



We Are Columbia

MEETING DATE: October 18, 2016

DEPARTMENT: Economic Development

FROM: *Ryan Coleman,*

SUBJECT: Council is asked to approve a Fiscal Year 2016/2017 Contract Renewal for Professional Services for improvement and operational services within the Downtown Business Improvement District and marketing, advertising, and cleanliness and safety services ("Yellow Shirt" Program), as requested by the Economic Development Department. Award to the City Center Partnership in the amount of \$70,000.00.

FINANCIAL IMPACT: Funding Source: Special Contracts 5511301-638300 - The original budgeted amount is \$70,000.00.

ATTACHMENTS:

- CCP 2016-17 contract (PDF)

City, which were generated, created or received by the Consultant in performance of the services required by the Agreement or as the City may deem necessary to perform the required services by the City or the Consultant's successor. All records shall be free from any proprietary claims or interest. The Consultant agrees to fully cooperate with the City and any successor to ensure an effective transition to continuously provide the required services.

6. ETHICS

Consultant and any subconsultant(s) acknowledge that they are subject to the provisions of the 1991 Ethics Reform Act (S.C. Code Ann. §8-13-100, *et seq.*, as amended). Under this Act, a person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:

- A. Influence the discharge of a public official's, public member's, or public employee's official responsibilities;
- B. Influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or
- C. Induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities. "Anything of value" includes, but is not limited to, lodging, transportation, entertainment, food, meals, beverages, money, gifts, honorariums, discounts and interest-free loans.

7. FINDINGS CONFIDENTIAL

All of the reports, information, data, records or documents of any kind, prepared or assembled by the Consultant under this Contract are matters of public record, but that the Consultant agrees that they shall only be made available to any individual or organization by the City and the Consultant shall not make them available to any individual or organization without the prior written approval of the City.

In the event that the City receives a Freedom of Information Act request to provide confidential or proprietary information of the Consultant, City will notify Consultant as soon as practicable of such request.

8. ACCESS TO RECORDS

The Consultant shall make available for examination all of its records with respect to all matters covered by this contract and shall maintain such records for a period not less than three (3) years after receipt of final payment under this Contract. All requests for access to Consultant's records shall be made in writing.

9. COPYRIGHT

No reports or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Consultant.

10. AMENDMENTS

The parties may amend this Contract at any time provided that such Amendments are executed in writing, signed by a duly authorized representative of both organizations, and approved, where applicable, by the City's governing body.

The City may, in its discretion, amend this Agreement to conform with federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons. If such Amendments result in a change in the funding, Appendix A, Scope of Services, Appendix B, or schedule of, the activities to be undertaken as part of the Agreement, such modifications will be incorporated only by written Amendment signed by both parties.

11. ASSIGNABILITY/SUB-CONSULTING

The Consultant shall not assign or subcontract any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of the City. The Consultant shall be as fully responsible to the City for the acts and omission of its sub-Consultants, as it is for the acts and omissions of persons directly employed by the Consultant.

The Consultant shall furnish and cause each of its sub-Consultants to furnish all information and reports required hereunder.

12. INDEPENDENT CONSULTANT

Nothing contained in this Contract is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Consultant shall at all times remain an independent Consultant with respect to the services to be performed under this Contract. The City shall be exempt from payment of all unemployment compensation, FICA, retirement, life and/or medical insurance and workers' compensation insurance.

13. BREACH / WAIVER

The failure of either the Consultant or the City to insist upon the strict performance of any provision of the Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provision or of any other provision of the Agreement at any time. Partial payment by the City shall not be construed as a waiver. Waiver of any breach of the Agreement shall not constitute waiver of a subsequent breach.

14. TERMINATION OF CONTRACT FOR CAUSE

If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner these obligations under this Contract, or if the Consultant shall violate any of the covenants,

agreements, or stipulations of this Contract, the City shall thereupon have the right to terminate this Contract by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data studies, surveys and reports prepared under this Contract shall become the possession of the City.

Notwithstanding the above, the Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Contract by the Consultant and the City may withhold any payments to the Consultant until such time as the exact amount of damages due to the City from the Consultant is determined.

15. TERMINATION FOR CONVENIENCE OF THE CITY

The City may terminate this Contract at any time by giving written notice to the Consultant of such termination and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. In that event, all finished or unfinished documents and other material as described in Paragraph 5 above shall, at the option of the City, become its property.

16. INTEREST OF CONSULTANT

The Consultant covenants that Consultant presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract or which is adverse to the interests of the City. The Consultant further covenants that in the performance of this Contract no person having such interest shall be employed.

The Consultant is expected to make Consultant's services available to other entities but agrees to refrain from representing other entities in matters where the position of the City conflicts with that of the other entity. The City may at its discretion, waive this provision. The Consultant has provided a list of all of its clients with whom there may be potential conflicts with the City. This list shall be supplemented throughout the duration of this Contract.

17. EQUAL EMPLOYMENT OPPORTUNITY

In carrying out the program, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, or national origin. The Contractor shall take affirmative action to ensure equal employment opportunities for all applicants for employment, without regard to their race, creed, color, religion, ancestry, sex, sexual orientation, national origin, disability or other handicap, age, marital status, or status with regard to public assistance. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this nondiscrimination clause. The Contractor shall state that it will receive consideration for employment without regard to race, color, creed, religion,

ancestry, sex, national origin, disability or other handicap, age, marital status, or status with regard to public assistance. The Contractor will incorporate these equal employment opportunity requirements in all subcontracts for program work.

18. LICENSES, PERMITS AND TAXES

The Consultant shall be responsible for obtaining any approvals, permits and/or licenses as may be required of the Consultant in performing the services required under the Agreement. The Consultant shall be responsible for any costs relating to same.

The Consultant shall procure and maintain a City of Columbia business license while performing services under the Agreement.

19. REMEDIES

The Consultant shall only be entitled to the actual direct costs of all labor and material expended on the services required under the Agreement prior to the effective date of the termination. In no event shall the Consultant be entitled to anticipatory profit or damages for any termination under the Agreement. In no event shall the Consultant be entitled to assert a claim in quantum meruit or any other measure of damages other than that stated herein.

20. SEVERABILITY

If any provision of this Contract is held invalid, the remainder of this Contract shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of Applicable law.

21. COMPLIANCE WITH LOCAL LAWS

The Consultant shall comply with all applicable laws, ordinances, and codes of the state and local government in performing the work provided under this Contract.

22. PERSONNEL

All of the services required hereunder shall be performed by the Consultant and all personnel engaged in the work will be fully qualified and shall be authorized or permitted under state and local law to perform the services identified in Appendix A, Scope of Services.

The Consultant represents that Consultant has, or will secure at Consultant's own expense, all personnel required in performing the services under the Contract.

23. WHOLE AGREEMENT

The Agreement represents the entire Agreement between the City and the Consultant and supersedes all prior communications, negotiations, representations or agreements, either written or oral. Only written Amendment signed by both the City and the Consultant may

amend the Agreement.

24. GOVERNING LAW

This Agreement shall be interpreted, construed, and enforced in accordance with the laws of South Carolina. Any dispute arising between any of the parties hereto regarding the subject matter of this Agreement shall be subject to the exclusive jurisdiction of the federal and state courts within the State of South Carolina and Richland County, South Carolina.

IN WITNESS WHEREOF, the City and the Consultant have entered into this Agreement as of the date first above written.

Greater Columbia Chamber of Commerce CITY OF COLUMBIA

BY: _____

BY: _____

TITLE: _____

TITLE: City Manager

DATE: _____

DATE: _____

EXHIBIT A

| 2016 ISSUES TO ADDRESS - NEXT 12 MONTHS - TOP FIVE | | |
|---|--|-----------------|
| PRIORITY | ISSUE | PROGRESS |
| 1 | Connectivity to Assembly Street, Bull Street and USC. Come up with more executable ideas possibly using artist installations. | |
| 2 | Streetscaping | |
| 3 | Parking, signage, focus on entry points | |
| 4 | Safety crossing streets, education for drivers and bicyclists. | |
| 5 | Refresh lights in trees, uplighting, etc. | |