

PROFESSIONAL SERVICES AGREEMENT

This Agreement made and entered into this _____ day of _____, 2016, by and between the City of Hollywood, Florida (hereinafter the "City") and Plante & Moran, PLLC (hereinafter the "Consultant"), a Michigan corporation authorized to do business in Florida.

WHEREAS, the City of Columbia, Missouri competitively solicited a needs analysis for a Financial Enterprise Resource System and entered into an agreement therefor dated May 1, 2012 with the Consultant; and

WHEREAS, the Consultant has proposed to enter into an agreement with the City subject to the same terms and conditions as Consultant's agreement with the City of Columbia, Missouri; and

WHEREAS, said proposal is attached hereto as Exhibit A; and

WHEREAS, the City has agreed to accept the Consultant's proposal;

NOW, THEREFORE, in consideration of the mutual promises and understandings set forth herein, the parties hereto agree as follows:

ARTICLE 1 - INCORPORATION OF RFP DOCUMENTS

The parties shall comply with the terms and conditions set forth in Exhibit A attached hereto and incorporated herein by reference.

ARTICLE 2 - SERVICES/CONSULTANT AND CITY REPRESENTATIVES

The Consultant's responsibility under this Agreement is to provide professional/consultation services which are more specifically described in Exhibit "A" attached hereto and incorporated herein by reference.

The Consultant's Representative shall be _____.

Telephone No.:

The City's Representative shall be Raheem Seecharan

Telephone No. 954 921-3479

ARTICLE 3 – PAYMENTS TO CONSULTANT

A. The total amount to be paid by the City under this Agreement for all services shall not exceed a total contract amount of One Hundred Forty-Nine Thousand Six Hundred and 00/100 Dollars (\$149,600.00). The Consultant shall notify the City's Representative in

writing when 90% of the "not to exceed amount" has been reached. The Consultant shall bill the City on a monthly basis, or as otherwise provided, at the amounts set forth in Exhibit "A" for services rendered toward the completion of the scope of work. All invoices submitted to the City must be itemized to indicate the number of hours worked. It is acknowledged and agreed to by the Consultant that the dollar limitation set forth in this section is a limitation upon, and describes the maximum extent of, the City's obligation to pay the Consultant but does not include a limitation upon the Consultant's duty to perform all services set forth in Exhibit "A" for an amount that is not more than the maximum stated above.

- B. Invoices received by the City from the Consultant pursuant to this Agreement will be reviewed and approved in writing by the City's Representative, indicating that services have been rendered in conformity with the Agreement, and then will be sent to the City's Financial Services Department for payment. All invoices shall contain a detailed breakdown of the services provided for which payment is being requested. Invoices shall be paid within thirty (30) days following the City Representative's approval. In addition to detailed invoices, upon request of the City's Representative, the Consultant will provide the City with detailed periodic status reports on the project.
- C. Final Invoice: In order for both parties herein to close their books and records, the Consultant shall clearly state "final invoice" on the Consultant's final/last billing to the City. This final invoice shall also certify that all services provided by the Consultant have been properly performed and all charges and costs have been invoiced to the City. Because this account will thereupon be closed, any and other further charges not properly included on this final invoice are waived by the Consultant.

ARTICLE 4 - PERSONNEL

The Consultant is, and shall be, in the performance of all work, services and activities under this Agreement, an independent contractor, and not an employee, agent, or servant of the City. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Consultant's sole direction, supervision, and control. The Consultant shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the relationship of the Contractor's employees to the City shall not be that of employees or agents of the City. This Agreement does not create a partnership or joint venture between the parties.

The Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City, nor shall such personnel be entitled to any benefits of the City including, but not limited to, pension, health and workers' compensation benefits.

All of the services required hereunder shall be performed by the Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the Consultant's key personnel, as may be listed in Article 1, must be made known to the City's Representative and written approval must be granted by the City's Representative before said change or substitution can become effective.

The Consultant warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

ARTICLE 5 - SUBCONTRACTING

The Consultant shall not subcontract any services or work to be provided to the City without the prior written approval of the City's Representative. The City reserves the right to accept the use of a subcontractor or to reject the selection of a subcontractor. The City's acceptance of a subcontractor shall not be unreasonably withheld. The Consultant is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

ARTICLE 6 - FEDERAL AND STATE TAX

The City is exempt from payment of Florida State Sales and Use Taxes. The City will sign an exemption certificate submitted by the Consultant. The Consultant shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the City, nor is the Consultant authorized to use the City's Tax Exemption Number in securing such materials.

The Consultant shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

ARTICLE 7 - AVAILABILITY OF FUNDS

The City's performance and obligation to pay under this Agreement is contingent upon an annual appropriation for its purpose by the City Commission. The City Commission has appropriated sufficient funds in the FY 16 Operating Budget for this Agreement.

ARTICLE 8 - REMEDIES

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action between the parties arising out of this Agreement will be brought in Broward County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 9 - CONFLICT OF INTEREST

The Consultant represents that it has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in the Code of Ethics for Public Officers and Employees (Chapter 112, Part III, Florida Statutes). The Consultant further represents that no person having any such interest shall be employed for said performance.

The Consultant shall promptly notify the City's representative, in writing, by certified mail, of all potential conflicts of interest that may result from any prospective business association, interest or other circumstance which may influence or appear to influence the Consultant's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Consultant may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Consultant. The City agrees to notify the Consultant of its opinion by certified mail within thirty (30) days of receipt of notice by the Consultant. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Consultant, the City shall so state in its opinion and the Consultant shall, at its option, enter into said association, interest or circumstance and it shall be deemed not to be a conflict of interest with respect to services provided to the City by the Consultant under the terms of this Agreement.

ARTICLE 10 - DEBT

The Consultant shall not pledge the City's credit or attempt to make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. The Consultant further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

ARTICLE 11 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The Consultant shall deliver to the City's Representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the City under this Agreement.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the City or at its expense will be kept confidential by the Consultant and will not be disclosed to any other party, directly or indirectly, without the City's prior written consent unless required by law. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Agreement for or at the City's expense shall be and remain the City's property and may be reproduced and reused at the discretion of the City.

The City and the Consultant shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

ARTICLE 12 - CONTINGENT FEES

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. Violation of this Article shall constitute a forfeiture of this Agreement by the Consultant.

ARTICLE 13 - ACCESS AND AUDITS

The Consultant shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Agreement or until completion of any audit, whichever is later. The City shall have access to such books, records, and documents as required in this Article for the purpose of inspection or audit during normal business hours, at the Consultant's place of business.

ARTICLE 14 - NONDISCRIMINATION

The Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

ARTICLE 15 - AUTHORITY TO PRACTICE

The Consultant hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the City's representative upon request.

ARTICLE 16 - SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than

those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 17 - ENTIRETY OF CONTRACTUAL AGREEMENT

The City and the Consultant agree that this Agreement, together with the Exhibits hereto, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 18 - Modification of Work. In the event of any conflict or inconsistency among this Agreement, the incorporated Exhibits and the Columbia, Missouri agreement, the Columbia, Missouri agreement shall supersede and prevail.

ARTICLE 18 - MODIFICATION OF SCOPE OF WORK

The City reserves the right to make changes in the Scope of Work, including alterations, reductions thereto or additions thereto. Upon receipt by the Consultant of the City's notification of a contemplated change, the Consultant shall, in writing: (1) provide a detailed estimate of the increase or decrease in cost due to the contemplated change, (2) notify the City of any estimated change in the completion date, and (3) advise the City if the contemplated change would affect the Consultant's ability to meet the completion dates or schedules of this Agreement.

If the City so instructs in writing, the Consultant shall suspend work on that portion of the scope of work affected by a contemplated change, pending the City's decision to proceed with the change.

If the City elects to make the change, the City shall initiate an amendment and the Consultant shall not commence work on any such change until such written amendment is signed by the Consultant and the City, and if such amendment is in excess of \$25,000, it must first be approved by the City Commission and signed by the appropriate City Officials authorized by the City Commission.

The City shall not be liable for payment of any additional or modified work which is not authorized in the manner provided for by this Article.

ARTICLE 19 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the City shall be mailed to:

and if sent to the Consultant shall be mailed to:

ARTICLE 20 – OWNERSHIP OF DOCUMENTS

All finished or unfinished documents, data, reports, studies, surveys, drawings, maps, models and photographs prepared or provided by the Consultant in connection with this Agreement shall become property of the City, whether the project for which they are made is completed or not, and shall be delivered by the Consultant to the City within ten (10) days of notice of termination. If applicable, the City may withhold any payments then due to the Consultant until the Consultant complies with the provisions of this Article.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals the day and year first above written.

ATTEST:

CITY OF HOLLYWOOD, FLORIDA

Patricia A. Cerny, MMC
City Clerk

By: _____
Peter Bober, Mayor

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida.

Jeffrey P. Sheffel, City Attorney

PLANT & MORAN, PLLC

By: _____

Name typed, printed or stamped
Title: _____