

REQUEST FOR PROPOSALS

For Consultant Services for Cyber Security Assessment



City of Highland Park, Illinois

ISSUE DATE:
AUGUST 16, 2018

DUE DATE:
3:30 P.M. CST, SEPTEMBER 5, 2018*

*** PROPOSALS RECEIVED AFTER THE DUE DATE WILL BE RETURNED UNOPENED**

NOTE: QUESTIONS PERTAINING TO RFP ARE DUE AUGUST 23, 2018 BY 4:30 P.M. CDT

I. PURPOSE OF REQUEST

The City of Highland Park (“City”) is soliciting proposals from qualified vendors to perform a cyber security assessment and make specific privacy and security compliance enhancement recommendations. The intent of this Request for Proposals (“RFP”) is to establish a contract between the City and a qualified professional service provider for the scope of work requested.

The City anticipates the following schedule:

- Aug. 16, 2018 Advertise RFP
- Aug. 23, 2018 4:30 pm CST Vendor Questions to City in Writing and Intent to Respond
- Aug. 28, 2018 City Releases Responses to Vendor Questions
- Sep. 5, 2018 3:30 pm CST Proposals due to City
- Sep. 13, 2018 Select Finalists for Interviews (at the option of the City)
- Sep. 17-20, 2018 Finalized Interviews (at the option of the City)
- Oct. 8, 2018 City Council Consideration of Recommendation (if applicable)
- Oct. 12, 2018 Contract Execution
- Oct. 15, 2018 Anticipated project start
- **December 21, 2018 Final Cyber Security Report Delivered to City**

II. INSTRUCTIONS TO PROPOSERS

- A. Upon release of this RFP, communications concerning this RFP should be directed to the RFP Coordinator listed below. Unauthorized contact regarding this RFP may result in disqualification. Verbal communications will be considered unofficial and non-binding on the City. The vendor should rely only on written statements issued by the RFP Coordinator.

City of Highland Park RFP Coordinator

Jon O’Connell
Manager of Information Technology
City of Highland Park
1707 St. Johns Avenue
Highland Park, IL 60035
Telephone: (847) 926-1026
Email: JOConnell@cityhpil.com

- B. Requests for clarification or additional information must be made in writing via email to the RFP Coordinator by the date specified in the RFP Schedule. The City will acknowledge receipt of all requests for clarification by email. Written responses to all requests will be furnished to all potential proposers who register with the RFP Coordinator pursuant to Section III of this RFP. The City will be unable to respond to requests for additional information or clarification received after 4:30 pm, August 23, 2018.
- C. Proposals must be in a sealed envelope and clearly marked in the lower left hand corner: “Sealed Proposal - Cyber Security Assessment.” Proposals must be received by 3:30 pm, local time, on Sep 5, 2018, as shown on the clock in the City’s Finance Department, at which time they will be opened. Three paper copies of the proposal must be submitted. In addition, one electronic copy of the proposal and any supporting documentation in PDF format must be submitted on a USB flash drive. Proposals submitted by telephone, facsimile or electronic transmission will not be accepted. Proposers accept all risks of late delivery of mailed proposals,

regardless of fault. Proposals arriving after the deadline will be returned unopened and will not be considered.

All proposals shall be submitted in a sealed envelope to:

Jon O'Connell
Manager of Information Technology
City of Highland Park
1707 St. Johns Avenue
Highland Park, IL 60035

- D. Proposals should be prepared simply and economically, providing a straight forward, concise description of the proposer's capabilities to perform the services identified in this RFP. Special bindings, colored displays, promotional material, etc. are not desired. Emphasis should be on completeness and clarity of content.
- E. Failure to comply with any section of the RFP may result in rejection of the proposal as non-responsive.

III. INTENT TO RESPOND

Firms who intend to respond to this RFP must submit an e-mail with all contact information by August 23, 2018 to Jon O'Connell at JOConnell@cityhpil.com. Failure to submit the intent to respond by this date will not preclude any potential offeror from responding to the RFP, but it provides contact information in the event communication to potential proposers is deemed necessary. In the event of a material modification to the RFP, all known and/or potential proposers will be notified of an amendment to the RFP as determined by the receipt of an Intent to respond.

NOTE: Key network information and network topology will be provided to finalists, upon request, after they sign the City's non-disclosure agreement.

IV. BACKGROUND

The City was incorporated in 1869 and became a home-rule government in 1970. The City has a population of 29,763, based on the 2010 census, and is located approximately twenty-five miles north of Chicago. The City has six operating departments – City Manager's Office, Community Development, Finance, Fire, Police and Public Works. The City operates under a Council/Manager form of government and follows a calendar fiscal year.

The City of Highland Park employs approximately 300 full-time and part-time employees, 230 PCs and laptops and 55 physical and virtual servers. The City's network consists of seventeen (17) locations connected by a fiber network. The primary server locations are at City Hall and the Police department, connected via a 10gb backbone. The City's standard network operating system is Windows Server (2008/2012) and the standard desktop operating system is Windows 7 and Windows 10.

V. SCOPE OF WORK

The City requires a qualified professional with proven experience in the cyber security field to perform a cyber security assessment and make specific privacy and security compliance enhancement recommendations.

Mandatory

A Cyber Security Assessment conducted against the CIS Critical Controls or NIST 800-53 Controls, while also considering HIPPA and/or CJIS compliance requirements.

Assessment Reporting Deliverables

- Executive Summary – A report developed, for senior management, summarizing the scope, approach, findings, recommendations, estimated timeline, and estimated cost to implement the recommendations. A power point presentation should be included.
- Technical Review – A comprehensive overview of each item that was tested or assessed. Graphs, tables, and visuals can be used to summarize results.
- Detailed Findings – In depth analysis of all testing and results. Explanation of vulnerabilities to be explained along with detection methods, risks, and recommended remediation.
- Assessment Remediation Plan - A three year roadmap consisting of
 - Item to be improved on/remediated
 - Recommended action(s) to take to remediate deficiency
 - Priority level of item to be remediated (low, medium or high)
 - Pricing estimates (low to high)
 - Estimated time to implement remediation in three year road map

The items listed below are considered optional, but should also be included in the proposal identified as optional, with timeline and pricing. If any optional items are included in your base mandatory cyber security assessment, identify those items and insure an option price is provided.

Optional Item Pricing

- Internal comprehensive physical network penetration testing and vulnerability scan
- Internal comprehensive wireless network penetration testing and vulnerability scan
- External network penetration testing and vulnerability scan
- Data breach incident response plan review, design and creation
- Information Systems policy and procedures review, design and creation
- Assess VoIP network system components for security vulnerabilities, validating system-specific configurations and reviewing for known exploits
- Physical site audit
- Cyber insurance policy assessment

VI. PROPOSAL FORMAT

- A. RFP cover letter – a signed letter briefly stating the proposer’s understanding of the work to be done in compliance with this RFP, a statement regarding why the firm believes itself to be the best qualified firm to perform the service, and a statement that the proposal is a firm and irrevocable offer for 120 days. The cover letter must be signed by an authorized representative of the firm.
- B. Statement as to the Vendor’s particular abilities and qualifications to include, but not limited to:
 - i. Brief history of the company.

- ii. Product and service offerings.
 - iii. Describe the core competencies.
 - iv. The number of years the Vendor has been in business.
 - v. Primary corporate location's address.
 - vi. The geographical area of operations and professional affiliations.
 - vii. Size and composition of the organization.
 - viii. Disclose all information concerning any suits filed, judgments entered or claims made against the Vendor during the last five years with respect to services provided by the Vendor or any declaration of default or termination for cause against the Vendor with respect to such services. In addition, state if during the past five years the Vendor has been suspended from entering into any government contract.
- C. Provide a detailed work plan describing services performed in the cyber security assessment and include estimated timelines.
- D. At a minimum, provide samples for the following deliverables identified in Section V. (Scope of Work) for like services at a client similar to the City. Sensitive customer information may be redacted if necessary.
- i. Executive Summary
 - ii. Technical Review
 - iii. Assessment Remediation Plan
- E. The cost of services to be provided and an explanation of the basis on which fees are determined. All potential services and associated pricing must be disclosed. The cost proposal must include a not-to-exceed amount for mandatory services and a separate not-to-exceed amount for optional services.
- F. Resume(s) of staff to be assigned to this project.
- G. Minimum of three professional references for similar size municipal projects. Provide contact name and number for each reference and a brief description of similar project.
- H. Complete required signatures for the City General Certification Requirements understanding. Please submit a fully complete RFP Section XII.

VII. EVALUATION CRITERIA AND SELECTION PROCESS

The City reserves the right to designate proposers as qualified and to prepare a list ranking those designated as qualified on the basis of the City's determination, in its sole discretion, of the best interest of the City and the project.

The following criteria will be used in the evaluation and selection of the consultant. Note that this is not a comprehensive list and is not in order of priority:

- A. The City will evaluate proposals in a fair, consistent and objective manner. Selection of the consultant shall be based on response to questions or requirements identified in this RFP and possible in-house interviews. The final recommendation will be made by a City staff RFP review committee for City Council consideration and approval. The City staff RFP review committee will consider all RFP responses. Evaluation criteria is as follows:
- i. Completeness of proposal
 - ii. Conformance to RFP requirements
 - iii. Availability and ability to meet the City's anticipated schedule.

- iv. Qualifications – Evaluate summary of the firm’s qualification to perform the work outlined in the RFP (see VI. A & B). Current resumes provided for the individual(s) designated to work on this project (see VI. F).
- v. Client References – Include a minimum of three references from similar projects (see VI. G).
- vi. Cost Proposal – Separate and include detail costs for mandatory and optional as outlined in V. (Scope of Work).
- vii. Finalist Interviews – a group of finalists **might be** chosen for in-house interviews. The finalists should be available to discuss qualifications at a designated location in Highland Park, Illinois in September 2018.

VIII. AWARD OF AGREEMENT

The selected consultant will be required to enter into a written professional services agreement with the City, on a form prepared by the City (see Attachment A). Such agreement shall reflect the terms and conditions included in the RFP and the selected consultant’s response, as well as any other provisions mutually agreed to by both parties. The agreement is subject to approval by the City Council.

IX. RESERVATION OF RIGHTS

The City reserves the right, at its sole discretion, to use without limitation, any and all information, concepts and data submitted in response to this RFP, or derived by further investigation thereof. The City further reserves the right at any time and for any reason to cancel this solicitation, to reject any or all proposals, to supplement, add to, delete from or otherwise change this RFP, if conditions dictate. The City may seek clarifications from a vendor at any time and failure to respond promptly may be cause for rejection. The City also reserves the right to interview only those firms it determines shall provide the most advantageous services and to negotiate with one or more vendors to develop contract terms acceptable to The City.

X. TERMS AND CONDITIONS

- A. The City reserves the right to change the RFP schedule or issue amendments to this RFP at any time. The City also reserves the right to cancel or reissue the RFP, to reject any or all proposals, to waive any irregularities or informalities in the selection process and to accept or reject any item or combination of items. The City reserves the right to request clarification of information from any vendor or to request supplemental material deemed necessary to assist in the evaluation of the proposal. The City reserves the right to effect any agreement deemed by the City to be in its best interest. This RFP does not obligate the City to accept or contract for any expressed or implied services.
- B. In the event that the proposer, to whom the services are awarded, does not execute a contract within 30 calendar days after City Council approval, the City may give notice to such proposer of intent to award the contract to the next most qualified proposer or to call for new proposals and may proceed to act accordingly.
- C. Any proposal may be withdrawn up until the date and time set above for the opening of proposals by written request to the RFP Coordinator. Any proposals not so withdrawn shall constitute an irrevocable offer, for a period of 120 days, to provide the City the services set forth in the attached specifications, or until one or more of the proposals have been approved by the City Council, whichever occurs first.
- D. This RFP is issued pursuant to applicable provisions of the City’s purchasing policy and procedures.

- E. Responses to this RFP shall be opened in private by City officials to avoid disclosure of contents that may contain confidential or proprietary information to competing proposers.
- F. The City will not be liable for any costs incurred by proposers in replying to this RFP.
- G. An agreement resulting from the acceptance of a proposal shall be on forms approved by the City's legal counsel (see Attachment A). The City reserves the right to reject any agreement which does not conform to the RFP, the proposal of the firm concerned and/or the City's requirements for agreements and contracts.
- H. Any modifications to or clarifications of this RFP, and any addenda to this RFP, will be distributed by the City to each proposer that registers pursuant to Section III of this RFP.

XI. EXCEPTIONS TO SPECIFICATIONS

Any exceptions to these specifications shall be listed and fully explained on a separate page(s) entitled "Exceptions to Specifications", prepared by the proposer on its firm's letterhead, to be attached to and submitted with these documents at the time of submission of the proposal. Each exception must refer to the page number and paragraph to which it pertains. The nature of each exception shall be fully explained. Proposers are cautioned that any exceptions to these specifications may be cause for rejection of the proposal.

Should a proposer submit a proposal where any exception is not clearly marked, described and explained, the City will consider the proposal to be in strict compliance with these specifications. If then awarded an agreement, the successful proposer shall comply with all requirements in accordance with these specifications.

XII. GENERAL CERTIFICATION REQUIREMENTS

STATE OF ILLINOIS)
) SS
COUNTY OF _____)

PROPOSER'S CERTIFICATION

The undersigned, being first duly sworn on oath, deposes and states that all statements made herein are made on behalf of proposer, that this deponent is authorized to make them, and that the statements contained herein are true and correct.

Proposer deposes, states, and certifies that proposer is not barred from contracting with a unit of state or local government as a result of (i) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless Contractor is contesting, in accordance with the procedures established by the appropriate revenue Act, its liability for the tax or the amount of the tax, as set forth in 65 ILCS 5/11-42.1-1; (ii) a violation of either Section 33E-3 or Section 33E-4 of Article 33 of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.*; or (iii) a violation of the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) (the "Patriot Act") or other statutes, orders, rules, and regulations of the United States government and its various executive departments, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001.

DATED This _____ Day Of _____, 20_____.

Attest/Witness:

Proposer's Name:

By: _____

By: _____

Title: _____

Title: _____

Subscribed and Sworn to

My Commission Expires: _____

Before me this _____ day of _____, 20_____.

[SEAL]

Notary Public

XIII. ATTACHMENTS

- A. Attachment A – City of Highland Parks - Professional Services Agreement Form

ATTACHMENT A

**CITY OF HIGHLAND PARK
PROFESSIONAL SERVICES AGREEMENT**

This **PROFESSIONAL SERVICES AGREEMENT** ("**Agreement**") is dated as of the ____ day of _____, 2018, and is by and between the **CITY OF HIGHLAND PARK**, an Illinois home rule municipal corporation ("**City**"), and the Consultant identified in Section 1.A of this Agreement.

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in this Agreement, and pursuant to the City's statutory and home rule powers, the parties agree as follows:

SECTION 1. CONSULTANT.

A. Engagement of Consultant. The City desires to engage the Consultant identified below to perform and to provide all necessary professional consulting services to perform the work in connection with the project identified below:

Consultant Name ("Consultant"):

Address:

Street

City

State

Zip

Telephone No.:

Email:

Project

Name/Description:

Agreement Amount: \$ _____

B. Project Description. *[Insert 25-50 word overview description of the professional services being provided]*, as more fully described in the proposal attached to this Agreement as **Exhibit A ("Proposal")**.

C. Representations of Consultant. The Consultant represents that it is financially solvent, has the necessary financial resources, and is sufficiently experienced and competent to perform and complete the consulting services that are set forth in the Proposal ("**Services**") in a manner consistent with the standards of professional practice by recognized consulting firms providing services of a similar nature.

SECTION 2. SCOPE OF SERVICES.

A. Retention of the Consultant. The City retains the Consultant to perform, and the Consultant agrees to perform, the Services.

B. Services. The Consultant shall provide the Services pursuant to the terms and conditions of this Agreement.

C. Commencement; Time of Performance. The Consultant shall commence the Services immediately upon receipt of written notice from the City that this Agreement has been fully executed by the Parties ("**Commencement Date**"). The Consultant shall diligently and continuously prosecute the Services until the completion of the Services or upon the termination of this Agreement by the City, but in no event later than the date that is ____ days after the Commencement Date ("**Time of Performance**"). The City may modify the Time of Performance at any time upon 15 days prior written notice to the Consultant. Delays caused by the City shall extend the Time of Performance in equal proportion to the delay caused by the City; provided, however, that the Consultant shall be responsible for completion of all work within the Time of

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Performance, notwithstanding any strike or other work stoppage by employees of either Consultant or of the City.

D. Reporting. The Consultant shall regularly report to the City Manager, or their designee, regarding the progress of the Services during the term of this Agreement.

SECTION 3. COMPENSATION AND METHOD OF PAYMENT.

A. Agreement Amount. The total amount paid by the City for the Services pursuant to this Agreement shall not exceed the amount identified as the Agreement Amount in Section 1.A of this Agreement. No claim for additional compensation shall be valid unless made in accordance with Sections 3.D or 3.E of this Agreement.

B. Invoices and Payment. The Consultant shall submit invoices in an approved format to the City for costs incurred by the Consultant in performing the Services. The amount billed in each invoice for the Services shall be based solely upon the rates set forth in the Proposal. The City shall pay to the Consultant the amount billed within 45 days after receiving such an invoice.

C. Records. The Consultant shall maintain records showing actual time devoted and costs incurred, and shall permit the City to inspect and audit all data and records of the Consultant for work done pursuant to this Agreement. The records shall be made available to the City at reasonable times during the term of this Agreement, and for one year after the termination of this Agreement.

D. Claim In Addition To Agreement Amount.

1. The Consultant shall provide written notice to the City of any claim for additional compensation as a result of action taken by the City, within 15 days after the occurrence of such action.

2. The Consultant acknowledges and agrees that: (a) the provision of written notice pursuant to Section 3.D.1 of this Agreement shall not be deemed or interpreted as entitling the Consultant to any additional compensation; and (b) any changes in the Agreement Amount shall be valid only upon written amendment pursuant to Section 8.A of this Agreement.

3. Regardless of the decision of the City relative to a claim submitted by the Consultant, the Consultant shall proceed with all of the work required to complete the Services under this Agreement, as determined by the City, without interruption.

E. Additional Services. The Consultant acknowledges and agrees that the City shall not be liable for any costs incurred by the Consultant in connection with any services provided by the Consultant that are outside the scope of this Agreement ("**Additional Services**"), regardless of whether such Additional Services are requested or directed by the City, except upon the prior written consent of the City.

F. Taxes, Benefits, and Royalties. Each payment by the City to the Consultant includes all applicable federal, state, and City taxes of every kind and nature applicable to the Services, as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or similar benefits, and all costs, royalties, and fees arising from the use on, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes, or inventions. All claims or rights to claim additional compensation by reason of the payment of any such tax, contribution, premium, cost, royalty, or fee are hereby waived and released by the Consultant.

G. Final Acceptance. The Services, or, if the Services are to be performed in separate phases, each phase of the Services, shall be considered complete on the date of final written acceptance by the City of the Services or each phase of the Services, as the case may be, which acceptance shall not be unreasonably withheld or delayed.

SECTION 4. PERSONNEL; SUBCONTRACTORS.

A. Key Project Personnel. The Key Project Personnel identified in the Proposal shall be primarily responsible for carrying out the Services on behalf of the Consultant. The Key Project Personnel shall not be changed without the City's prior written approval.

B. Availability of Personnel. The Consultant shall provide all personnel necessary to complete the Services including, without limitation, any Key Project Personnel identified in this Agreement. The Consultant shall notify the City as soon as practicable prior to terminating the employment of, reassigning, or receiving notice of the resignation of, any Key Project Personnel. The Consultant shall have no claim for damages and shall not bill the City for additional time and materials charges as the result of any portion of the Services which must be duplicated or redone due to such termination or for any delay or extension of the Time of Performance as a result of any such termination, reassignment, or resignation.

C. Approval and Use of Subcontractors. The Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved in advance by the City in writing. All subcontractors and subcontracts used by the Consultant shall be acceptable to, and approved in advance by, the City. The City's approval of any subcontractor or subcontract shall not relieve the Consultant of full responsibility and liability for the provision, performance, and completion of the Services as required by this Agreement. All Services performed under any subcontract shall be subject to all of the provisions of this Agreement in the same manner as if performed by employees of the Consultant. For purposes of this Agreement, the term "Consultant" shall be deemed also to refer to all subcontractors of the Consultant, and every subcontract shall include a provision binding the subcontractor to all provisions of this Agreement.

D. Removal of Personnel and Subcontractors. If any personnel or subcontractor fails to perform the Services in a manner satisfactory to the City and consistent with commonly accepted professional practices, the Consultant shall immediately upon notice from the City remove and replace such personnel or subcontractor. The Consultant shall have no claim for damages, for compensation in excess of the amount contained in this Agreement, or for a delay or extension of the Time of Performance as a result of any such removal or replacement.

SECTION 5. CONFIDENTIAL INFORMATION.

A. Confidential Information. The term "***Confidential Information***" shall mean information in the possession or under the control of the City relating to the technical, business, or corporate affairs of the City; City property; user information, including, without limitation, any information pertaining to usage of the City's computer system, including and without limitation, any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. City Confidential Information shall not include information that can be demonstrated: (1) to have been rightfully in the possession of the Consultant from a source other than the City prior to the time of disclosure of such information to the Consultant pursuant to this Agreement ("***Time of Disclosure***"); (2) to have been in the public domain prior to the Time of Disclosure; (3) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Agreement on the part of the Consultant or the City; or (4) to have been supplied to the Consultant after the Time of Disclosure without restriction by a third party who is under no obligation to the City to maintain such information in confidence.

B. No Disclosure of Confidential Information by the Consultant. The Consultant acknowledges that it shall, in performing the Services for the City under this Agreement, have access, or be directly or indirectly exposed, to Confidential Information. The Consultant shall hold confidential all Confidential Information and shall not disclose or use such Confidential Information without the express prior written consent of the City. The Consultant shall use reasonable measures at least as strict as those the Consultant uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subcontractors of the

Consultant to execute a non-disclosure agreement before obtaining access to Confidential Information.

SECTION 6. STANDARD OF SERVICES AND INDEMNIFICATION.

A. Representation and Certification of Services. The Consultant represents and certifies that the Services shall be performed in accordance with the standards of professional practice, care, and diligence practiced by recognized consulting firms in performing services of a similar nature in existence at the Time of Performance. The representations and certifications expressed shall be in addition to any other representations and certifications expressed in this Agreement, or expressed or implied by law, which are hereby reserved unto the City.

B. Indemnification. The Consultant shall, and does hereby agree to, indemnify, save harmless, and defend the City against all damages, liability, claims, losses, and expenses (including attorneys' fees) that may arise, or be alleged to have arisen, out of or in connection with the Consultant's performance of, or failure to perform, the Services or any part thereof, or any failure to meet the representations and certifications set forth in Section 6.A of this Agreement.

C. Insurance. The Consultant shall provide, at its sole cost and expense, liability insurance in the aggregate amount of \$1,000,000, which insurance shall include, without limitation, protection for all activities associated with the Services. The insurance shall be for a minimum of \$1,000,000 per occurrence for bodily injury and \$1,000,000 per occurrence for property damage. The Consultant shall cause the City to be named as an additional insured on the insurance policy described in this Section 6.C. Not later than 10 days after the Commencement Date, the Consultant shall provide the City with either: (a) a copy of the entire insurance policy; or (b) a Certificate of Insurance along with a letter from the broker issuing the insurance policy to the effect that the Certificate accurately reflects the contents of the insurance policy. The insurance coverages and limits set forth in this Section 6.C shall be deemed to be minimum coverages and limits, and shall not be construed in any way as a limitation on the Consultant's duty to carry adequate insurance or on the Consultant's liability for losses or damages under this Agreement.

D. No Personal Liability. No elected or appointed official or employee of the City shall be personally liable, in law or in contract, to the Consultant as the result of the execution of this Agreement.

SECTION 7. CONSULTANT AGREEMENT GENERAL PROVISIONS.

A. Relationship of the Parties. The Consultant shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed: (1) to create the relationship of principal and agent, employer and employee, partners, or joint venturers between the City and Consultant; or (2) to create any relationship between the City and any subcontractor of the Consultant.

B. Conflict of Interest. The Consultant represents and certifies that, to the best of its knowledge: (1) no elected or appointed City official, employee or agent has a personal financial interest in the business of the Consultant or in this Agreement, or has personally received payment or other consideration for this Agreement; (2) as of the date of this Agreement, neither Consultant nor any person employed or associated with Consultant has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither Consultant nor any person employed by or associated with Consultant shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.

C. No Collusion. The Consultant represents and certifies that the Consultant is not barred from contracting with a unit of state or local government as a result of: (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue, unless the Consultant is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 *et seq.*; or (2) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.* The Consultant represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the City prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that the Consultant has, in procuring this Agreement, colluded with any other person, firm, or corporation, then the Consultant shall be liable to the City for all loss or damage that the City may suffer, and this Agreement shall, at the City's option, be null and void.

D. Termination. Notwithstanding any other provision hereof, the City may terminate this Agreement at any time upon 15 days written notice to the Consultant. In the event that this Agreement is so terminated, the Consultant shall be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services completed, which shall be determined on the basis of the rates set forth in the Proposal.

E. Compliance With Laws and Grants.

1. **Compliance with Laws.** The Consultant shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including, without limitation: any applicable prevailing wage laws; the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes requiring preference to laborers of specified classes; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.*, and the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* The Consultant shall also comply with all conditions of any federal, state, or local grant received by the City or the Consultant with respect to this Agreement or the Services. Further, the Consultant shall have a written sexual harassment policy in compliance with Section 2-105 of the Illinois Human Rights Act.

2. **Liability for Noncompliance.** The Consultant shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with the Consultant's, or any of its subcontractors, performance of, or failure to perform, the Services or any part thereof.

3. **Required Provisions.** Every provision of law required by law to be inserted into this Agreement shall be deemed to be inserted herein.

F. Default. If it should appear at any time that the Consultant has failed or refused to prosecute, or has delayed in the prosecution of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Agreement, or has otherwise failed, refused, or delayed to perform or satisfy the Services or any other requirement of this Agreement ("***Event of Default***"), and fails to cure any such Event of Default within ten business days after the Consultant's receipt of written notice of such Event of Default

The City of Highland Park, IL

from the City, then the City shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. Cure by Consultant. The City may require the Consultant, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all other action necessary to bring the Consultant and the Services into compliance with this Agreement.

2. Termination of Agreement by City. The City may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement after the effective date of termination.

3. Withholding of Payment by City. The City may withhold from any payment, whether or not previously approved, or may recover from the Consultant, any and all costs, including attorneys' fees and administrative expenses, incurred by the City as the result of any Event of Default by the Consultant or as a result of actions taken by the City in response to any Event of Default by the Consultant.

G. No Additional Obligation. The Parties acknowledge and agree that the City is under no obligation under this Agreement or otherwise to negotiate or enter into any other or additional contracts or agreements with the Consultant or with any vendor solicited or recommended by the Consultant.

H. City Council Authority. Notwithstanding any provision of this Agreement, any negotiations or agreements with, or representations by the Consultant to, vendors shall be subject to the approval of the City Council. For purposes of this Section 7.H, "vendors" shall mean entities engaged in subcontracts for the provision of additional services directly to the City. The City shall not be liable to any vendor or third party for any agreements made by the Consultant without the knowledge and approval of the City Council.

I. Mutual Cooperation. The City agrees to cooperate with the Consultant in the performance of the Services, including meeting with the Consultant and providing the Consultant with such non-confidential information that the City may have that may be relevant and helpful to the Consultant's performance of the Services. The Consultant agrees to cooperate with the City in the performance and completion of the Services and with any other consultants engaged by the City.

J. News Releases. The Consultant shall not issue any news releases, advertisements, or other public statements regarding the Services without the prior written consent of the City Manager.

K. Ownership. Designs, drawings, plans, specifications, photos, reports, information, observations, calculations, notes, and any other documents, data, or information, in any form, prepared, collected, or received from the City by the Consultant in connection with any or all of the Services to be performed under this Agreement ("**Documents**") shall be and remain the exclusive property of the City. At the City's request, or upon termination of this Agreement, the Consultant shall cause the Documents to be promptly delivered to the City.

L. GIS Data. The City has developed digital map information through Geographic Information Systems Technology ("**GIS Data**") concerning the real property located within the City. If requested to do so by the Consultant, the City agrees to supply the Consultant with a digital copy of the GIS Data, subject to the following conditions:

1. Limited Access to GIS Data. The GIS Data provided by the City shall be limited to the scope of the Services that the Consultant is to provide for the City;

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2. Purpose of GIS Data. The Consultant shall limit its use of the GIS Data to its intended purpose of furtherance of the Services; and

3. Agreement with Respect to GIS Data. The Consultant does hereby acknowledge and agree that:

a. Trade Secrets of the City. The GIS Data constitutes proprietary materials and trade secrets of the City, and shall remain the property of the City;

b. Consent of City Required. The Consultant will not provide or make available the GIS Data in any form to anyone without the prior written consent of the City Manager;

c. Supply to City. At the request of the City, the Consultant shall supply the City with any and all information that may have been developed by the Consultant based on the GIS Data;

d. No Guarantee of Accuracy. The City makes no guarantee as to the accuracy, completeness, or suitability of the GIS Data in regard to the Consultant's intended use thereof; and

e. Discontinuation of Use. At such time as the Services have been completed to the satisfaction of the City, the Consultant shall cease its use of the GIS Data for any purpose whatsoever, and remove the GIS Data from all of the Consultant's databases, files, and records; and, upon request, an authorized representative of the City shall be afforded sufficient access to the Consultant's premises and data processing equipment to verify compliance by the Consultant with this Section 7.L.3.e.

SECTION 8. GENERAL PROVISIONS.

A. Amendment. No amendment or modification to this Agreement shall be effective until it is reduced to writing and approved and executed by the City and the Consultant in accordance with all applicable statutory procedures.

B. Assignment. This Agreement may not be assigned by the City or by the Consultant without the prior written consent of the other party.

C. Binding Effect. The terms of this Agreement shall bind and inure to the benefit of the City, the Consultant, and their agents, successors, and assigns.

D. Notice. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (1) personally, (2) by a reputable overnight courier, or by (3) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of: (a) actual receipt; (b) one business day after deposit with an overnight courier, as evidenced by a receipt of deposit; or (c) four business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Section 8.D, each party shall have the right to change the address or the addressee, or both, for all future notices and communications to the other party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to the City shall be addressed to, and delivered at, the following address:

City of Highland Park
City Hall
1707 St. Johns Ave.
Highland Park, Illinois 60035
Attention: City Manager

With a copy to:

Holland & Knight LLP

131 S. Dearborn, 30th Floor
Chicago, Illinois 60603
Attention: Steven M. Elrod, Corporation Counsel

Notices and communications to the Consultant shall be addressed to, and delivered at, the following address:

With a copy to:

E. Third Party Beneficiary. No claim as a third party beneficiary under this Agreement by any person, firm, or corporation shall be made or be valid against the City.

F. Provisions Severable. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

G. Time. Time is of the essence in the performance of all terms and provisions of this Agreement.

H. Calendar Days and Time. Unless otherwise provided in this Agreement, any reference in this Agreement to "day" or "days" shall mean calendar days and not business days. If the date for giving of any notice required to be given, or the performance of any obligation, under this Agreement falls on a Saturday, Sunday, or federal holiday, then the notice or obligation may be given or performed on the next business day after that Saturday, Sunday, or federal holiday.

I. Governing Laws. This Agreement shall be governed by, construed and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois.

J. Authority to Execute.

1. The City. The City hereby warrants and represents to the Consultant that the persons executing this Agreement on its behalf have been properly authorized to do so by its corporate authorities.

2. The Consultant. The Consultant hereby warrants and represents to the City that the persons executing this Agreement on its behalf have the full and complete right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth in this Agreement and that all legal actions needed to authorize the execution, delivery, and performance of this Agreement have been taken.

K. Entire Agreement. This Agreement constitutes the entire agreement between the parties to this Agreement and supersedes all prior agreements and negotiations between the parties, whether written or oral, relating to the subject matter of this Agreement.

L. Waiver. Neither the City nor the Consultant shall be under any obligation to exercise any of the rights granted to them in this Agreement except as it shall determine to be in its best interest from time to time. The failure of the City or the Consultant to exercise at any time

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any such rights shall not be deemed or construed as a waiver of that right, nor shall the failure void or affect the City's or the Consultant's right to enforce such rights or any other rights.

M. Consents. Unless otherwise provided in this Agreement, whenever the consent, permission, authorization, approval, acknowledgement, or similar indication of assent of any party to this Agreement, or of any duly authorized officer, employee, agent, or representative of any party to this Agreement, is required in this Agreement, the consent, permission, authorization, approval, acknowledgement, or similar indication of assent shall be in writing.

N. Grammatical Usage and Construction. In construing this Agreement, pronouns include all genders and the plural includes the singular and vice versa.

O. Interpretation. This Agreement shall be construed without regard to the identity of the party who drafted the various provisions of this Agreement. Moreover, each and every provision of this Agreement shall be construed as though all parties to this Agreement participated equally in the drafting of this Agreement. As a result of the foregoing, any rule or construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

P. Headings. The headings, titles, and captions in this Agreement have been inserted only for convenience and in no way define, limit, extend, or describe the scope or intent of this Agreement.

Q. Exhibits. Exhibits A through ___ attached to this Agreement are, by this reference, incorporated in and made a part of this Agreement. In the event of a conflict between an Exhibit and the text of this Agreement, the text of this Agreement shall control.

R. Rights Cumulative. Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other rights, remedies, and benefits allowed by law.

S. Counterpart Execution. This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

The City of Highland Park, IL

IN WITNESS WHEREOF, the Parties have executed this Agreement this _____ day of _____, 2018.

ATTEST:

CITY OF HIGHLAND PARK

By: _____

By: _____
Ghida S. Neukirch, City Manager

ATTEST:

CONSULTANT

By: _____

By: _____

Title: _____

Its: _____

EXHIBIT A
PROPOSAL

[TO BE PREPARED BY CONSULTANT AND ACCEPTABLE TO CITY]
[SHALL INCLUDE SCHEDULE]