, serves rapidly developing north Phoenix, and is expandable to 320 mgd. Private Contractors: **American Water and Black & Veatch**.

**California American Water Company – Seawater Desalination Drinking Water Treatment.** *(Design-Build)*. Hawkins represented California American Water as special contract counsel in the development and evaluation of the RFQ and RFP solicitation documents, and in drafting and negotiating a design-build agreement for a 9.6 mgd seawater desalination plant in the County of Monterey, California. The agreement includes an option to reduce the capacity of the plant to 6.4 mgd if an independent groundwater replenishment project is completed. Since the plant will utilize water delivered from beach slant wells whose completion may be delayed due to seasonal construction limitations, mechanisms were built into the agreement to allow for delayed or two-part acceptance testing. Private Contractor: **CDM Constructors**.

**Santa Fe, New Mexico – Drinking Water Treatment.** *(Design-Build)*. Hawkins served as special counsel to the Buckman Direct Diversion Board, which manages the construction of a new 15 mgd water treatment plant owned jointly by the City of Santa Fe and the County of Santa Fe. The plant, together with an intake structure to divert surface water from the Rio Grande River, transmission lines and pump stations, was procured on a design-build basis. The BDD project was the first major design-build water project in New Mexico. Private Contractor: **CH2M OMI**.

**Southern Nevada Water Authority, Nevada – Transmission Pipeline.** *(Design-Build)*. The Southern Nevada Water Authority, serving the Las Vegas region, was the first municipal utility agency to procure a water project (a major water transmission pipeline) under Nevada's design-build law. Hawkins served as special counsel in connection with the RFP and design-build contract and assisted in proposal review. Private Contractor: **CH2M OMI**.

**San Juan Capistrano, California – Brackish Groundwater Desalination.** *(Design-Build-Finance-Operate-Maintain)*. Hawkins served as special counsel to the Capistrano Valley Water District, providing procurement and contract drafting and negotiation services in one of the first transactions to be effectuated under Government Code Section 5956, California's alternative project delivery and public-private partnership statute for municipal infrastructure. The project company designed, built and operated a 5 mgd groundwater desalination project, with user rates "bought down" to market by Southern California's Metropolitan Water District through a per-acre foot production subsidy. Hawkins also played a key role in structuring the "split credit" financing under which the District's water revenue bonds would become the bond insurer's responsibility, with backing from the company, in the event there was a project performance failure. Private Contractor: **Eco Resources (Southwest Water)**.

**Lawrence, Massachusetts – Drinking Water Treatment.** *(Design-Build-Operate-Maintain)*. As special counsel to the City of Lawrence, our firm helped negotiate a consent decree with the Massachusetts DEP for improved management practices at the City's aging water treatment facility, and was centrally involved in the planning and procurement of an entirely new replacement 15 mgd water facility and major distribution system improvements, now constructed and successfully operating. The City received five highly competitive proposals in response to its RFP, and Hawkins drafted and negotiated the design-build-operate-maintain contract for the project. Private Contractor: **CDM**.

**San Jose, California – Drinking Water Distribution.** *(Lease and Service Agreement)*. San Jose sought to enter into a lease and service agreement with a private water company for

the operation and maintenance of its existing 15 mgd water distribution system for rate stabilization, with an up-front payment under consideration. Our firm represented the City as special counsel in procuring and negotiating the proposed service agreement and addressing water supply, rate, PUC regulation and labor issues. Private Contractor: Deferred.

**San Diego, California – Reclaimed Water Distribution.** (*Design-Build-Finance-Operate-Maintain*). Hawkins served as special counsel to San Diego for the design-build-finance-operate-maintain (P3) procurement of a distribution system for reclaimed water produced by the 30 mgd South Bay wastewater treatment plant. We also managed the process of drafting the request for expressions of interest and evaluating the submittals. Other major public-private partnership projects on which we have represented San Diego since 1989 include procurements for a new regional landfill; biosolids composting and landfill gas cogeneration facilities; emergency medical services; an international cargo airport; and a managed competition for the operation of the City's Otay Mesa Water Treatment Plant. Private Contractor: Deferred.

**New York City – Cat-Del Drinking Water Treatment.** (*Operations and Maintenance Service Contract*). Hawkins served as owner's lead counsel in the competitive procurement and negotiation of a 5-year operations contract for the newly build New York City's Cat-Del drinking water plant, which uses ultra-violet disinfection to meet USEPA-mandated disinfection standards for source water originating in the Catskill Mountains and Delaware river watersheds. Private Contractor: Deferred.

**New York City – Croton Drinking Water Treatment.** (*Operations and Maintenance Service Contract*). A companion project to New York City Cat-Del Project, the NYCDEP conducted a competitive procurement to contract with a private operating services provider for the operation and maintenance of the Croton project, a second newly build water treatment plant, using conventional technology to treat and disinfect Croton reservoir source water. Private Contractor: Deferred.

**Massachusetts Water Resources Authority – Covered Water Storage Tank.** (*Design-Build*). The firm represented MWRA in the procurement of the 50+ mgd Norembaga covered water storage tank, built to protect the drinking water supplied to greater Boston. As special counsel we assisted in RFP development, proposal review and contract negotiations. The project was the first procured by MWRA on a design-build basis. Private Contractors: **J.F. White Contracting and Slattery Skanska Inc.**

**Hialeah and Miami – Dade County, Florida – Brackish Groundwater Desalination.** (*Design-Build-Operate-Maintain*). Hialeah used the design-build-operate-maintain contracting method to procure one of the largest brackish groundwater desalination projects in Florida (10 mgd, expandable to 17.5 mgd). Hawkins served as special counsel to the City for the transaction and played a central role in the development of the RFEI, RFQ and RFP solicitation documents and the drafting and negotiation of the DBOM contract with the successful proposer. Private Contractor: **AECOM/Inima/Severn-Trent.**

**California Water Service Company, California – Water Distribution System Improvements.** (*Progressive Design-Build*). California Water Service Company conducted a competitive proposal process to contract for a set of major improvements to its water distribution system on a progressive design-build basis. Hawkins served as owner's lead counsel in the drafting and negotiation of the procurement and contract documents, and the negotiation and finalization of the guaranteed maximum price, schedule and performance guarantees at the definitive contract amendment stage. The improvements include:

Palos Verdes Pipeline Improvements. Pipeline and pump station improvements to CWS's pipeline system on the Palos Verdes Peninsula. Private Contractor: **Black & Veatch.**



Wellhead Improvements Project. Improvements to 38 wells across the CWS system to meet recent drinking water standards. Private Contractor: **Lyles.**

**San Mateo California – Wastewater Plant.** *(Operate and Maintain Service Contract).* Hawkins represented the City of San Mateo, California in connection with a proposed 10-year service contract with Silicon Valley Clean Water, a regional JPA on the San Francisco peninsula. San Mateo and SVCW planned to enter into an intermunicipal operation and maintenance services contract to achieve efficiencies from economies of scale and expertise. Contractor: Deferred

**Waterbury, Connecticut – Water Treatment.** *(Operate and Maintain Service Contract).* Our firm drafted and negotiated a five-year operations contract procured on a competitive proposal basis for the City of Waterbury's water treatment project, continuing the City's program of outsourcing water treatment plant operations to qualified private operators. Private Contractor: **American Water.**

### **Wastewater Projects**

**Washington, D.C. Water and Sewer Authority (DC WASA) – Wastewater Treatment.** *(Design-Build).* DC WASA replaced the main process train for biosolids at its 370 mgd Blue Plains wastewater treatment plant, one of the largest in the United States. Hawkins represented DC WASA as special counsel in the review of possible alternative project delivery methods and served as special counsel in the procurement of the new \$200 million main process train on a design-build basis using the Cambi thermal hydrolysis pretreatment process. The project was successfully constructed and is the first major installation of the Cambi THP System in the United States and is expected to result in annual residual disposal savings to DC WASA exceeding \$15 million. Private Contractors: **CDM/PC (Pizzagalli Construction)/Cambi.**

**Pima County, Arizona – Wastewater Treatment.** *(Design-Build-Operate-Maintain).* Pima County operates a 60 mgd wastewater treatment system serving the Tucson metropolitan area. Hawkins was part of a multi-disciplinary team advising the County on the development and implementation of its \$1 billion capital improvement plan to expand capacity, replace obsolete facilities and meet more stringent regulatory effluent standards. The assessment of available and appropriate alternative project delivery methods and a review of effluent water rights agreements affecting the wastewater system were among the firm's responsibilities. Hawkins served as special counsel in connection with the procurement and negotiation of a new 30 mgd Roger Road Water Reclamation Campus that was awarded on a design-build-operate-maintain basis. Private Contractor: **CH2M.**

**Spokane County, Washington – Wastewater Treatment.** *(Design-Build-Operate-Maintain).* Hawkins serves as special counsel to Spokane County in its procurement of a new regional water reclamation facility on a design-build-operate-maintain basis. The facility, currently in operations, is an advanced treatment facility with membrane filtration providing an initial 8 mgd of capacity with an ability to be expanded in phases up to 24 mgd. Hawkins assisted with the development of the RFQ and RFP solicitation documents and with the drafting and negotiation of the DBOM contract with the successful proposer. Private Contractor: **CH2M.**

**Holyoke, Massachusetts – Wastewater Treatment.** *(Design-Build-Operate-Maintain).* Hawkins represented the City of Holyoke as special counsel in the development, procurement and negotiation of a 20-year service contract for the operation, maintenance, repair and improvement of the City of Holyoke's wastewater system. The project included the design and construction of a combined sewer overflow facility and involved elements of both public and private financing. Private Contractor: **AECOM and Aquarion (United Water).**



**Cranston, Rhode Island – Wastewater System.** *(Design-Build-Finance-Operate-Maintain).* In Cranston, Hawkins was the principal architect of the first major long-term wastewater project privatization transaction to be approved by the USEPA under Executive Order 12803. The Cranston transaction actually involved eight transactions in one: (1) design-build of capital improvements to the City's 20 mgd plant, including bio-solids incineration facilities and merchant bio-solids importation; (2) design-build of tertiary treatment facilities; (3) 25-year contract operations; (4) 25-year maintenance, repair and replacement; (5) industrial pre-treatment program; (6) sewer maintenance; (7) contract payment/concession fee to the City; and (8) company financing of the contract payment and system improvements. The Cranston transaction is generally regarded as a landmark event in the wastewater treatment industry. Private Contractor: **U.S. Filter (Veolia).**

**Washington Suburban Sanitary Commission (WSSC) – Wastewater Treatment.** *(Progressive Design-Build).* WSSC contracted on a progressive design-build basis with a private firm for the development and implementation of new anaerobic digestion and combined heat and power facilities at the Piscataway Wastewater Treatment Plant that optimizes biosolids and energy management and achieves WSSC's air and water quality goals. The project also involves subcontracting for and installation of the Cambi THP pre-treatment system. As owner's lead counsel we are assisted in RFQ and RFP development, proposal review and contract negotiations for the initial progressive design-build contract, and are assisting in the definitive contract amendment reflecting the negotiated guaranteed maximum price and schedule. Private Contractors: **Stantec and PC Construction.**

**Lynn, Massachusetts – Combined Sewer Overflow System and Wastewater Plant.** *(Design-Build-Operate-Maintain).* As special counsel to the Lynn Water and Sewer Commission, Hawkins was a key strategist in the Commission's groundbreaking "DBOM for a CSO" project. This was the first project in the country for which a city conducted a design-build competition for large-scale combined sewer overflow improvements. The project resulted in a savings in excess of \$100 million measured against the cost of conventionally procured improvements mandated by a judicial consent decree. A companion competitive procurement on which we also served as special counsel placed the Commission's 25 mgd wastewater treatment plant under a 20-year operate-maintain-repair-replace contract, including a complete biosolids incinerator re-build on a design-build basis. Hawkins drafted and assisted in securing passage of special state enabling legislation for these projects. Private Contractor: **U.S. Filter (Veolia).**

**Fulton County, Georgia – Wastewater Plant.** *(Design-Build-Operate-Maintain).* Hawkins served as special procurement and contract counsel to Atlanta's Fulton County for the County's 24 mgd Camp Creek Wastewater Treatment Plant project, which was the first major project to be implemented under new statewide DBOM legislation. The private vendor's workscope included building a new and larger treatment plant to upgraded renewal permit standards, while operating an existing aging facility. Hawkins substantially assisted in RFP development, and drafted and negotiated the DBOM contract. Private Contractor: **Azurix (American Water).**

**Newport, Rhode Island – Wastewater System.** *(Design-Build-Operate-Maintain).* Hawkins was the coordinating consultant and special counsel on Newport's 20-year operate-maintain-repair-replace contract for the City's regional 10 mgd wastewater treatment plant. The procurement attracted six high-quality proposals and the transaction included significant capital upgrades in response to administrative consent decrees, improved odor control, and company responsibility for the sewage collection system. Private Contractor: **Earth Tech (Tyco).**

**Springfield, Massachusetts – Wastewater Plant.** *(Design-Build-Operate-Maintain).* The Springfield Water and Sewer Commission's 43 mgd wastewater plant, the second largest in New England, was placed under private contract management in a transaction which broke new ground in operator responsibility for odor control, enhanced effluent standards and

biosolids product production and marketing. Hawkins, as special counsel to the Commission, served as the primary draftsman of the RFP as well as the resulting service contract, and played a central role in contract negotiations. Private Contractor: **U.S. Water (Northwest Water and Bechtel)**.

**San Jose, California – Wastewater Treatment Plant Capital Improvements.** *(Progressive Design-Build)*. Our firm represents the City of San Jose on three major capital improvements each being procured separately on a progressive design-build basis. The City's treatment plant serves the San Jose region and requires substantial upgrades to address asset useful-life issues. The improvements include:

Cogeneration Facility Improvements. New, replacement digester biogas cogeneration facilities. Private Contractor: **Jacobs-CH2M**.

Headworks Improvements. New replacement headworks facilities. Private Contractor: **Jacobs-CH2M**.

Yard Piping Improvements. New replacement yard piping improvements. Private Contractor: Pending.

**Naugatuck, Connecticut – Wastewater System.** *(Design-Build-Operate-Maintain)*. Hawkins served as special counsel to Naugatuck and its Water Pollution Control Authority, which awarded a 20-year contract to a private company to operate, maintain, repair and replace its 10 mgd wastewater treatment plant, along with design-build improvements to achieve tertiary treatment. The firm was instrumental in securing a private proposal to guarantee biosolids importation to fill the plant's excess incineration capacity on a "merchant basis", resulting in a near-zero user fee rate for Naugatuck ratepayers. Hawkins also served as special tax counsel for the tax-exempt certificates of participation that financed the project, concluding that most of the biosolids processing improvements included in the project were "solid waste" facilities for IRS purposes and could be financed on a tax-exempt basis without private activity bond "volume cap". Private Contractor: **U.S. Filter (Veolia)**.

**Washington Borough, New Jersey – Wastewater Plant.** *(Design-Build-Operate-Maintain)*. Hawkins served as lead counsel on the first design-build-operate-maintain wastewater project to be implemented in New Jersey. In a unique procurement, DBOM proposals were received simultaneously with bids for the construction of the facility on a conventional design-bid-build basis. The lowest construction bid (which was based upon a completed design, elements of which served as the minimum design requirements in the RFP) was added to the projected cost of public operation and compared to the most advantageous proposal received in response to the design-build-operate-maintain RFP. The Borough selected the best DBOM proposal over the lowest conventional construction bid, and the project was completed in compliance with stringent consent order milestones. With the assistance of Hawkins as bond counsel, the project was financed through the State Revolving Fund. Private Contractor: **U.S. Filter (Veolia)**.

**Tijuana, Mexico (Bajagua) – Wastewater Plant.** *(Design-Build-Operate-Maintain)*. The privately-owned 75 mgd Bajagua project is to treat most of the sewage originating in Tijuana, Mexico to U.S. secondary treatment standards, resolving a major international pollution issue in the San Diego area. Hawkins served as special counsel for the project in connection with the proposed fee-for-service contract with the U.S.-funded International Boundary Waters Commission, design-build-operate-maintain contract with a private management contractor, and contract-secured project financing. Private Contractor: Deferred.

**Rockland County, New York – Wastewater Plant.** *(Design-Build-Operate-Maintain)*. Hawkins served as special counsel to the Rockland County Sewer District for the District's proposed new 5 mgd wastewater treatment plant. The plant will treat wastewater from the

newly sewered portions of the County to potable water standards, and recharge the local aquifer. Hawkins drafted the special legislation enacted by the New York legislature to authorize an RFP-based design-build-operate-maintain procurement process, assisted the District in developing the RFP and evaluating proposals, and drafted the DBOM contract. Private Contractor: **Veolia**.

**Bergen County, New York – Wastewater Plant.** *(Design-Build-Operate-Maintain)*. Hawkins was special counsel to the Bergen County Utilities Authority in connection with the proposed private contract management of its 100 mgd sewer system serving 70 communities. The firm participated actively in the procurement and contract negotiation process, at the conclusion of which BCUA ultimately decided not to award a management contract. Private Contractor: Deferred.

**Tacoma, Washington – Wastewater Plant.** *(Design-Build)*. Our firm represented the City of Tacoma as special counsel in connection with the upgrade and expansion of the City's central wastewater treatment plant on a design-build basis. The project required the completion of work during the continuance of operations, at the conclusion of which the plant will have a 60 mgd treatment capacity and a peak hydraulic capacity of 150 mgd. Private Contractor: **MWH**.

**Trinity River Authority – Wastewater Plant.** *(CMAR)*. Hawkins served as special counsel to Trinity River Authority in Texas, a regional public authority serving the Metroplex area, in connection with a \$190 million wastewater treatment plant improvements project using Cambi pre-treatment THP technology. We assisted TRA in the procurement process and drafted the CMAR agreement, and subsequently we were centrally involved in the negotiation of the definitive GMP contract amendment. The parties were unable to agree on a GMP, and TRA then engaged in a competitive sealed proposal process to select the contractor. Private Contractors: **MWH/Cambi**.

**Fillmore, California – Wastewater Reclamation Facility.** *(Design-Build-Operate-Maintain)*. The City of Fillmore is replacing an obsolete wastewater treatment plant with a 1.8 mgd wastewater reclamation facility. Instead of discharging effluent to navigable water, the new plant will discharge to percolation ponds and eventually to a reclaimed water distribution system. The project was procured on an alternative delivery basis, using design-build-operate-maintain for the plant, design-build for the conveyance facilities, and private operation for the collection system. Hawkins played a central role in the drafting of the RFP as well as in the drafting and negotiation of the service contract. Private Contractor: **American Water**.

**Victoria Capital Regional District, British Columbia, Canada – Wastewater Treatment.** *(Design-Build-Finance)*. Hawkins served as counsel to Victoria CRD in connection with the design-build-finance procurement of the new McLoughlin Point wastewater treatment, conducted on behalf of VCRD by Partnerships BC. The plant is the centerpiece of the Victoria regions program, in conjunction with the provincial and federal governments, to cease open ocean wastewater discharges. Hawkins also served as a peer review panel reviewer to the VCRD's project delivery method selection process. Private Contractor: **AECOM**.

**Wilsonville, Oregon – Wastewater Plant.** *(Design-Build-Operate-Maintain)*. Hawkins represented Wilsonville in the procurement of a contract for the upgrade and expansion of the City's existing 5 mgd wastewater treatment plant and the operation and maintenance of the plant for a 20-year term. We participated extensively in the City's formal review process of alternative project delivery methods before the DBOM approach was formally selected by City Council. As special counsel, we are actively involved in the RFQ and RFP process and drafted and negotiated the DBOM service contract with the selected service provider. Private Contractor: **CH2M**.



**Monmouth County, New Jersey – Wastewater Plant.** *(Design-Build-Operate-Maintain).* Hawkins served as special counsel in Monmouth County's procurement of a 150,000 gallons per day (expandable to 250,000 gpd) landfill leachate pretreatment facility and related improvements on a design-build-operate-maintain basis. The total contract value is approximately \$50 million which represents a significant reduction to the costs incurred by the County in connection with the trucking and off-site disposal of landfill leachate. Hawkins prepared the RFP and drafted and negotiated the DBOM service contract. Private Contractor: **Natural Systems Utilities.**

### **Combined Water And Wastewater Projects**

**Stockton, California – Water and Wastewater System.** *(Design-Build).* Hawkins represented Stockton as special counsel in connection with the development and implementation of California's largest long-term management contract for a wastewater treatment plant (43 mgd). The project also included major design-build work for permit-driven nitrogen-reduction upgrades and odor control system improvements valued in excess of \$50 million, as well as private management responsibility for biosolids disposal and for the management of the City's water distribution, storm water, and utility billing and collection systems. Private Contractor: **CH2M OMI and Thames Water.**

**Laredo, Texas – Water and Wastewater System.** *(Design-Build).* Hawkins served as special counsel to the City of Laredo, Texas, drafting and negotiating a 10-year service contract for the private management of the City's entire water and wastewater utility system (25 mgd), including treatment plants, collection and distribution systems, billing and collection services, and special protections for the non-unionized utility workforce. Private Contractor: **United Water.**

**Puerto Rico Aqueduct and Sewer Authority (PRASA) – Water and Wastewater System.** *(Service Contract).* All water and sewer service (500 mgd) in Puerto Rico is provided at the Commonwealth level by PRASA through more than 100 water treatment plants, 200 wastewater treatment plants and associated collection and distribution systems, biosolids management assets, pumping stations, laboratories, and billing and collection systems managed by a private firm. Our firm acted as special counsel to PRASA and the Government Development Bank of Puerto Rico in negotiating an extension of the previous short-term private management contract, advising PRASA on the business terms of the RFP, and drafting the 10-year contract for private management and initial capital improvements to the PRASA System. Private Contractor: **United Water (Suez).**

**U.S. Department of the Navy, Naval Facilities Engineering Command (Multiple Eastern Bases) – Water and Wastewater System.** *(Utilities Privatization Contract).* Hawkins served as special counsel to the United States Navy in connection with the proposed privatization of water, wastewater, electricity and gas utility systems at multiple naval bases in the eastern United States, including NAS Patuxent River and NTC Great Lakes, Illinois. Options under study included multiple asset sales, leases, and management contracts. Our work included legal and contract research, reviews and advice relating to the feasibility analysis and business model for the program. We also worked with the Navy to develop the transaction forms, contracts and conveyance instruments appropriate to the implementation of the program and negotiated several of the resulting contracts. Private Contractors: **Various, Including Southern Maryland Electric Cooperative.**

### **Biosolids and Bioenergy Projects**

Most of the wastewater projects on which we have served as special counsel involved contracts giving the private operator responsibility for sludge and biosolids management, in addition to responsibility for wastewater treatment. The firm's stand-alone biosolids management projects include the following:



**Victoria Capital Region District, British Columbia, Canada – Biosolids Management.** *(Design-Build-Finance-Operate-Maintain).* The biosolids management project was a companion project to Victoria CRD's wastewater treatment project, and run as a concurrent procurement. Hawkins served as legal advisor together with Vancouver co-counsel for this P3 project. The provincial liquid waste management plan requires that biosolids from the treatment plant be treated and processed into fuel products, and that biogas and phosphorous be recovered from the biosolids feedstock. Private Contractor: Pending.

**Massachusetts Water Resources Authority – Biosolids Management.** *(Design-Build-Operate-Maintain).* Hawkins assisted MWRA, greater Boston's water and sewer agency, as special counsel for the planning, procurement and negotiation of a P3 project agreement for the upgrade, operation and maintenance of MWRA's Fore River biosolids pelletization plant, and for the marketing of pellet products. This plant processes all of the biosolids from the MWRA Deer Island wastewater treatment facility, the centerpiece of the Boston Harbor clean-up program and the largest in New England. Private Contractor: **New England Fertilizer.**

**Sarasota County, Florida – Biosolids Management.** *(Design-Build-Finance-Operate-Maintain).* Hawkins served as special counsel to Sarasota County in the development of a proposed new biosolids management project on an alternative project delivery basis using a biosolids drying, pelletizing, composting or stabilizing technology to be competitively determined. We were responsible for drafting the RFP, and the P3 design-build-operate-maintain-finance contract with the selected vendor. Private Contractor: Deferred.

**Rockland County, New York – Biosolids Management.** *(Design-Build-Operate-Maintain).* Our firm served as special counsel to the Rockland County Solid Waste Management Authority in the procurement of the largest biosolids composting facility in New York State outside New York City. We played a key role in conceptualizing the County's sewage biosolids composting project, which serves the county and regional generators, in the RFP drafting and proposal review process, and in drafting and negotiating intermunicipal biosolids supply contracts and a design-build-operate-maintain contract with a private contractor containing stringent odor guarantees and substantial compost marketing risk protection for the City. Private Contractor: **Waste Management, Inc.**

**Burlington County, New Jersey – Biosolids Management.** *(Design-Build-Operate-Maintain).* As special counsel to Burlington County, Hawkins drafted and negotiated a design-build-operate-maintain and biosolids compost marketing contract for an SRF-funded biosolids composting project serving more than 20 municipal biosolids generators in the County. The DBOM transaction was undertaken after the County rejected bids submitted in response to a traditional DBB procurement. Private Contractor: **Waste Management, Inc.**

**Charlotte, North Carolina – Biosolids Management.** *(Service Contract).* Hawkins assisted the Charlotte-Mecklenburg Utility District as special counsel in the procurement, drafting and negotiation of a biosolids management service contract for the disposal of biosolids from several of CMUD's wastewater treatment plants. The contract included operating responsibility for a traditionally procured compost plant, and for land application and beneficial reuse of biosolids. Private Contractor: **BFI (Allied Waste).**

**Sacramento Regional County Wastewater District, California – Biosolids Management.** *(Design-Build-Finance-Operate-Maintain).* Hawkins served as special counsel to SRCWD for the development and implementation of a biosolids management facility to reduce SRCWD's reliance on lagoon disposal of biosolids. The project was privately owned and financed, as well as privately designed, built and operated, with the contractor having product marketing responsibility. Hawkins drafted the DBFOM P3 contract for the transaction. Compost, pelletization, lime stabilization and other proven beneficial reuse technologies were entertained by the District before a pelletization design was selected. Private Contractor: **Synagro.**

**Nashville, Tennessee – Biosolids Management.** *(Design-Build).* The City of Nashville built a new biosolids management facility using design-build as the preferred project delivery method. The facility has the capacity to produce dried biosolids products from 120 dry TPD of residuals generated by the City’s central treatment plant. Hawkins represented Nashville as special procurement and contract negotiating counsel on the project, which involved solutions to complex performance bond issues, innovative performance guarantees following acceptance tests, and commitments to assuring a smooth transition to municipal operation. Private Contractors: **Earth Tech and Archer-Western.**

**Central Contra Costa Sanitary District, California.** *(Design-Build-Finance-Operate-Maintain-P3).* Central San undertook a biosolids management project with potential energy recovery using a competitive P3 proposal process. Hawkins represented the District as owner’s lead counsel in procurement evaluation. Private Contractor: Deferred.

### **PROJECT DELIVERY METHOD SELECTION**

**Active Market Participation.** Hawkins’ attorneys are regularly engaged by city, county, regional and state governments and municipal utilities to help guide key decision-makers as to the most appropriate project delivery method for large infrastructure projects. Following the delivery method decision, Hawkins then typically plays a central role in implementing the project using the chosen method. From this experience we are fully familiar with industry participants, market practice and performance results, experience which continuously informs our ongoing advice as to the practicability of using various potential delivery methods for particular projects.

**Delivery Methods Assessed.** Among the project delivery methods typically assessed by our public agency clients are progressive design-build; traditional lump-sum design-build; design-build-finance; design-build-operate-maintain; design-build-finance-operate (P3) and construction-manager-at-risk. Hawkins has extensive experience with alternative project delivery and P3 statutes in more than two dozen states across several infrastructure sectors. We have also been involved in drafting necessary legislative amendments and special procurement legislation in more than 15 cities and states and can assist our clients and their regional counsel with whatever procurement process resolutions may be necessary or appropriate.

**Business Case Examples.** Hawkins has conducted 25 structured, multi-part workshops with governmental clients designed to fully familiarize senior management with the practical workings of various project delivery methods. We work closely with co-consultants, joining together an interdisciplinary team of legal, management, technical and financial experts. Because our co-consultants have included most of the major management and technical consulting firms working in this field, we can bring to our clients a full range of perspectives garnered from work with a large segment of the owners’ representative industry. Clients for which Hawkins performed in-depth and comprehensive legal consulting assignments that took place over an extended period and that resulted in full business case reviews, analytical reports and memoranda include:

- |                       |                    |
|-----------------------|--------------------|
| > State of California | > San Antonio      |
| > State of New York   | > DC Water         |
| > State of New Jersey | > Travis County    |
| > MBTA                | > Davis, CA        |
| > Victoria, BC        | > Spokane County   |
| > Houston             | > Clark County, NV |
| > Phoenix             | > Pima County, AZ  |

## **“PROGRESSIVE” OR “PDA” P3 PROJECTS**

**Delivery Method Selection.** To the extent that the tentative selection of P3 as the project delivery method for the City projects need to be reviewed and confirmed, or other alternative delivery methods need to be considered and selected for some components, Hawkins can provide key support in conducting and facilitating business case or value-for-money studies as to the legally-available delivery method most suited to each component, in light of the City’s goals and objectives. This would include, as appropriate, assessing P3 delivery methods (including conventional “hard bid” P3 versus “progressive” or “project development agreement” P3 approaches), as well as other alternative delivery methods.

**Progressive P3 Considerations.** Progressive P3 is an emerging staged approach to procuring a P3 project company and contract in which the project company generally is selected on a qualifications basis and its proposal as to approach and certain pricing elements such as (1) profit, (2) professional rates for preliminary design services, and (3) often, general conditions. As there is only a conceptual design or very general program requirements prepared by the owner’s representative available at the RFP stage, no fixed design-build or O&M price can be provided. Hawkins has a great deal of experience in drafting and negotiating contract terms describing the required preliminary design and pre-construction services; early work page procedures; definitive GMP proposal submitted requirements at the 60% design stage; processes for negotiating the GMP; performance guarantees (the central element of P3 contracting); and “off ramps” if the parties are unable to agree on a GMP or convert it to fixed pricing. In two of our twelve progressive P3 and DB projects, the parties were in fact unable to settle on a GMP, and we can accordingly offer valuable perspective on how to minimize the chances of such an outcome.

**Hawkins “Progressive” P3 Projects.** Hawkins has represented public agency owners on *12 progressive P3 and design-build projects since 2012*. These owners include:

- > State of Washington
- > City of San Jose
- > Washington Sub. San. Comm.
- > City of Tacoma
- > Klamath River Renewal Corp.
- > San Jose Water Company
- > San Antonio Water Company
- > City of Houston
- > California Water Service Co.
- > Lake Oswego

**SECTION 3**

**HAWKINS' QUALIFICATIONS AND EXPERIENCE –  
P3-RELATED SPECIAL PRACTICE AREAS**



## SECTION 3

### HAWKINS' QUALIFICATIONS AND EXPERIENCE – P3-RELATED SPECIAL PRACTICE AREAS

**Introduction.** In this Section 3, we describe our qualifications and expertise in several special areas of practice are related to the core P3 and design-build procurement, contract and finance qualifications for this work that we describe in Section 2 of our proposal.

**Private Activity Bonds and Public Finance Practice.** The firm is consistently ranked as among the top two public finance firms in the country. Hawkins' expertise as procurement and contract counsel for alternative delivery and P3 projects in the social infrastructure field is closely and substantially complemented by the expertise of the firm's public finance lawyers, including our 12-attorney tax department specializing in the federal tax exemption of municipal bonds. We have participated as bond counsel or underwriter's counsel in more than 2,600 bond issues for educational facilities with a principal amount exceeding \$85 billion (including those for public and private universities and colleges, and independent and public primary and secondary education facilities); more than 1,080 bond issues for health care facilities with a principal amount exceeding \$88 billion (including projects for hospital and provider systems, health care tax-exempt organizations, academic medical centers, and continuing care retirement communities), and more than 140 bond issues for public buildings with a principal amount exceeding \$14 billion (including administration buildings; public safety facilities; community, mental health and laboratory projects; and park and recreational facilities). A majority of these bonds (more than \$250 billion) have been "private activity bonds". No firm in the country with a leading P3 legal advisory practice has a private activity bond or public finance practice that remotely approaches this depth.

**Federal Highway Administration – TIFIA P3 Projects.** Hawkins served between 2008 and 2018 as special counsel to the Federal Highway Administration of the United States Department of Transportation in connection with its Transportation Infrastructure Finance and Innovation Act (TIFIA) program funding assistance for highway public-private partnerships. On behalf of the FHWA, we reviewed and commented upon the contract and financing documentation prepared by state and regional transportation agencies for the development of new highways and other transportation facilities under P3 and other alternative project delivery methods. Our work on each project included P3 proposal evaluations; assessing draft P3 project agreements for financeability; preparing loan term sheets; drafting and negotiating the TIFIA loan agreements, intercreditor agreements, and related financing documentation; performing lender's due diligence; and conducting financial close in conjunction with the senior debt financing. In this capacity, Hawkins represented TIFIA as lender's counsel in the following *fifteen* P3 transportation projects:

- > Washington Metro Area Transit Authority (Washington, D.C.)
- > Tren Urbano (Puerto Rico)
- > Tacoma Narrows Bridge (State of Washington)
- > SH 121 Project (Texas)
- > LBJ Expressway Project (Texas)
- > I-595 Corridor Roadway Improvements Project (Florida)
- > Port of Miami Tunnel Project (Florida)
- > North Tarrant Expressway Project (Texas)
- > SH 288 (Texas)
- > Reno Trac Multi-Modal Project (Nevada)
- > Los Angeles County Metropolitan Transportation Authority (California)
- > Chicago Transit Authority (Illinois)
- > FDOT – I4 Ultimate Improvement Project (Florida)
- > SR 520 Floating Bridge and Landings Project (Washington)
- > US 36 Managed Lanes/Bus Rapid Transit Project (Colorado)

**Environmental Applications, Planning and Zoning Permits.** Environmental, planning and zoning and construction permits and approvals will be required for the construction and financing of the project. Many of these approvals require extensive documentary preparation, public hearings before governmental agencies, and approval by one or more entities. This approval process can extend for a considerable period, and should be commenced at the earliest possible time, even prior to the initiation of the project procurement. The environmental, planning and zoning permitting time line is often the longest, and accordingly should be central to the critical planning path. On all of its California, New York and federal projects, Hawkins has assisted our public agency clients and their environmental technical advisors in their assessment of CEQA and other applicable environmental review requirements, the preparation of reports, and the integration of EIR or mitigated negative declaration obligations into the contract documents and project schedule.

**Project Labor Agreements.** Hawkins has worked with project labor agreements on a large number of its P3 and design-build projects. We are fully familiar with the forms and terms of PLA's typically used on large infrastructure projects where they are required by the public agency, and the manner in which PLA's are effectively addressed in and integrated with P3 and design-build contracts. These major projects include the Javits Convention Center Expansion project in New York and the Carlsbad Seawater Desalination Project in San Diego County.

**Labor Protective Provisions.** A significant number of our projects have involved circumstances in which work performed by an existing operation and maintenance workforce was planned to be performed by the P3 or design contractor charged with building a new infrastructure project. If that proves to be the case with the City projects, Hawkins is fully prepared to assist with the development of "labor protective provisions" of the type we have drafted and included in contracts for more than a dozen such projects. These provisions include (1) job offers by the contractor to all designated employees; (2) equal or better pay and benefits; (3) union and collective bargaining agreement recognition; and (4) no involuntary transfers or dismissals.

**Affordable Housing and Tax Credit Financing.** More than 20 state housing agencies around the country rely on the experience, expertise and responsive service of the firm. Since 1980, Hawkins has participated in \$150 billion in housing finance bond transactions, substantially more than any other firm. As the preeminent housing finance counsel in the country, we have been advising our clients on matters relating to the low-income housing tax credit ("LIHTC") since its inception. Consistent with Hawkins' unique relationship with state housing agencies, the firm has represented the housing credit agencies and provided services and advice to numerous others. As a result, Hawkins has acted as bond counsel or underwriters' counsel in innumerable transactions which involved financings for developments receiving low-income housing tax credits. Our LIHTC practice is further enhanced by our expertise in HUD programs encompassing direct involvement in federal housing policy and direct negotiations with, or representation of, federal government housing programs of all types. Because of our active state housing finance agency practice, Hawkins is involved in the discussion and implementation of many programs at HUD, an agency that employs in prominent positions a number of persons formerly affiliated with state housing finance agencies with which Hawkins has worked regularly. This work has made us familiar with HUD subsidy programs and Federal Housing Administration insurance requirements and procedures, including assisting several housing issuers to implement their risk-sharing programs and participating in many transactions secured by mortgages insured through risk-sharing programs. No other law firm in the country possesses the combined level of expertise in tax-exempt housing bonds, LIHTC and HUD programs that we can offer to the City in connection with the City's projects. In addition to our Bond Counsel experience, Hawkins' housing finance and state agency practice includes a unique level of expertise in HUD financing and subsidy programs. Hawkins' attorneys include partner Rod Solomon, a former HUD Deputy Assistant Secretary, who is widely recognized for the legal, administrative and

policy issues that arise under HUD programs including, in particular, Section 8, Mark-Up-to-Market, Public Housing, the various FHA multi-family mortgage insurance authorities, the Rental Assistance Demonstration, CDBG and HOME.

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**SECTION 4**

**PROJECT APPROACH**

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## SECTION 4

### PROJECT APPROACH

**How Hawkins Will Lead.** Hawkins will assemble, lead, manage and coordinate the full technical advisory team in all legal, commercial and financial matters relating to the procurement and P3 contracting for the various projects in preparation by the City. Hawkins has played this lead legal role on more than 250 P3 and other alternative delivery infrastructure projects. This Section 4 of our proposal describes how we will do this.

**Hawkins Role.** Hawkins' entire practice is geared toward successfully planning and completing the contractual and financing transactions through which our country's civil infrastructure is built and operated. The firm normally serves as special counsel, advising the client's city or county attorney or general counsel and project manager, and serving on a co-equal "team" basis with separately engaged technical and financial consultants. The role Hawkins plays is critical in that we draft and negotiate the design-build, design-build-operate-maintain, design-build-finance-operate, construction-manager-at-risk, franchise, concession or asset management contract that results from the procurement. These contracts typically are complex instruments which often represent the culmination of years of planning and procurement activity, and not infrequently constitute the largest single dollar-value contractual commitment a state or local government has yet made. The firm also typically participates actively in the strategic development of the project and the drafting of the RFQ and RFP to ensure that the legal and business foundation for the contract is properly structured, and assists in the proposal review, clarification, evaluation and selection process. This is the approach we offer and role we propose to play on the various projects in preparation by the City.

**Core Principle of our Approach.** The core principle of Hawkins' approach is to help identify and protect the City's interests and minimize potential risk by structuring a highly competitive procurement concluding with the execution of a well-organized and clearly-drafted project agreement that effectively describes the private contractor's obligations, is commercially reasonable, anticipates performance issues and contingencies, places risks with the party best able to manage and control the risk, minimizes potential disputes and is easy to administer. Because Hawkins is thoroughly familiar with how these transactions are actually concluded, we will bring critically important and seasoned perspectives to the planning and procurement phases of the project on a very cost effective basis.

**Public Purpose.** Hawkins believes that public purpose considerations are vital to the determination to undertake any form of alternative delivery or P3 project. In connection with public infrastructure assets, it is important for owners to consider constitutional and statutory structures designed to advance a particular public purpose. Hawkins, in its alternative delivery and P3 practice, has significant experience with long-term contracting, in which such considerations are taken into account and the continuing public interest in the assets (and the public service provided by the private firm) is appropriately protected through handback, holdback, monitoring, security and other requirements. Service standards, responsibility for ongoing capital maintenance, requirements for capital modifications, and rights of termination for public convenience will be of particular concern in the long-term public partnership the City plans to create with its P3 project company partner.

**Business Attorneys for Municipal Government.** The firm's continuous work with managers, engineers and financial advisors from both the public and private sectors enables us to bring an interdisciplinary perspective to these transactions. Hawkins will advise the City on the full range of legal, business, risk and financing issues involved in the project decision-making process. These issues include establishing a "baseline" or "benchmark" against which private proposals will be measured; appropriate assignment of design liability; having the contractor take the long-term "capital maintenance risk" of maintaining, repairing and replacing the assets; determining the extent of the activities that should be included in the

management services; project performance guarantees; process risk issues; IRS issues; intermunicipal issues; permitting risk; change in law risk; parent company guaranty, letter of credit and other security for performance issues; and contract administration matters. We will also assist the City Counsel or local counsel, on the basis of our national experience with these kinds of projects, in carrying out their responsibilities with respect to labor, permitting, real estate, environmental, procurement, local tax and other legal matters.

**Proper Risk Allocation.** Hawkins will assist the City in allocating a wide range of risks and responsibilities between sponsoring public entities and private contractors, including particularly the risks that are associated with uninsured force majeure or change in law events, differing site conditions, non-appropriation, completion delay, performance failures, and contract termination.

**Competition Principles.** Hawkins believes that it is fundamentally important that a competitive proposal procurement go through a series of refinements to clarify the ultimate service or project workscope. Work on project definition done earlier will expedite and improve the process later. It is generally advisable that the RFP be well-thought-out and highly structured, with detailed proposal forms correlated to clear performance standards providing a solid basis for proposal comparison. We advocate carrying on the competition, through collaborative meetings during the proposal preparation process and after proposal receipt, until the point of diminishing returns has been reached. Drafting a project agreement for comment and pre-selection negotiations will facilitate this process. We also believe that service providers should be made responsible for all matters within their control, and be given relief only for carefully defined uncontrollable circumstances and relief events. In structuring the arrangement, we bring to the table a great deal of experience in the art of usefully describing the performance guarantees and scope of service requirements which are the heart of any public private or alternative project delivery transaction, as well as associated non-performance damages and remedies. Our basic philosophy is to work cooperatively to create a mutually fair, reasonable and workable agreement, one which permits the company to earn an appropriate profit and in which control and flexibility are retained by the government. The firm will work closely with city and local counsel in the early stages of the transaction to help assure that the requirements and norms of local procurement law and practice are carefully adhered to so as to avoid potential litigation and re-procurement costs.

**State-of-the-Art Contracting.** Hawkins continually strives to improve the state of the art in alternative project delivery and public-private partnership contracting in the civil infrastructure field. Hawkins' master contract forms are regularly updated to reflect lessons learned and advancements in contract terms and concepts developed in the transactions we have successfully closed. We regularly review, for the same purpose, the documentation used in transactions in which we did not participate. Our goal is to advance our understanding as to what works, what options are viable and what risk allocations are optimal so as to minimize drawn out or stalemated negotiations. We will describe the contractor's responsibilities clearly and in detail, and anticipate all reasonably foreseeable contingences, so as to avoid confusion and costly disputes during the performance of the contract. Every effort will be made to curtail open-ended re-openers, the weak link in public contracts. The contracts Hawkins has drafted have been virtually free of litigation, change orders, cost over-runs borne by the municipality, risk mis-allocation, and debilitating disputes over intended meaning.

**Contract Concepts.** Among the contract concepts we have originated or substantially advanced are the following: annual fixed fee (rather than unit-based) pricing; enhanced performance standards (beyond applicable law); contract administration memoranda (to facilitate and document issue resolution); appropriately priced convenience termination rights; detailed examples of "uncontrollable circumstances" and "relief events" (both exclusions and inclusions); protections against declines in the contract guarantor's credit standing; clearly defined and measured permitting risk allocation; employee transition and protection principles; performance guarantee definitions and related non-performance "deductions"; incentives to enhance contractor performance; and contractor responsibility for project debt where there are substantial, unexcused performance failures.

**Communication.** Our firm will assume responsibility for full and timely communications with all individuals and firms involved in the procurement through periodic (or more frequently as necessary) meetings where possible, conference calls and updates throughout the procurement to ensure common understandings of the complex issues that no doubt will arise during the transaction.

**Legal Issues at the Planning Stage.** An assessment of the legal, financial and institutional foundation for the project will occur as the plan is being developed from a technical and financing standpoint. The legal matters considered early in the process will include the following: procurement law options and procedural requirements; capital improvement planning and financing elements; contract and public-private ownership structures; real estate matters; labor and collective bargaining issues; issues relating to the termination of any predecessor facilities manager; legal guarantees of performance impact of existing and proposed environmental, health and safety laws on the facilities involved; and development, financing and implementation of facilities as part of an integrated infrastructure system. Intermunicipal issues are also often critical and need to be examined at an early stage. Hawkins will provide highly experienced counsel in each of these areas.

**Working with Procurement Laws.** Hawkins has worked with the civil infrastructure procurement laws of Florida and more than two dozen states, the federal government and several overseas jurisdictions. These laws establish a wide variety of procedures for entering into performance-based contracts utilizing competitive proposal processes. They address the full range of procurement issues, including the following: the permissibility and nature of vendor prequalification; when and to what extent contract negotiations can occur; whether labor or environmental matters need to be resolved prior to contract execution; the manner in which general state construction retainage laws and engineering licensing laws apply to a procurement; selection methodology and scoring requirements; the timing of proposal opening and of evaluating price and non-price proposals; standards of selection; the various roles of procurement and purchasing officers, selection committees, public works directors, county and authority boards and city councils; and the applicability of bid protest procedures. Hawkins will assist in these determinations based on our broad familiarity with market practices and constructive approaches to addressing common procurement law compliance issues.

**Role of City Counsel and Regional Counsel.** Hawkins will work closely with and assist the City Counsel and other regional counsel responsible for environmental, permitting, real estate, labor and administrative local law matters. There is a substantial amount of critical project development legal work involved in these areas. We find consistently that when the legal work is divided in this manner, the combined expertise of Hawkins as special contract counsel and the City Counsel or a trusted regional firm as local development counsel serves best to protect the client and accomplish the project on an efficient, skilled and workable basis.

**Mutual Benefit.** The primary concern of the City is to procure P3 contractor service that is reliable and reasonably priced. In order for the project to succeed, however, it must be economically viable for both the City and the project company. Thus, the City should avoid taking a position that will induce "low-ball" proposals or build into the contracts economic disincentives for the contractor to perform. The project agreement should be structured so that each party will benefit by performing according to its terms. Performance incentives are often appropriate where service is desirable and achievable above minimum guaranteed levels.

**The Practicalities of the Market.** Alternative delivery projects and public-private partnerships are not implemented in a vacuum. There is a discrete universe of companies that are viable private partners for any particular project. Because the cost to compete is high, the competitors are quite selective in the opportunities they pursue. Municipal government is fortunate in that the companies submitting proposals on civil infrastructure projects are generally strong financially and technically. They are disinclined, however, to take on unreasonable risk, nor should they be asked to do so. When they do, and the risk unexpectedly occurs, both sides generally lose. From its longstanding and prominent position in the alternative project delivery and public-private partnership market, Hawkins will provide



the City with highly practical information and advice as to the private contracting firms involved, how they distinguish themselves, and their risk tolerance and negotiating propensities. Our credibility with the companies as a municipal law firm that helps conduct fair competitions and effectuate reasonable business transactions is an intangible but nonetheless significant aspect of the P3 legal advisory service we offer.

**Project Manager's Role.** In complex contract negotiations it is essential that the project manager take a leading role in the entire negotiating process. The manager must maintain the momentum of the negotiations and clearly coordinate all of the tasks that must be accomplished. In order to achieve this, each party to the negotiations should be urged to clearly designate one person with decision making authority to be responsible for its negotiations. The project manager should be prepared, early in the negotiations and perhaps even prior to the selection of the project company, to make sound and studied decisions (involving elected officials when necessary) on the central issues of price and risk allocation. The manager should also be prepared to reach a quick resolution of all secondary issues. If negotiators are not prepared to or authorized to make decisions, negotiating sessions may raise issues but produce little actual progress toward agreement.

**Insurance Evaluation.** Insurance can be a crucial element of a project where certain risks are not acceptable to the municipality, the vendor or bondholders. Typically, the project company will provide builder's risk, workers compensation, and commercial general liability insurance, except in DB and DBF projects where the municipal owner provides property and commercial general liability insurance following completion of construction. The need for unusual insurance coverage can be evaluated as the project negotiations develop, and such insurance can be used to fill holes in the risk allocation scheme.

**Focus on Successful Completion.** Completed projects are characterized by a determined effort on the part of the municipality and the contractor to successfully conclude negotiations and begin service or construction. The City should be prepared to make certain compromises where its material interests are not affected. The municipality's objective should be to reach agreement on a contract, and it may be counterproductive to get mired in each of the innumerable complexities that may arise. Leadership by key administrative officials is important in keeping the common focus on the ultimate goal, and reaping the benefits of a well-planned procurement.

**Meeting Client Objectives.** Our role in developing alternative delivery projects and public-private partnerships fundamentally is to bring the benefit of the expertise we have accumulated in a great number of similar processes and transactions effectively to bear to assist our municipal client in achieving its public purpose goals. We present the City with the full array of options, choices and approaches on structural, procurement, business, risk and contract issues, counsel the City as to the costs and benefits of the choices, and assist the City in implementing its choices. We also have and will supply the professional resources necessary to effectuate the transaction, particularly with respect to the considerable amount of contract and other document drafting which the commercial arrangement will ultimately require. We will do this as cost-effectively as possible, providing succinct advisory memoranda, well organized procurement processes, and contract documents based on our very large library of similar contract precedents, adapted to the specifics of the transaction at hand. Our advice is fair, impartial and seasoned.

**Success Defined.** Hawkins will meet the City's objectives by utilizing the firm's extensive experience in this field and exercising the highest professional standards in its client representation: providing strategic assessment and legal advice relative to the procurement and negotiation effort; providing independent expert legal review and comment regarding the procurement and contract plans and documents prepared by the project's technical and financial advisors for the delivery of the project; and offering high-quality legal advice regarding contract negotiation plans and strategies. Success in this project will be characterized by the selection of a highly qualified, reputable and financially strong project company through a well thought-out, fair and legally compliant procurement process with no reasonable basis for



proposal protests that results in a balanced and clear project agreement that protects the client's interests and delivers a high-quality project at a reasonable price under properly structured performance guarantees.

**Attorney Performance Measures.** Hawkins believes that the City should measure the firm's success in performing its services and meeting their objectives by applying the standards by which all law firms should be judged professionally in transactions of this nature: understanding the client's needs and goals; bringing Hawkins' national and regional experience fully to bear on the project; identifying and anticipating legal and business issues; creatively offering solutions to legal and business issues that need resolution; providing high-quality drafts of legal documents; working collaboratively with team members; offering timely and responsive quality legal service; providing independent professional judgment; representing the City competently and zealously within the bounds of the law; preserving the confidences of the City and providing cost effective special counsel services. The City's principals, and the City's Counsel's Office, are skilled at evaluating legal services and can and should assess Hawkins' services on a continuing basis applying these measures of success.

### **MUNICIPAL FINANCING OR PROJECT FINANCING**

**Selection of Financing Approach.** The threshold decision in any public works project is whether the project will be financed on a municipal finance basis or on a project finance basis. Most fundamentally, municipal bond financing involves recourse directly to the credit of the governmental agency; the bonds will be paid whether or not the project is completed or works. Project financing, by contrast, involves recourse neither to the credit of the governmental agency nor to the credit of a private company. The bonds are paid only if the project is completed and works over the long-term as contracted for by the private developer, and the governmental agency pays its service or commodity purchase obligations over the term of the project agreement. Hawkins is a recognized national leader in both municipal bond finance and project finance transactions for public infrastructure projects. We will bring an extraordinary depth of experience to both the decision on which approach should be used to finance a proposed project, and to the execution of the project based on the financing and delivery method selected.

**Pledged Availability Payments Under P3 Project Agreements.** In many cases, the P3 project agreements on which Hawkins has worked have assigned a revenue collection risk to contractors (as in the case, for example, of a DBFO toll road where the developer and its lenders take the risk that toll revenues will not be sufficient to repay debt and provide a return on equity investment). But in most cases, the governmental entities have agreed to make periodic "availability payments" to contractors under leases or service agreements. In such instances the payments have been designed to cover debt service on bond financings arranged by the contractors (as well as providing an equity return and compensation for operation, maintenance, repair and replacement work), and have been pledged by the contractors as security for the payment of such debt service. Over the past 30 years, Hawkins has structured, negotiated and drafted dozens of project agreements, involving billions of dollars of availability payments, that have supported the private project financings of the kind normally involved in P3 transactions.

**Avoiding the Characterization of Government Payment Obligations as Debt in P3 Transactions.** Often in P3 project financing transactions, as a requisite to assuring the financeability of the projects, Hawkins has been called upon to opine that such project agreements or service contracts are valid, binding and enforceable as against the governmental entities involved. This, in turn, has typically required us to make sure that the governmental entities' payment obligations are sufficiently contingent (either because they are dependent upon the satisfactory provision of recurring services by the contractors or because they are "subject to annual appropriation") so that they do not constitute unauthorized "debt" of such entities for purposes of constitutional debt limitations, referendum requirements, capital budgeting requirements, debt limits, and other restrictions arising under state law.

## **WORK PLAN**

The following is an outline of the legal work we foresee being necessary for the projects. Work in each of the categories below generally is expected to include attendance at meetings; participation in telephone and conference calls with multiple working group members; legal research; drafting of memoranda, reports and analyses; contract and document drafting; internal meetings and discussions; preparation for calls, conferences and meetings; reviewing and commenting on drafts, reports and documents prepared by the owner and other consultants and professionals; attendance at discussion and negotiating sessions; review of the results of meetings, calls and conferences; review of correspondence; and transaction administration.

### **Planning Phase Services**

#### **Legal Review and Analysis**

- > Reviewing current law governing applicable procurement and contracting powers and procedures
- > Reviewing potential tax-exempt financing options
- > Assistance in legal reviews conducted by other counsel as to real estate, permitting, environmental, labor and related legal matters
- > Preparation of memoranda of law on procurement and contracting issues
- > Drafting and review of legislation required for project implementation

#### **Project Planning and Delivery Method Selection**

- > Advising regarding project definition, planning, goals, objectives and outcomes
- > Assistance in the overall conceptualization and organization of the procurement for the project
- > Assistance in structuring the environmental, commercial, contract and financing elements of the project
- > Developing strategies for reasonably maximizing competition among proposers
- > Assistance in assuring compliance with required procurement procedures
- > Assistance in the review of alternative project delivery methods
- > Advising concerning project risk retention and transfer
- > Participation in preparing the business case, multiple criteria analysis and value-for-money analysis and report
- > Legal review of potential financing plans and transaction structures
- > Coordinating with stakeholders in project planning and delivery method selection
- > Assistance with any market sounding survey and request for expressions of interest, and the review of any responsive submittals

### **Transaction Phase Services**

#### **RFQ Preparation, Issuance and Evaluation**

- > Reviewing and commenting on the draft RFQ
- > Advising regarding commercial and other issues that should be considered prior to RFQ issuance to ensure the RFQ includes all required information for participants to consider at this stage
- > Advising regarding relationship and intergovernmental matters

- > Advising regarding evaluation issues
- > Assisting in preparation of correspondence with respondents, including correspondence advising of the results of the RFQ evaluation

**Preparation and Issuance of RFP and Draft Project Agreement**

- > Preparing the draft project agreement, all appendices and related agreements for release with the RFP, including:
  - Initial review of each element of the project agreement
  - Receiving, discussing and incorporating comments from the project team
  - Identifying areas where further consideration and input is necessary
  - Coordinating input from the various content providers and specialists, including other consultants and advisors
  - Incorporating the preferred risk and responsibility allocation
  - Assuring consistent drafting and minimizing redundancy
- > Reviewing and revising the RFP and proposal forms, including proposal requirements
- > Advising regarding commercial issues that have arisen in other similar alternative delivery and public private partnership projects
- > Participating in discussions and decisions regarding interface issues between the project and other components of the infrastructure system and reflecting those decisions in the RFP and draft project agreement

**Proposal Development and Submittal**

- > Reviewing and advising on proposer inquiries
- > Reviewing and advising on proposer comments on the draft project agreement
- > Attending collaborative meetings at which commercial and technical matters relating to the project agreement are discussed
- > Preparing revised drafts of the project agreement, including a final draft for issuance one month before submission deadline

**Proposal Evaluation**

- > Advising regarding evaluation process and issues, and selection criteria
- > Reviewing legal confidentiality requirements and proposer responsiveness
- > Assistance in conducting pre-selection proposal clarifications and negotiations
- > Reviewing and commenting on the proposal review and evaluation report
- > Assisting in preparation of correspondence with proposers, including correspondence advising of the results of the proposal evaluation

**Contract Negotiations**

- > Assistance in developing the negotiating strategy and negotiating the final project agreement, appendices and related agreements
- > Coordinating with the project team regarding ongoing developments and strategies
- > Legal review of the financing documents
- > Incorporating the technical and financial proposals in the project agreement and appendices
- > Legal review of the project agreement, appendices and other agreements

- > Participating in presentations concerning the procurement process and the resulting project agreement

### **Closing**

- > Identifying tasks required to close, including final amendments to the project agreement
- > Working with preferred proposer's legal counsel to confirm closing requirements, closing agenda and closing process
- > Working with the owner's financial and technical advisors to finalize financial close arrangements
- > Conducting a due diligence review of, and commenting on as appropriate, the project company's subcontract and financing documents
- > Preparing closing documents
- > Attending to closing
- > Preparing closing report, including digital document book

### **Post-Contract Execution**

- > Addressing issues of contract application, implementation, and administration that arise following commercial and financial close
- > Drafting contract administration memoranda and amendments to the project agreement, as necessary



**SECTION 5**  
**BILLING RATES AND COSTS**

**SECTION 5**

**BILLING RATES AND COSTS**

**RATE TABLE**

The hourly rates for 2021 for the lawyers we propose to assign to the project are set out below:

<b>TITLE</b>	<b>HOURLY RATE</b>
Partner/Counsel	\$600
Senior Associate (5 to 7 years experience)	\$550
Mid-level Associate (3 to 4 years experience)	\$500
Junior Associate (Less than 3 years experience)	\$425
Law Clerk (An associate not yet admitted to a bar)	\$325
Legal Assistant/Paralegal	\$200

For work performed in 2022 and any subsequent years, the rates will be adjusted based as the annual percentage change in the CPI index for legal services. Extraordinary out-of-pocket disbursements are additional. The rates represent a discount for a public sector client, all rates are discounted and partner rates in particular are discounted at up to 30% of the firm's posted rates. The proposed rates will be guaranteed for the length of the project.

**ESTIMATED TOTAL PROJECT BUDGET**

The City has requested budget estimates for the various projects that are noted in its RFP. With the limited information available, it is difficult for Hawkins to provide any definitive budget estimate for these projects. We can, however, say that the City can reasonably anticipate a budget of at least \$75,000.00 for design-build projects (representing around 130 hours of attorney labor at \$575 per hour) and \$200,000.00 for P3 projects (representing around 350 hours of attorney labor at \$575 per hour). We can provide more informed and detailed budgets once we learn more about the specific projects that the City is contemplating.

While our legal skills, experience and working style are the most significant assets we can offer to you, we are also proficient in the management and delivery of the many project documents which will be produced through the collective efforts of the entire project team. We are experienced in these kinds of major projects with multiple members on the project team and have all of the necessary skills, staffing and technology to do the job as economically as practicable.

**ASSUMPTIONS**

Our hours projection and estimated budget amounts are based on the following assumptions:

- > There will be a limited number of changes in the extent, nature or terms of the procurements or project structures currently envisioned;
- > There will be a limited number of review and edit cycles of each RFQ, RFP and project agreement;
- > Hawkins will hold the master for each RFQ, RFP and project agreement;
- > The specifications for each project will be well-drafted by design and other professionals and legal review and revision time will be limited; and

- > Our role with respect to the technical specifications will be limited to a legal-monitoring function and we will not be required to attend all related technical meetings or do significant re-drafting of technical appendices.

### **COST CONTROL**

**Efficiency.** Hawkins has significant and preeminent national expertise and experience in alternative project delivery and public-private partnership programs. This expertise and experience allows our firm to render legal services more efficiently, economically, and quickly than many other law firms that may not have our depth of experience in public sector client procurement representation.

**Factors Affecting the Budget.** The magnitude of the actual total budget for special counsel services will be primarily influenced by the total duration of the project (the time frame can sometimes be fairly extended due to the nature of the process); the nature of the transaction the City ultimately elects to pursue; the extent to which issues are repeatedly reconsidered as a consensus client decision is reached; whether complex regulatory, environmental or labor issues arise; unexpected litigation or regulatory delays; the number and nature of proposals or bids received; and the negotiating style of the selected proposers. For large, complex, long-term transactions, the negotiations are sometimes extended and, like litigation, their duration is sometimes difficult to predict. Our experience will help to enable us to keep the transaction under control and on track, and to moderate the possibility of client exposure to unnecessary cost. We are prepared to help expedite this process to the greatest extent practicable.

**Monitoring.** Hawkins constantly monitors its effectiveness in delivering services to its clients on a cost-effective and efficient basis. Each transaction is administered by a billing partner whose tasks include assigning associate support to implement each transaction. While it is difficult to identify objective standards to establish the effectiveness of a law firm, Hawkins has demonstrated that it is highly competitive in billing rates, transaction staffing, schedule management, and milestone compliance. Hawkins keeps careful records of each transaction by means of a central computerized billing system. Computer-generated billing information memoranda are generated to provide clients with a detailed description of attorney time and all costs. Attorneys keep detailed time records which are submitted to the central computerized billing system daily.

**SECTION 6**

**INSURANCE CERTIFICATES**





April 14, 2021

City of Riviera Beach  
Attn: Risk Manager  
1481 West 15<sup>th</sup> Street  
Riviera Beach, FL 33404

Attn: Risk Manager

Re: Solicitation No. RFP 1024-21-2

**CONFIRMATION OF INSURANCE**

We hereby confirm that Hawkins Delafield & Wood has Professional Liability Coverage under Policy LPL-1893-2021 with limits of liability not less than \$1,000,000 per claim and \$1,000,000 in the aggregate with the right, under stated conditions, to purchase extended reporting rights upon termination of such Policy by ALAS.

The Policy effective date is from January 1, 2021 to January 1, 2022.

It is agreed that Attorneys' Liability Assurance Society Ltd. will provide 30-days prior written notice of cancellation of Policy LPL-1893-2021 by Attorneys' Liability Assurance Society Ltd. to the Office of the City of Riviera Beach, Attn: Risk Manager, 1481 West 15<sup>th</sup> Street, Riviera Beach, FL 33404 by Certified or Registered Mail.

ALAS is not currently rated by A.M. Best. ALAS currently has a financial strength rating of "A" (Strong, Stable Outlook) from Fitch. A copy of the Fitch rating report is available upon request.

Such Policy is subject to the terms, conditions, limitations and exclusions stated therein.

**ATTORNEYS' LIABILITY ASSURANCE SOCIETY LTD.,  
A RISK RETENTION GROUP**

By:  
Anne M. Mahoney  
Assistant Director of Underwriting

Date: 4/14/2021



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/15/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Arthur J. Gallagher Risk Management Services, Inc. 200 Jefferson Park Whippany NJ 07981	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 800-350-8005      FAX (A/C, No): E-MAIL ADDRESS:	
	<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A : Great Northern Insurance Company INSURER B : Federal Insurance Company INSURER C : Bankers Standard Insurance Company INSURER D : INSURER E : INSURER F :	<b>NAIC #</b> 20303 20281 18279
<b>INSURED</b> Hawkins Delafield & Wood LLP 7 World Trade Center 250 Greenwich Street, 41st Floor New York NY 10007-2442		


**COVERAGES**      **CERTIFICATE NUMBER: 2045092744**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	35829933	12/31/2020	12/31/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Included \$
B	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		74992354	12/31/2020	12/31/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		79836646	12/31/2020	12/31/2021	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y	71636057	12/31/2020	12/31/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 City of Riviera Beach, CRA or USD are Additional Insureds as respects General Liability policy, pursuant to and subject to the policy's terms, definitions, conditions and exclusions, where required by written contract.

**CERTIFICATE HOLDER****CANCELLATION**

City of Riviera Beach Attn: Risk Manager 1481 West 15th Street Riviera Beach, FL 33404	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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**Liability Insurance**

**Endorsement**

*Policy Period*            December 31, 2020 TO December 31, 2021  
*Effective Date*           December 31, 2020  
*Policy Number*           3582-99-33 EUC  
*Insured*                     HAWKINS DELAFIELD & WOOD, LLP  
  
*Name of Company*        GREAT NORTHERN INSURANCE COMPANY  
  
*Date Issued*                December 31, 2020

This Endorsement applies to the following forms:

**GENERAL LIABILITY**

Under Who Is An Insured, the following provision is added.

**Who Is An Insured**

**Additional Insured -  
Scheduled Person  
Or Organization**

Persons or organizations shown in the Schedule are **insureds**; but they are **insureds** only if you are obligated pursuant to a contract or agreement to provide them with such insurance as is afforded by this policy.

However, the person or organization is an **insured** only:

- if and then only to the extent the person or organization is described in the Schedule;
- to the extent such contract or agreement requires the person or organization to be afforded status as an **insured**;
- for activities that did not occur, in whole or in part, before the execution of the contract or agreement; and
- with respect to damages, loss, cost or expense for injury or damage to which this insurance applies.

No person or organization is an **insured** under this provision:

- that is more specifically identified under any other provision of the Who Is An Insured section (regardless of any limitation applicable thereto).
- with respect to any assumption of liability (of another person or organization) by them in a contract or agreement. This limitation does not apply to the liability for damages, loss, cost or expense for injury or damage, to which this insurance applies, that the person or organization would have in the absence of such contract or agreement.

**Liability Endorsement**  
*(continued)*

Under Conditions, the following provision is added to the condition titled Other Insurance.

**Conditions**

**Other Insurance –  
Primary, Noncontributory  
Insurance – Scheduled  
Person Or Organization**

If you are obligated, pursuant to a contract or agreement, to provide the person or organization shown in the Schedule with primary insurance such as is afforded by this policy, then in such case this insurance is primary and we will not seek contribution from insurance available to such person or organization.

**Schedule**

Persons or organizations that you are obligated, pursuant to a contract or agreement, to provide with such insurance as is afforded by this policy.

All other terms and conditions remain unchanged.

Authorized Representative





**SECTION 7**

**ADDITIONAL INFORMATION – CLIENT REFERENCES AND CONSULTANT REFERENCES**

**SECTION 7**

**ADDITIONAL INFORMATION – CLIENT REFERENCES AND CONSULTANT REFERENCES**

**CLIENT REFERENCES**

<p><b>HOWARD COUNTY, MARYLAND</b>          HOWARD COUNTY CIRCUIT COURTHOUSE P3 PROJECT</p> <p>NORMAN PARKER          SENIOR ASSISTANT COUNTY SOLICITOR          3450 COURTHOUSE DRIVE          ELLICOTT CITY, MD 21043          EMAIL: NPARKER@HOWARDCOUNTYMD.GOV          OFFICE PHONE: (410) 313-3080</p> <p>ENGAGEMENT DATES: 2017-2018</p>	<p><b>JUDICIAL COUNCIL OF CALIFORNIA - ADMINISTRATIVE OFFICE OF THE COURTS</b>          NEW LONG BEACH COURT BUILDING P3 PROJECT</p> <p>CLIFFORD HAM          PRINCIPAL ARCHITECT (RETIRED)          455 GOLDEN GATE AVENUE          SAN FRANCISCO, CA 94102-3688          EMAIL: CLIFFORD.HAM@JUD.CA.GOV          CELL: (415) 519-3172</p> <p>ENGAGEMENT DATES: 2008-2014</p>
<p><b>SAN DIEGO COUNTY WATER AUTHORITY</b>          CARLSBAD SEAWATER DESALINATION P3 PROJECT</p> <p>ROBERT R. YAMADA          DIRECTOR OF WATER RESOURCES (RETIRED)          4677 OVERLAND AVENUE          SAN DIEGO, CA 92123          EMAIL: RYAMADA@SDCWA.ORG          OFFICE PHONE: (858) 522-6704          CELL: (619) 200-3730</p> <p>ENGAGEMENT DATES: 2011-PRESENT</p>	<p><b>THE CITY AND COUNTY OF SAN FRANCISCO</b>          FIBER OPTIC BROADBAND P3 PROJECT</p> <p>MARK D. BLAKE          DEPUTY CITY ATTORNEY          CITY HALL, ROOM 234          1 DR. CARLTON B. GOODLETT PLACE          SAN FRANCISCO, CA 94102-4682          EMAIL: MARK.BLAKE@SFCITYATTY.ORG          OFFICE PHONE: (415) 554-4738</p> <p>ENGAGEMENT DATES: 2017-2018</p>
<p><b>CLACKAMAS COUNTY, OREGON</b>          CLACKAMAS COUNTY P3 COURTHOUSE</p> <p>GARY BARTH          COURTHOUSE PROJECT MANAGER          2051 KAEN ROAD          OREGON CITY, OR 97045          EMAIL: GBARTH@CLACKAMAS.US          OFFICE PHONE: 503-754-2050</p> <p>ENGAGEMENT DATES: 2019-PRESENT</p>	<p><b>SAN ANTONIO WATER SYSTEM</b>          VISTA RIDGE P3 PROJECT</p> <p>NANCY BELINSKY          GENERAL COUNSEL          2800 US Hwy 281 NORTH          SAN ANTONIO, TX 78212          EMAIL: NANCY.BELINSKY@SAWS.ORG          OFFICE PHONE: (210) 233-3868          CELL: (210) 535-7420</p> <p>ENGAGEMENT DATES: 2014-PRESENT</p>

**CONSULTANT REFERENCES**

<p><b>IMG REBEL GROUP</b> P3 FINANCIAL ADVISOR</p> <p>MARCEL HAM 1015 15<sup>TH</sup> STREET NW SUITE 600 WASHINGTON, DC 20005 EMAIL: MARCEL.HAM@IMGREBEL.COM OFFICE PHONE: (301) 907-2900 CELL: (240) 204-2682</p>	<p><b>ERNST &amp; YOUNG INFRASTRUCTURE ADVISORS</b> P3 FINANCIAL ADVISOR</p> <p>STEPHEN J. AUTON-SMITH MANAGING DIRECTOR 5 TIMES SQUARE NEW YORK, NY 10036 EMAIL: STEPHEN.AUTONSMITH@EY.COM OFFICE PHONE: (212) 773-9066 CELL: (914) 426-7027</p>
<p><b>ARCADIS</b> TECHNICAL ADVISOR</p> <p>ROBERT JONES ASSOCIATE VICE PRESIDENT 7550 TEAGUE ROAD SUITE 210 HANOVER, MD EMAIL: ROBERT.JONES@ARCADIS.COM OFFICE PHONE: (410) 984-2459</p>	<p><b>WT PARTNERSHIP</b> TECHNICAL ADVISOR</p> <p>TOM KNESS VICE PRESIDENT - P3 ADVISORY 1626 OCEAN PARK BOULEVARD SANTA MONICA, CA 90405 EMAIL: TOM.KNESS@WTPARTNERSHIP.COM OFFICE PHONE: (424) 218-5333 CELL: (310) 498-6717</p>

**SECTION 8**

**DIVERSITY PRACTICES**



## SECTION 8

### DIVERSITY PRACTICES

**Policy.** Hawkins has adopted and published an Equal Employment Opportunity Policy Statement which provides that:

“It is the policy of Hawkins Delafield & Wood to provide equal employment opportunity to all qualified persons without regard to race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or affectional preference. Furthermore, the firm will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or affectional preference, in any of the terms or conditions of employment. This includes, but is not limited to, hiring, promotion, transfer, demotion, compensation, recruitment, layoff or termination.”

**Affirmative Action Plan.** In furtherance of this policy we have adopted an Affirmative Action Plan which provides that it is the goal of the firm to have a balanced work place which contains minority group members and women in a proportion reflective of their presence in the available, qualified workforce. The firm also notifies all subcontractors, vendors and suppliers in writing of its equal employment/affirmative action policy and requests appropriate supportive action on their part.

**ATTACHMENT A**  
**STANDARD FORMS**

Misrepresentation of any material fact, whether intentional or not, regarding the Proposers insurance coverage, policies or capabilities may be grounds for rejection of the proposal and rescission of any resulting proposed award. **Evidence of ability to obtain appropriate insurance coverage shall be provided in each proposal. All policies shall be endorsed to provide sixty (60) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to:**

**City of Riviera Beach  
Attn: Risk Manager  
1481 West 15<sup>th</sup> Street  
Riviera Beach, FL 33404  
Email: [risk@rivierabch.com](mailto:risk@rivierabch.com)**

**STANDARD FORMS ATTACHMENT A**

In addition to the proposal, the forms listed below and attached are to be completed and submitted with your proposal.

- 1) Addendum Page
- 2) Proposer's Certification
- 3) Conflict of Interest Disclosure Form
- 4) Drug Free Workplace
- 5) Public Entity Crimes Statement

**NOTE:** Please ensure that all of these documents are completed and submitted with your proposal in accordance. Failure to do so may result in your proposal not being considered for award.

**SIGNATURE of AUTHORIZED REPRESENTATIVE**

This signature page must be completed and included with the submittal.

By signing below, the undersigned acknowledges they are an expressly authorized agent of the Company/firm listed below.

Date: 4/23/2021

Full Legal Name of Company: Hawkins DeLaField & Wood LLP

Signature: Eric Petersen (JHB)

Printed Name: Eric S. Petersen

Title: Partner

# ADDENDUM ACKNOWLEDGEMENT

INSTRUCTIONS: COMPLETE PART I OR PART II, WHICHEVER APPLIES

---

**PART I:**

List below the dates of issue for each addendum received in connection with this Solicitation:

Addendum #1, Dated 4/14/2021

Addendum #2, Dated \_\_\_\_\_

Addendum #3, Dated \_\_\_\_\_

Addendum #4, Dated \_\_\_\_\_

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**PART II:**

NO ADDENDUM WAS RECEIVED IN CONNECTION WITH THIS QUALIFICATION

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Hawkins Delafield and Wood LLP

Firm Name

Eric Petersen (JHB)

Signature

Eric Petersen, Partner

Name and Title (Print or Type)

4/23/2021

Date





"The Best Waterfront City in Which to Live, Work and Play."

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**CITY OF RIVIERA BEACH  
ADDENDUM NO. 1**

---

**TO:** ALL PROPOSERS

**FROM:** CITY OF RIVIERA BEACH PROCUREMENT DEPARTMENT

**SUBJECT:** ADDENDUM NO. ONE (1) TO RFP 1024-21-2, LEGAL SERVICES FOR IMPLEMENTATION OF PUBLIC-PRIVATE PARTNERSHIP PROJECTS AND DEVELOPMENTS

**DATE:** APRIL 14, 2021

**CC:** GENERAL PUBLIC

- A. NOTICE:** The purpose of this Addendum is to address Requests for Information (RFIs) and provide a written response. All other terms and conditions of the solicitation remain unchanged.
- B.** The Proposal due date is changed **FROM April 20, 2021 TO READ: April 27, 2021.**

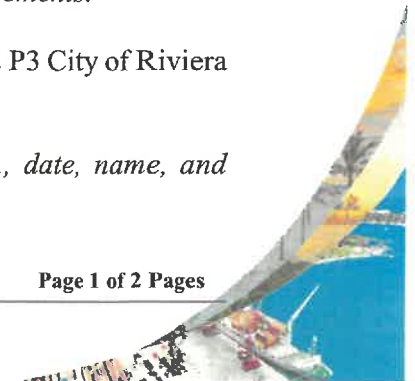
**QUESTIONS AND ANSWERS:**

1. Items D, E, and F in Section 1.1 are unknown projects and proposals. What is the expected timeline, number of parties, and nature of services for each of these projects so that we can accurately provide a fee estimate as required in Section 4, part F?

*Answer: The expected timeline for such project/proposals is within the next three (3) years. Other projects anticipated include two (2) fire stations, water treatment plant, Marina Phase II development, and a municipal complex to include five (5) development projects. The nature of services are related to construction and development agreements.*

2. Are digital signatures accepted on all required forms for RFP 1024-21-2 P3 City of Riviera Beach?

*Answer: Yes, digital signatures that contain complete metadata i.e., date, name, and certification info of the signor.*



Addendum No. 1 must be signed as acknowledgment of receipt, and attached to the proposal when submitted at **3:00 p.m., Tuesday, April 27, 2021** at the Office of the City Clerk, 600 W. Blue Heron Boulevard, Suite 140, Riviera Beach, Florida, 33404. For information on this solicitation, please contact:

Althea Pemsel, Director of Procurement  
1481 West 15<sup>th</sup> Street  
Riviera Beach, FL 33404  
[purchasing@rivierabeach.org](mailto:purchasing@rivierabeach.org)

Hawkins Delafield & Wood LLP  
NAME OF COMPANY

Eric Petersen (JHB)  
PROPOSER'S SIGNATURE

DATE: 4/23/2021

Eric S. Petersen  
PROPOSER'S PRINTED NAME

## PROPOSER'S CERTIFICATION

I have carefully examined the Request for Proposal, Instructions to Proposers, General and/or Special Conditions, Specifications, Proposal and any other documents accompanying or made a part of this invitation.

I hereby propose to furnish the goods or services specified in the Request for Proposal at the prices or rates quoted in my proposal. I agree that my proposal will remain firm for a period of up to ninety (90) days in order to allow the City adequate time to evaluate the proposals. Furthermore, I agree to abide by all conditions of the proposal.

I certify that all information contained in this proposal is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this proposal on behalf of the vendor /contractor as its act and deed and that the vendor /contractor is ready, willing and able to perform if awarded the contract.

I further certify that this proposal is made without prior understanding, agreement, connection, discussion, or collusion with any person, firm or corporation submitting a proposal for the same product or service; no officer, employee or agent of the CITY OF RIVIERA BEACH or of any other proposer interested in said proposal; and that the undersigned executed this Proposer's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

Hawkins Delafield & Wood LLP  
NAME OF BUSINESS

jsullivan@hawkins.com  
E-MAIL ADDRESS

BY: [Signature]  
SIGNATURE OF AUTHORIZED OFFICER

Sworn to and subscribed before me this  
22nd day of April, 2021

Joseph Sullivan, Partner  
PRINTED NAME AND TITLE

7 World Trade Center, 250 Greenwich St  
MAILING ADDRESS New York, NY 10007

[Signature]  
SIGNATURE OF NOTARY

**DIANA MACLAU**  
**Notary Public, State of New York**  
**No. 01MA6230953**  
**Qualified in Kings County**  
**Commission Expires Nov. 15, 2022**

MY COMMISSION EXPIRES: November 15, 2022

New York, NY 10007  
CITY, STATE, ZIP CODE

PERSONALLY KNOWN \_\_\_\_\_

212-850-9513  
TELEPHONE NUMBER

OR PRODUCED \_\_\_\_\_

212-820-9468  
FAX NUMBER

IDENTIFICATION \_\_\_\_\_

TYPE: \_\_\_\_\_





## CONFLICT OF INTEREST DISCLOSURE FORM

The award of this contract is subject to the provisions of Chapter 112, *Florida Statutes*. All Proposer's must disclose within their proposals: the name of any officer, director, or agent who is also an employee of the City of Riviera Beach.

Furthermore, all Proposer's must disclose the name of any City employee who owns, directly, or indirectly, an interest of more than five percent (5%) in the Proposer's firm or any of its branches.

The purpose of this disclosure form is to give the City the information needed to identify potential conflicts of interest for evaluation team members and other key personnel involved in the award of this contract.

The term "conflict of interest" refers to situations in which financial or other personal considerations may adversely affect, or have the appearance of adversely affecting, an employee's professional judgment in exercising any City duty or responsibility in administration, management, instruction, research, or other professional activities.

Please check one of the following statements and attach additional documentation if necessary:

To the best of our knowledge, the undersigned firm has no potential conflict of interest due to any other Cities, Counties, contracts, or property interest for this Qualification.

The undersigned firm, by attachment to this form, submits information, which may be a potential conflict of interest due to other Cities, Counties, contracts, or property interest for this Qualification.

### Acknowledged by:

Hawkins Delafield & Wood LLP

Firm Name

Eric Petersen (JMB)

Signature

Eric Petersen, Partner

Name and Title (Print or Type)

4/23/2021

Date





## DRUG FREE WORKPLACE

Preference shall be given to businesses with drug-free workplace programs. Whenever two or more proposals which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under contract a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under contract, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this form complies fully with the above requirements.

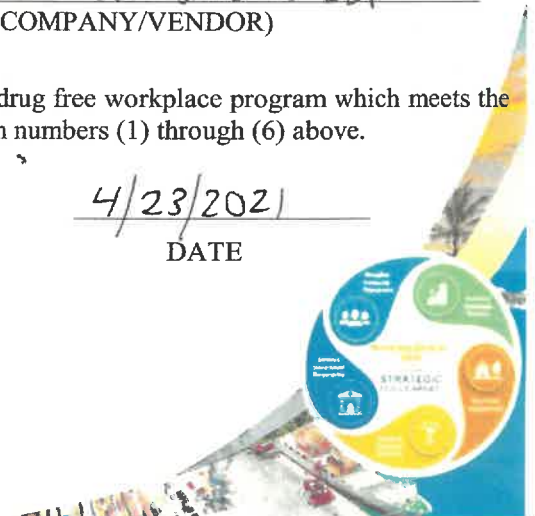
THIS CERTIFICATION is submitted by Eric S. Petersen the  
(INDIVIDUAL'S NAME)

Partner of Hawkins Delatfield & Wood LLP  
(TITLE/POSITION WITH COMPANY/VENDOR) (NAME OF COMPANY/VENDOR)

who does hereby certify that said Company/Vendor has implemented a drug free workplace program which meets the requirements of Section 287.087, Florida Statutes, which are identified in numbers (1) through (6) above.

Eric Petersen (JMB)  
SIGNATURE

4/23/2021  
DATE





**CITY OF RIVIERA BEACH  
NOTIFICATION OF PUBLIC ENTITY CRIMES LAW**

Pursuant to Section 287.133, Florida Statutes (1995), you are hereby notified 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 on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s.287.017 [F.S.] for CATEGORY TWO [\$35,000.00] for a period of 36 months from the date of being placed on the convicted vendor list.

**Acknowledged by:**

Hawkins Delafield & Wood LLP

Firm Name

Eric Petersen (JHB)

Signature

Partner

Name & Title (Print or Type)

4/23/2021

Date

