

CONSULTANT SERVICES AGREEMENT

Enterprise Resource Planning (ERP) System Consultant Services

No. _____

THIS CONSULTANT SERVICES AGREEMENT (this "Agreement") is entered into by and between Plante & Moran, PLLC (the "Consultant") and the City of Corpus Christi, a Texas home-rule municipal corporation (the "City"), by and through its duly authorized City Manager or designee, effective for all purposes upon execution by the City Manager or his designee.

WHEREAS Consultant has proposed to provide an **ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM CONSULTANT SERVICES** in response to **Request for Proposal No. BI-0164-12**, which is incorporated by reference and attached hereto as Exhibit A; and

WHEREAS the City has determined Consultant to be the most advantageous Proposer;

NOW, THEREFORE, Consultant and City enter into this Agreement and agree as follows:

1. **Services.** Consultant will perform and provide related **ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM CONSULTANT SERVICES** in accordance with **Request for Proposal No. BI-0164-12**, which is incorporated by reference and attached hereto as Exhibit A.

2. **Fee for Services.** The City agrees to pay the Consultant the mutually agreed upon fees as follows: *One-hundred and ninety-eight thousand, three hundred and forty-dollars (\$198,340)*. Fees are fixed and firm for the duration of the contract.

3. **Term.** This Agreement begins on the date signed by the last signatory and continues through award of successful replacement ERP solution, subject to the approval of the City Manager or his designee ("City Manager").

4. **Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement including deductions for non-performance and authorizations for payment. All of Consultant's notices or communications regarding this Agreement must be directed to the Contract Administrator, who is the **Assistant Director of MIS**.

5. **Independent Contractor.** Consultant will perform the services hereunder as an independent contractor and will furnish such services in its own manner and method, and under no circumstances or conditions may any agent, servant, or employee of Consultant be considered an employee of the City.

6. **Insurance.** Before activities can begin under this Agreement, Consultant's insurance company(ies) must deliver a Certificate of Insurance, as proof of the required insurance coverages shown on Exhibit C (attached and incorporated herein) to the Contract Administrator. Additionally, the Certificate must state that the **Contract Administrator** will be given at least thirty (30) days' advance written notice by certified mail, of cancellation, material change in the coverages, or intent not to renew any of the policies. The City must be named as an Additional Insured. The City Attorney must be given copies of all insurance policies within 15 days of the City Manager's written request.

7. **Assignment.** No assignment of this Agreement or any right or interest therein by Consultant is effective unless the City first gives its written consent to the assignment. The performance of this Agreement by Consultant is of the essence of this Agreement and the City's right to withhold consent to such assignment is within the sole discretion of the City.

8. **Fiscal Year.** All parties recognize that the continuation of any contract after the close of any fiscal year of the City (the City's fiscal year ends on July 31) is subject to appropriations and budget approval providing for such contract item as an expenditure in that budget. The City does not represent that the budget item for this Agreement will be actually adopted, since that determination is within the sole discretion of the City Council at the time of adoption of each budget.

9. **Waiver.** No waiver of any breach of any term or condition of this Agreement or Consultant's bid offer to **Request for Proposal No. BI-0164-12** waives any subsequent breach of the same.

10. **Compliance with Laws.** This Agreement is subject to all applicable federal, state and local laws, rules and regulations. All duties of the parties will be performed in the City of Corpus Christi, Texas. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas and the venue for such disputes is the appropriate district, county or justice court in and for Nueces County, Texas.

11. **Subcontractors/Subconsultants.** Consultant may use subcontractors/subconsultants in connection with the work performed under this Agreement. When using subcontractors, however, Consultant must obtain prior written approval from the **Contract Administrator**. In using subcontractors/subconsultants, Consultant is responsible for all their acts and omissions to the same extent as if the subcontractor or subconsultant and its employees were employees of Consultant. All requirements set forth as part of this Agreement are applicable to all subcontractors or subconsultants and their employees to the same extent as if the Consultant and its employees had performed the services.

12. **Amendments.** This Agreement may be amended only by written agreement signed by duly authorized representatives of the parties hereto.

13. **Termination.** The City Manager may terminate this Agreement for Consultant's failure to perform the services specified in **Request for Proposal No. BI-0164-12**. Failure to keep all insurance policies in force for the entire term of this Agreement is grounds for termination. The Contract Administrator must give Consultant at least 5 work-days' advance written notice of the breach and set out a reasonable opportunity to cure. If the Consultant has

not cured within the cure period, the City Manager may terminate this Agreement immediately thereafter.

Alternatively, City may terminate this Agreement, with or without cause, upon twenty (20) days' advance written notice to Consultant. However, City may terminate this Agreement on twenty-four (24) hours written notice to Consultant for failure to pay or provide proof of payment of taxes as set out herein.

14. Taxes. Consultant covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes, and all other related taxes according to Circular E Employer's Tax Guide, publication 15, as it may be amended. Upon his request, Consultant shall provide the City Manager with proof of payment of these taxes within fifteen (15) of the request. Failure to pay or provide proof of payment is grounds for the City Manager to immediately terminate this Agreement.

15. Drug Policy. Consultant must adopt a Drug Free Workplace and drug testing policy.

16. Violence Policy. Consultant must adopt a Violence in the Workplace policy.

17. Notice. Notice may be given by fax, hand delivery or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after deposit in the U.S. Mail, if sent certified mail. Notice shall be sent as follows:

IF TO CITY:

City of Corpus Christi
Attention: Connie Burns, Assistant Director of MIS
P. O. Box 9277
Corpus Christi, Texas 78469-9277

IF TO CONSULTANT:

Consultant Name:	Plante & Moran, PLLC		
Contact Person:	Mr. Adam Rujan		
Address:	27400 Northwestern Hwy. P.O. Box 307		
City, State, Zip:	Southfield, MI 48037-0307	800	544-0203

18. Indemnification. CONSULTANT SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY AND ITS OFFICERS, EMPLOYEES AND AGENTS (INDEMNITEES) FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS AND CAUSES OF ACTION OF ANY NATURE ON ACCOUNT OF DEATH, PERSONAL INJURIES, PROPERTY LOSS OR DAMAGE OR ANY OTHER KIND OF DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF WHETHER THE INJURIES, DEATH OR DAMAGES ARE CAUSED OR ARE CLAIMED TO BE CAUSED BY THE CONCURRENT OR CONTRIBUTING NEGLIGENCE OF INDEMNITEES, BUT NOT BY THE SOLE NEGLIGENCE OF INDEMNITEES UNMIXED WITH THE FAULT OF ANY OTHER PERSON OR GROUP. CONSULTANT MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL REASONABLY SATISFACTORY TO INDEMNITEES AND PAY ALL CHARGES OF ATTORNEY AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING FROM ANY OF SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF PROPOSER UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR SOONER TERMINATION OF THE CONTRACT.

19. **Severability.** Each provision of the Agreement shall be considered to be severable and, if, for any reason, any such provision or any part thereof, is determined to be invalid and contrary to any existing or future applicable law, such invalidity shall not impair the operation of or affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part thereof has been omitted.

SIGNED this 13th day of June, 2012.

Consultant:

Plante & Moran, PLLC

By:



Name: Adam Rujan

Title: Partner

City of Corpus Christi

Mike Barrera
Assistant Director of Financial Services

Exhibits and Attachments

Incorporated by Reference:

Exhibit **A**: Request for Proposal No. BI-0164-12

Exhibit **B**: Consultant's response to RFP No. BI-0164-12

Incorporated and Attached:

Exhibit **C**: Insurance Requirements

Exhibit **D**: Insurance Certificate