

EM SUBMISSION NO.: 2012 EM 148

PRESENTED: 3/8/12

ADOPTED: 3/8/12

BY THE EMERGENCY MANAGER:

**RESOLUTION AUTHORIZING APPROPRIATE CITY OF FLINT OFFICIALS
TO ENTER INTO A CONSULTING SERVICES AGREEMENT WITH MGT OF
AMERICA FOR THE PREPARATION OF A CITY-WIDE COST ALLOCATION PLAN
FOR THE CITY IN CONJUNCTION WITH THE FY13 BUDGETING PROCESS**

As part of the FY13 budget development process, City officials are in need of a City-wide central service cost allocation plan based on forecasted budgeted expenditures, along with possible updates/alternative scenarios applied to the plan, as the City strategically realigns the City structure as part of the budget process; and

MGT of America, Inc., who conducted the studies last year that led to the development of a new Master Fee Schedule for the City, has submitted a proposal to develop the necessary cost allocation plan for a fee of \$10,000 for the initial plan, and \$1000 for each update the City may require; therefore

BE IT RESOLVED that the appropriate City officials are authorized to execute a Consulting Services Agreement between the City of Flint and MGT of America, Inc., for these services, with funding to come from Account # 101-191.100-801.000 (Professional Services).

APPROVED AS TO FORM:


Peter M. Bade, Chief Legal Officer

APPROVED AS TO FINANCE:

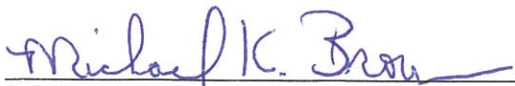

Jerry Ambrose, Finance Director

EM DISPOSITION:

ENACT ✓

FAIL _____

DATED 3-8-12


Michael K. Brown, Emergency Manager

CONSULTING SERVICES AGREEMENT

By and Between
City of Flint, Michigan
and
MGT of America, Inc.

THIS AGREEMENT is made this _____ day _____ 2012, by and between the City of Flint, Michigan ("Client"), and MGT of America, Inc., a Florida Corporation ("MGT").

In consideration of the mutual covenants set forth in this Agreement, the parties agree as follows:

1. Description of Services.

MGT shall, as an independent contractor, provide the services specified in section 1.1 below ("the Services"), on the schedule specified in section 1.2 below.

1.1 Scope of Services

MGT shall provide to Client the following services:

- A. A City-wide central services cost allocation plan based on forecasted 2012 budgeted expenditures for use in the development of the City's Fiscal Year 2013 budget.*
- B. Updates (alternative scenarios) to the City-wide central services budgeted cost allocation plan as the City strategically realigns the City Departments and staffing levels and structure which will directly impact the forecasted 2012 budgeted expenditures and the 2012 City-wide central service cost allocation plan structure.*

1.2 Timetable for Services.

The Services shall be performed and the product(s) of the services shall be delivered on the following schedule:

The proposed services for the 2012 City-wide central service cost allocation plan will be completed within 15 days from the availability of required allocation data.

Updates to the 2012 City-wide central service allocation plan structure will be made within 3 days from the availability of the required data.

2. Compensation.

For its work under this Agreement, MGT shall be paid in the following fixed fees:

- Fiscal Year 2012 City-wide budgeted central services cost allocation plan: **\$10,000.**
- Updates (alternative scenarios) and structural changes to the FY 2012 City-wide budgeted central services cost allocation plan: **\$1,000** for each updated plan.

MGT will render to Client one invoice for each Service for the fees specified herein, upon delivery of the initial cost allocation plan and each of the updates (alternative scenarios) as requested by the Client. Payment will be due thirty (30) days after each invoice is submitted.

3. Term, Renewal Options, and Termination.

This agreement shall become effective upon its execution and delivery by the parties and shall remain in effect until completion of, and full payment for the Services.

This contract may be terminated prior to completion of the Services at the option of either party, upon delivery of written notice by the terminating party to the other party. In the event of early termination by Client, MGT shall be paid, upon invoicing in accordance with this Agreement, the agreed compensation. If, due to termination, there is no agreed value for the services performed to date, MGT's standard hourly rates plus expenses incurred shall apply for Services performed prior to termination.

4. Independent Contractor Status

The relationship of MGT to Client is that of an independent contractor, and nothing in this Agreement shall be construed as creating any other relationship. As an independent contractor, MGT shall comply with all laws relating to federal and state income taxes, associated payroll and business taxes, licenses and fees, workers compensation insurance, and all other applicable state and federal laws and regulations. Neither MGT nor anyone employed or subcontracted by MGT shall be, represent, act, purport to act, or be deemed to be an agent, representative, employee or servant to Client.

5. Project Managers

James Olson shall serve as Project Manager and point of contact for MGT under this Agreement.

Jerry Ambrose shall serve as Project Manager and point of contact for Client under this Agreement. By written notice to the other party, either party may change the identity of its project manager during the term of this Agreement.

6. Miscellaneous

6.1 No Continuing Waiver

The failure or forbearance by either party in exercising any remedy available to it upon a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or continuing breach by either party.

6.2 Entire Agreement.

This written Agreement represents the entire agreement of the parties, and neither party is relying upon any negotiation, representation, warranty, promise, or covenant not set forth in this Agreement. This Agreement may not be modified or amended except by a written instrument for that purpose duly executed by both parties.

6.3 Subcontracting and Assignment.

MGT may utilize subcontractors in performing the Services, but MGT shall remain responsible to Client for performance under this Agreement. This contract shall be binding upon and inure to the benefit of both Client and MGT and their respective successors and assigns, if any, and legal representatives.

6.4 Interpretation, Venue, and Severability.

This agreement shall be construed, interpreted, and enforced in accordance with Michigan

law without regard to conflicts of laws principles. Should any provision of this Agreement be held invalid or unenforceable by final judgment of a court of competent jurisdiction, it is the parties' intention that the remainder of this Agreement shall nevertheless be given effect as written. Any action arising out of or relating to this Agreement may be brought only in the Michigan state court having jurisdiction. If more than one party executes this Agreement as Client, then each such party shall be jointly and severally responsible for Client's performance and payment under this Agreement.

6.5 Prior Performance.

Services performed by MGT pursuant to Client's authorization, but before execution of this Agreement, shall be considered as having been performed pursuant to the terms and conditions of this Agreement.

6.6 Notices.

All written notices, demands or requests pursuant to this Agreement may be served (as an alternate to personal service) by registered or certified mail or air freight services that provide proof of delivery, with postage and fees thereon fully prepaid, and addressed to the parties so to be served as follows:

If to MGT:

MGT of America, Inc.
2343 Delta Road
Bay City, Michigan 48706

If to Client:

City of Flint
City Finance Department
1101 S. Saginaw Street
Flint, MI 48502

Service of any such notice or demand so made by mail shall be deemed complete on the day of actual delivery as shown by the addressee's registry or certification receipt. Either party hereto may, from time to time, by written notice served upon the other as aforesaid, designate a different mailing address, or (a) different or additional person(s) to which or to whom all such notices or demands are thereafter to be addressed. Persons named to receive copies of notices are listed for accommodation only, and are not required to be personally served to comply with service of notice on a party.

IN WITNESS WHEREOF, this agreement has been executed and delivered by Client and MGT on the date first written above.

CITY of FLINT, MICHIGAN

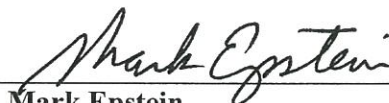


Date: March 8, 2012

1101 S. Saginaw Street
Flint, Michigan 48502

FEIN:

MGT OF AMERICA, INC.



Mark Epstein
Senior Partner

Date: March 7, 2012

2343 Delta Road
Bay City, MI 48706
989-316-2220
FEIN: 59-1576733