

**Sixth Amendment to the Health Care Consultant Agreement**  
**between**  
**The City of Overland Park, Kansas**  
**and**  
**Mercer Health & Benefits LLC**

This sixth amendment (the “Sixth Amendment”) is made as of December 16, 2013, by and between the City of Overland Park, Kansas (“City”) and Mercer Health & Benefits LLC (“Consultant”).

**WHEREAS**, City and Consultant entered into a Health Care Consultant Agreement commencing on June 1, 2007 (the “Agreement”) whereby City engaged Consultant to provide certain services to City under the terms and conditions set forth in the Agreement; and

**WHEREAS**, the City and Consultant subsequently on May 30, 2010 entered into an amendment to the original June 1, 2007 Agreement, (the “Amendment”) whereby the parties agreed to certain limitations of liability and other matters; and

**WHEREAS**, the City and Consultant subsequently on June 20, 2011 entered into a Second Amendment to the original June 1, 2007 Agreement and the May 30, 2010 Amendment to the Health Care Consulting Agreement, (the “Second Amendment”) whereby the parties agreed to certain terms and conditions; and

**WHEREAS**, the City and Consultant subsequently on July 9, 2012 entered into a Third Amendment to the original June 1, 2007 Agreement, the May 30, 2010 Amendment, and the June 20, 2011 Second Amendment, (the “Third Amendment”) whereby the parties agreed to certain terms and conditions; and

**WHEREAS**, the City and Consultant subsequently on November 19, 2012 entered into a Fourth Amendment to the original June 1, 2007 Agreement, the May 30, 2010 Amendment, and the June 20, 2011 Second Amendment, the July 9, 2012 Third Amendment, (the “Fourth Amendment”) whereby the parties agreed to certain terms and conditions; and

**WHEREAS**, the City and Consultant subsequently on August 5, 2013 entered into a Fifth Amendment to the original June 1, 2007 Agreement, the May 30, 2010 Amendment, and the June 20, 2011 Second Amendment, the July 9, 2012 Third Amendment, the November 19, 2012 Fourth Amendment, (the “Fifth Amendment”) whereby the parties agreed to certain terms and conditions; and

**WHEREAS**, the parties now wish to further amend the Agreement and all subsequent amendments, as provided below.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the parties agree to amend the following provisions of the Agreement and subsequent amendments:

**SECTION IV. RESPONSIBILITIES AND OBLIGATIONS OF CONSULTANT** shall be amended by adding the following provisions:

I. Benefits consulting services related to the City’s vision, critical illness, life, long term disability, short term disability, accidental death & dismemberment policies including the following:

- 1) Draft and distribute RFP's to carriers and/or administrators
- 2) Evaluate responses to RFP
- 3) Assist City to negotiate competitive pricing with favorable terms & conditions with respect to the selected benefits products
- 4) Implementation of programs
- 5) Ongoing program management and issue resolution
- 6) Strategic consulting on the integration of benefit programs including the number and type of products, plan design options, vendors and costs based on City HR/financial requirements, employee demographic and salary profiles and state locations
- 7) Strategize on best active enrollment solutions for City.
- 8) Identify administration efficiencies
- 9) Review vendor contracts

**SECTION VI. CONSIDERATION AND PAYMENT TERMS** shall be amended by replacing the existing language with the following provisions:

Except as otherwise provided in this Section VI, City shall pay Consultant the following compensation for services provided to the City:

**June 1, 2013 to May 31, 2014**

Medical and Dental ongoing services	\$65,600.00
Medical Marketing Project	\$20,000.00
Dental Marketing Project (if required)	\$5,000.00

**Feasibility Study for On-site Clinic**

No more than \$10,000, based on satisfactory performance of services and the submission of detailed monthly statements of services separate from the monthly statement set forth below under Payment Terms.

**On-site Clinic Consulting**

No more than \$30,000, based on satisfactory performance of services and the submission of detailed monthly statements of services separate from the monthly statements set forth below under Payment Terms.

In addition, the parties acknowledge that the Consultant is entitled to receive the following compensation in the form of commissions on ancillary insurance coverage as indicated below:

**American Family Assurance Company (AFLAC):**

Cancer Insurance

Standard commission schedule for new policies written after 6/1/11  
(contract to be terminated 12/31/2013)

**Lincoln Financial:**

Basic Life & Dependent Life Insurance;  
Basic AD&D;  
Long Term Disability;  
Optional Life;  
Optional Short Term Disability;

**Commissions:**

All coverages pursuant to commission schedule

**Application Software, Inc. (ASI)**

Flex Administration  
Net of commissions

**Corporate Care:**

Wellness Program  
Net of commissions

**UNUM Life Insurance Company:**

Long Term Care Insurance

**Commissions:**

Pursuit to commission schedule

**Aetna/Allstate (effective January 1, 2014):**

Critical Illness;  
Vision

**Commissions:**

Pursuant to commission schedule

**Payment Terms**

Consultant is to remit a monthly invoice for one-twelfth (1/12) of the annual consideration as set forth in Paragraph A above, to the City's Manager, Personnel Services that records the Consultant's monthly activity and the hours expended. Payment for services rendered by Consultant is due and payable by City within 30 days of receipt of invoice from Consultant.

**Cash Basis Law**

The City is obligated only to make payments under this Agreement as may be lawfully made from funds budgeted and appropriated for the purposes as set forth in this Agreement during the City's current budget year. In the event the City does not so budget and appropriate the funds, the parties shall be relieved from all obligations, without penalty, under this Agreement.

2. **Other Terms.** All other terms and provisions of the Agreement as amended by subsequent amendments and, not otherwise amended hereby, shall remain in full force

and effect. In the event of any inconsistency between the terms of this Sixth Amendment and the Agreement, the terms of this Sixth Amendment shall govern and control.

- 3. Severability. It is the intent of the parties that the provisions of this Sixth Amendment shall be enforced to the fullest extent permitted by applicable law. To the extent that the terms set forth in this Sixth Amendment or any word, phrase, clause or sentence is found to be illegal or unenforceable for any reason, such word, phrase, clause or sentence shall be modified deleted or interpreted in such a manner so as to afford the party for whose benefit it was intended the fullest benefit commensurate with making this Sixth Amendment as modified, enforceable and the balance of this Sixth Amendment shall not be affected thereby, the balance being construed as severable and independent.

IN WITNESS WHEREOF, the parties have agreed to this Sixth Amendment this 16<sup>th</sup> day of December, 2013.

ATTEST:

CITY

\_\_\_\_\_  
Marian Cook  
City Clerk

By: \_\_\_\_\_  
Carl Gerlach  
Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael R. Santos  
City Attorney

Mercer Health & Benefits LLC

By: \_\_\_\_\_  
Name:  
Title:

CORPORATE ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

BE IT REMEMBERED That on this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came \_\_\_\_\_, \_\_\_\_\_ of Mercer Health & Benefits LLC, a corporation duly organized, incorporated, and existing under and by virtue of the laws of \_\_\_\_\_, who is personally known to me to be such officer and who is personally known to me to be the same person who executed as such officer the above instrument on behalf of said Corporation, and such person duly acknowledged the execution of the same to be the act and deed of said Corporation.

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

\_\_\_\_\_  
Notary Public

My Appointment Expires

\_\_\_\_\_