

LEGISLATIVE CONSULTANT CONTRACT

The Contract made and entered into the ____ day of _____ 2011, by and between the City of Overland Park, Kansas, a municipal corporation, hereinafter referred to as the "City" and The Carter Group, hereinafter referred to as "The Consultant" both of whom agree as follows:

WITNESSETH:

WHEREAS, the City desires to engage the services of an independent contractor to serve as legislative consultant to represent the City in its legislative and lobbying efforts; and

WHEREAS, The Carter Group desires to provide services as the legislative consultant for the City.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. DUTIES AND RESPONSIBILITIES

The City hereby contracts with The Carter Group as Legislative Consultant for the City to perform the functions and duties including, but not limited to, the following:

- A. To register as a lobbyist for the City of Overland Park with the State of Kansas.
- B. To represent the City in all matters pertaining to the Kansas Legislature.
- C. To serve as principal legislative liaison to the Kansas Legislature.
- D. To monitor the progress of legislation through all stages of the legislative process.
- E. To advise Mayor and Council, City Manager, City Manager's office and Department Directors of issues pending before the Legislature.
- F. To develop a proactive plan of action to advance the passage of legislation of concern to the City.
- G. To promote and support legislative actions favorable to the City.
- H. To take aggressive action when necessary to oppose and promote the defeat of legislation detrimental to the City.
- I. To work jointly with the City Manager in the coordination of lobbying efforts.
- J. To work jointly with the City Manager in coordinating the development of the state legislative program; appear before Council committees on legislative matters as needed.
- K. To work jointly with the City Manager in coordinating any meetings with legislators or state officials.

- L. During the legislative session prepare weekly reports identifying the status of legislation affecting the City; prepare summary of specific issues as needed, prepare end-of-session summary of actions taken by the Legislature.
- M. To testify before legislative committees; assist in preparing testimony of others. Review all testimony given before legislative committees prior to presentation.
- N. To maintain open lines of communication with legislative leadership, Johnson County delegation, and other members of Kansas House and Senate.
- O. To attend the Overland Park Chamber of Commerce (Governmental Affairs Committee) and other meetings when legislative matters are discussed.
- P. To maintain compliance with all statutes governing the activities of lobbyist and lobbying.
- Q. To monitor legislative matters assigned to interim committees that are of concern to the City.
- R. To attend interim committee meetings when pertinent issues are discussed.
- S. To testify before interim committees; assist in preparing testimony of others. Review all testimony given before interim committees prior to presentation.
- T. To prepare summary of all actions taken by interim committees on issues of concern to the City.
- U. To perform such other legally permissible and proper duties and functions, as the City Council shall from time to time assign and that are mutually agreeable to both parties under the Contract.
- V. To attend weekly policy lunches hosted by the League of Kansas Municipalities during the legislative session.
- W. To attend pertinent sessions of the League of Kansas Municipalities' annual conference.
- X. To provide legislative updates to the Johnson & Wyandotte Counties Council of Mayors at their monthly meetings, draft legislative correspondence as directed by the Council of Mayors, and coordinate meetings between the Council of Mayors and legislators
- Y. To provide all lobbying services for federal legislative issues. This shall include working jointly with the City Manager in developing an annual federal legislative program, working with City departments to identify federal issues important to the City, and assist efforts to secure federal funding from programs applicable to City operations.

SECTION 2. STATUS

- A. The Carter Group is an independent contractor and as such is not an agent or employee of the City.
- B. During the term of this contract The Carter Group agrees to provide legislative consulting services (lobbying) for the City. In the case that The Carter Group finds that the services to the City provide a conflict with other clients the Carter Group represents, The Carter Group will notify the City immediately of such instances.
- C. The Carter Group or any assignee agrees to inform the City, in writing, of any other employment in which they might become engaged or disengaged during the term of this Contract other than the identified clients in place at the time of the effective date of this agreement.

SECTION 3. TERM AND TERMINATION

- A. Nothing in the Contract shall prevent, limit, or otherwise interfere with the right of the City to terminate with or without cause, the services of the Carter Group at any time subject to forty-five (45) days written notice to The Carter Group, except that the City recognizes and abides by the requirements of K.S.A. 46-267.
- B. Nothing in the Contract shall prevent, limit, or otherwise interfere with the right of the Carter Group to terminate this Contract with the City upon forty-five (45) days written notice to the City.
- C. The term of this Contract shall commence on the effective DATE (shown below), and terminating on July 31, 2013. The Carter Group agrees to remain under contract to the City during this term unless Section 3 (A) or (B) of this Contract is exercised. This Contract may be renewed at the end of this term for any specific time period with the written consent of both parties.
- D. The effective DATE of this contract is November 7, 2011.

SECTION 4. COMPENSATION AND EXPENSES

- A. Compensation: The City agrees to pay to the Carter Group for services rendered pursuant to this Contract, the amount of sixty-three thousand dollars and zero cents (\$63,000.00) per annum, paid in twelve (12) equal monthly installments.

The Carter Group will submit an invoice to the City at the beginning of each month for services rendered.

- B. Reimbursable Expenses: All expenses are to be incurred by The Carter Group except for those listed below. The Carter Group will submit a written invoice for reimbursable expenses as required.
 - a) Reproduction/Printing Costs for documents and products specific to the City of Overland Park
 - c) Special Group Events sponsored and coordinated on behalf of and approved by the City of Overland Park
 - d) Travel required by the City, if pre-approved in writing by the City

- e) Kansas State Lobbyist Registration for the City of Overland Park
- f) Other expenses not shown above that may be negotiated.

SECTION 5. INSURANCE

The Carter Group shall maintain throughout the duration of this contract automobile liability insurance in, at minimum, the amount specified below. A copy of the insurance contract will be kept on file with the City of Overland Park during the contract time period. The insurance shall be written on an occurrence basis unless otherwise agreed to in writing by the City.

Automobile Liability Insurance

Policy shall protect against claims for bodily injury and/or property damage arising from the ownership or use of The Carter Groups' vehicle in the minimum amount of \$300,000 Combined Single Limit including all owned autos.

Industry Ratings

The City will only accept coverage from an insurance carrier who offers proof that it:

- 1) Is licensed to do business in the State of Kansas;
- 2) Carries a Best's policyholder rating of A or better;

AND

- 3) Carries at least a Class X financial rating

OR

Is a company mutually agreed upon by the City and The Carter Group.

SECTION 6. INDEMNITY

A. Definition

For purposes of indemnification requirements, the term "Loss" shall have the meaning set forth as follows:

"Loss" means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including attorney's fees and the cost of defense), in connection with any action, proceeding, demand or claim for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto, which arise out of or are connected with, or are claimed to arise out of or be connected with, the performance of this Contract whether arising before or after the completion of the work required hereunder.

B. Indemnity

For purposes of this Contract, The Carter Group hereby agrees to indemnify, defend and hold harmless the City, its employees and agents from any and all loss where loss is caused or incurred or alleged to be caused or incurred in whole or in part as a result of the negligence or other actionable fault of The Carter Group, his affiliates, subsidiaries, employees, agents and assignees and their respective servants, agents and employees.

It is agreed as a specific element of consideration of this contract that this indemnity shall apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of the City or any third party and, further notwithstanding any theory of law including, but not limited to, a characterization of the City's or any third party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature; provided, however, that The Carter Group's obligation hereunder shall not include amounts attributable to the fault or negligence of the City or any third party for whom The Carter Group is not responsible.

In the case of any claims against the City, its employees or agents indemnified under this contract, by an employee of The Carter Group, his affiliates, subsidiaries, or assignees, the indemnification obligation contained in this contract shall not be limited by any limitation on amount or type of damages, compensation or benefits payable by or for The Carter Group, his affiliates, subsidiaries, or assignees, under workers' compensation acts, disability benefit acts, or other employee benefit acts.

SECTION 7. AFFIRMATIVE ACTION/OTHER LAWS.

A. Equal Employment Opportunity. During the performance of this contract, The Consultant agrees as follows:

- 1) The Consultant shall comply with the Kansas Act against discrimination and shall not discriminate against any employee because of race, religion, color, sex, or national origin and will abide by the provisions of the Age Discrimination in Employment Act of 1967, as amended. The Consultant will take affirmative action to ensure that applicants are employed and that applicants are treated during employment without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment advertisement; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the requirements of these nondiscrimination provisions.
- 2) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin and shall include the phrase "equal opportunity employer" or similar phrase approved by the Kansas Commission on Civil Rights.
- 3) If the Consultant fails to comply with the manner in which the Consultant reports to the commission in accordance with the provisions of K.S.A. 44-

1031 and amendments thereto, the Consultant shall be deemed to have breached the present Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City.

- 4) If the Consultant is found to have violated the Kansas Act against discrimination under a final decision or order of the Kansas Commission on Civil Rights, the Consultant shall be deemed to have breached the Contract, and it may be canceled, terminated or suspended, in whole or in part, by the City.
- 5) The Consultant will include all of Subsections 1 through 4 in every subcontract or purchase order, so that such provisions will be binding upon each subcontractor or vendor.

- B. Other Laws. The Consultant agrees to abide by all other federal, state or local laws, ordinances and regulations applicable to this Project and to furnish any certification required by any federal, state or local governmental agency in connection with same.

SECTION 8. GENERAL PROVISIONS

- A. The Contract contains the complete agreement concerning the contractual arrangement between the parties and shall, as of the effective date hereof, supersede all other agreements between the parties. The parties stipulate that neither of them has made any representation with respect to the subject matter of the agreement or any representations including the execution and delivery of the agreement except such representations as are specifically set forth in the Contract and each of the parties acknowledges that it or he has relied on its or his own judgment in entering into the Contract. The parties further acknowledge that any payments or representations that may have been made by either of them to the other prior to the date of executing the Contract are of no effect and that neither of them has relied thereon in connection with its or his dealings with the other.
- B. Any modification of the Contract or additional obligation assumed by either party in connection with the Contract shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.
- C. If any provision, or any portion thereof, contained in the Contract is held to be unconstitutional, invalid, or unenforceable, the remainder of the Contract, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.
- D. It is the intention of the parties to the Contract that the Contract and the performance under the contract, and all suits and special proceedings under the Contract, be construed in accordance with and under and pursuant to the laws of the State of Kansas and that, in any action, special proceeding or other proceeding that may be brought arising out of, in connection with, or by reason of the contract, the laws of the State of Kansas shall be applicable and shall govern to the exclusion of the law of any other forum, without regard to the jurisdiction in which any action or special proceeding may be instituted.

- E. The titles to sections of the Contract are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of the Contract.
- F. This contract shall not be assigned or transferred by The Carter Group without the written consent of the City.
- G. The Carter Group agrees that all of the information, data, processes and procedures related to the subject matter of this Contract, to include all matters related to legislative services and lobbying, shall be considered and maintained as confidential information.

IN WITNESS WHEREOF, the City, has caused the Contract to be signed and executed in its behalf by its Mayor, and duly attested by its City Clerk and The Carter Group has signed and executed the Contract the day and year first above written.

CITY OF OVERLAND PARK, KANSAS

ATTEST:

Carl Gerlach, Mayor

Marian Cook, City Clerk

APPROVED AS TO FORM:

Michael R. Santos
Senior Assistant City Attorney

LEGISLATIVE CONSULTANT

The Carter Group
Dick Carter, President

STATE OF KANSAS)

ACKNOWLEDGMENT

COUNTY OF JOHNSON) ss.
)

BE IT REMEMBERED, that on this _____ day of _____, 2011, before me, the undersigned, a Notary Public in and for said County and State, came Dick Carter of The Carter Group who is personally known to me to be the same person who executed the foregoing Contract on his own behalf, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

My appointment expires:

Notary Public

CONSULTANT'S STATEMENT

I have contracted with the City of Overland Park to perform legislative consultant services. I do not employ the services of any other person(s) whose annual remuneration exceeds \$20,000. In the event that remuneration exceeds \$20,000, I hereby agree to purchase workers' compensation insurance and immediately furnish the City of Overland Park proof of such insurance.

CONSULTANT'S SIGNATURE

DATE