

PERSONAL SERVICES AGREEMENT

Between the City of Arlington, Texas

and

**CapitalEdge Strategies, LLC
Washington, D.C.**

WHEREAS, the City of Arlington, ("City"), in consultation with other major cities in Texas, has determined that there is a need for jointly sponsored Washington representation; and

WHEREAS, this need is particularly pressing in relation to:

1. information about legislative and executive action on issues of common interest,
2. transmitting City positions on these issues to the Congressional delegation and to the Administration, and
3. obtaining individual City service to pursue defined projects or individual legislative priorities; and

WHEREAS, Ralph Garboushian, due to the concurrent participation of other Texas cities has unique qualifications and experience that no other person can offer the City during this period of time; and

WHEREAS, Ralph Garboushian is known to the City and is capable of and willing to undertake such representation in Washington as a personal services contract exempt from competitive bidding in accordance with Section 252.022 (a) of the Texas Local Government Code;

NOW, THEREFORE, the City of Arlington, in association with and recognizing the concurrent participation of the Cities of Austin, Dallas, and Denton (collectively, the "Cities"), enters into this personal services agreement with CapitalEdge Strategies, LLC. ("Consultant").

I. OBLIGATIONS OF THE CONSULTANT

- A. The Consultant will operate a unit to act as a Washington office for the City and head this unit and as Washington Assistant to the City. The Consultant will furnish requisite staff, office space, utilities, furnishings, and equipment, secretarial services, common-use office supplies and services, and general administrative support.
- B. The Consultant will consult with the "Committee" (see Section IIC) to determine issues of specific interest to the Cities and to determine policies and positions which the Cities as a group hold and wish to be pursued. In cases in which the City positions differ from or conflict with the Cities' group position, the Consultant will consult with the City and the Committee to determine the proper course of action.
- C. Information.
 - 1. The Consultant will provide regular information on Washington issues and events of interest to the Cities. This will be done by:
 - a) a regular "Washington Report,"
 - b) written reports, bulletins, and memoranda on developments regarding Texas-specific issues, and
 - c) direct phone contact.
 - 2. The Consultant will present federal affairs briefings for the Cities at times and places specified by the Committee.
- D. Congressional Relations.

The Consultant will establish and maintain on a regular basis contact with the Texas Senators and the Cities' delegation in the House of Representatives.
- E. Administrative Relations.

The Consultant will advise and consult on behalf of the City with the White House and the following federal agencies or departments: Commerce, SBA, Treasury, HUD, Labor, HHS, DOT, EPA, Interior, Justice, DOE, and such other agencies, departments and commissions as may be necessary to the performance of Washington service to the City.

II. OBLIGATIONS OF THE CITY

- A. The City will contract with the Consultant for specified services for a period of two years, commencing October 1, 2020 and ending September 30, 2022. Upon written consent of the Parties, this Contract may be renewed for one additional two-year period.
- B. The cost of this Contract is \$67,750 annually, for a total amount to not exceed \$135,500, which will be paid monthly in advance as a retainer of \$5,645.83. Cost includes all travel and out of pocket expenses.
- C. The Committee.
 - 1. The City will appoint a member to a Committee of the Cities associated in this effort. The Committee will appoint its own chairperson and determine the times and places of its meetings. The functions of the Committee are:
 - a) to determine common positions on federal issues which the Consultant is to pursue on behalf of the Cities.
 - b) to discuss apparent conflicts or differences on issues or projects which may arise among the Cities and to resolve them in terms of a course of action for the Consultant.
 - c) to monitor the function and operation of the Washington office to determine if it is fulfilling the goals and objectives for which it was designed.
 - d) to authorize travel and other reimbursable expenses to be incurred for the common purposes of the Cities.
- D. General.
 - 1. The City will inform the Consultant of the person(s) authorized to request services and to serve as the chief contact.
 - 2. The City will supply the Consultant with a summary of the federal programs in which the City is participating and other information necessary to an understanding of the City's purposes in relation to the federal government.

III. THE CITY AND THE CONSULTANT AGREE THAT CERTAIN EXCLUSIONS SHALL APPLY.

- A. The Consultant will not:
1. Directly or indirectly participate in or intervene in any political campaign on behalf of or in opposition to any candidate for city office.
 2. Will not represent the interests of local constituents in pursuit of federal business.
 3. By virtue of this agreement, represent other local agencies in the City except those which are instrumentalities or agencies of the City.
 4. Perform any legal, engineering, accounting, or other similar professional services.

IV. THE CITY AND THE CONSULTANT AGREE

- A. Either party may terminate this agreement at any time by giving the other at least thirty (30) days' written notice.
- B. This agreement shall take effect on October 1, 2020.

V. PROFESSIONAL COMPETENCY

- A. The Consultant agrees that in the performance of these personal services, Consultant shall be responsible to the level of competency and shall use the same degree of skill and care presently maintained by other practicing professionals performing the same or similar types of work. For the purpose of this Agreement, the key person who will be performing most of the work hereunder shall be Ralph Garboushian. However, nothing herein shall limit Consultant from using other qualified and competent members of his firm to perform the services required herein so long as they are working in a support role to Mr. Garboushian.
- B. The City shall be able to make copies of any reports and documents prepared or obtained under the terms of this Agreement. The City shall be able to use copies of these reports and documents without restriction on their use and without further compensation to Consultant.
- C. If a party provides information or materials indicated to be confidential, the receiving party will maintain the confidentiality of such matters and not disclose any such information except in proper performance of this contract and as required by law.
- D. Consultant agrees to fully comply with the applicable state and federal ethics laws concerning legislative advocacy conflicts of interests. Consultant agrees

to exercise extreme care and to undertake preemptive measures to avoid conflicts, unintended and otherwise, which may arise in the future. If any such conflict should develop, Consultant agrees to bring that fact immediately to the attention of both clients for resolution. Consultant agrees that their clients shall be the sole judge of whether or not a conflict exists and whether any such conflict has been adequately resolved.

The Consultant agrees to provide the City with a complete list of all newly acquired legislative consulting clients on a monthly basis. By signing this Agreement, the City is affirming that they have received a complete listing of the Consultant's legislative consulting clients and that as of the execution date of this Agreement no direct conflicts of interests currently exist.

Additionally, the Consultant agrees to notify the City of any legislative work it is involved with on behalf of other clients which may pose a conflict of interest or be in opposition to the City's agenda or interests. This notification shall be on a monthly basis.

VI. ESTABLISHMENT AND MAINTENANCE OF RECORDS

Full and accurate records shall be maintained by the Consultant at its place of business with respect to all matters covered by this Agreement. Such records shall be maintained for a period of at least three years after receipt of final payment under this Agreement.

VII. AUDITS AND INSPECTION

At any time during normal business hours and upon reasonable notice to the Consultant, there shall be made available to the City all of the Consultant's records with respect to all matters covered by this Agreement. The Consultant shall permit the City to audit, examine, and make excerpts or transcripts from such records, and to make audits of contracts, invoices, materials, and other data relating to all matters covered by this Agreement.

VIII. INDEMNITY AND INDEPENDENT CONTRACTOR RELATIONSHIP

THE CONSULTANT SHALL PERFORM ALL SERVICES AS AN INDEPENDENT CONTRACTOR NOT UNDER THE DIRECT SUPERVISION AND CONTROL OF THE CITY. NOTHING HEREIN SHALL BE CONSTRUED AS CREATING A RELATIONSHIP OF EMPLOYER AND EMPLOYEE BETWEEN THE PARTIES. THE CITY AND CONSULTANT AGREE TO COOPERATE IN THE DEFENSE OF CLAIMS, ACTIONS, SUITS, OR PROCEEDINGS OF ANY KIND BROUGHT BY A THIRD PARTY WHICH MAY RESULT FROM OR DIRECTLY OR INDIRECTLY ARISE FROM ANY NEGLIGENCE AND/OR ERRORS OR OMISSIONS ON THE PART OF THE CONSULTANT OR FROM

ANY BREACH OF THE CONSULTANT'S OBLIGATIONS UNDER THIS AGREEMENT. IN THE EVENT OF ANY LITIGATION OR CLAIM UNDER THIS AGREEMENT IN WHICH THE CITY IS JOINED AS A PARTY, CONSULTANT SHALL PROVIDE SUITABLE COUNSEL TO DEFEND CITY AND CONSULTANT AGAINST SUCH CLAIM, PROVIDED THE CONSULTANT SHALL HAVE THE RIGHT TO PROCEED WITH THE COMPETENT COUNSEL OF ITS OWN CHOOSING. THE CONSULTANT AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY AND ALL OF ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES AGAINST ANY ALL SUCH CLAIMS TO THE EXTENT OF COVERAGE BY CONSULTANT'S COMMERCIAL LIABILITY POLICY AS DESCRIBED IN PARAGRAPH C. THE CONSULTANT AGREES TO PAY ALL EXPENSES, INCLUDING, BUT NOT LIMITED TO ATTORNEY'S FEES, AND SATISFY ALL JUDGMENTS WHICH MAY BE INCURRED OR RENDERED AGAINST THE CONSULTANT'S COMMERCIAL LIABILITY INSURANCE POLICY. NOTHING HEREIN CONSTITUTES A WAIVER OF ANY RIGHTS OR REMEDIES THE CITY MAY HAVE TO PURSUE UNDER EITHER LAW OR EQUITY, INCLUDING, WITHOUT LIMITATION, A CAUSE OF ACTION FOR SPECIFIC PERFORMANCE OR FOR DAMAGES, A LOSS TO THE CITY RESULTING FROM CONSULTANT'S NEGLIGENT ERRORS OR OMISSIONS, OR BREACH OF CONTRACT, AND ALL SUCH RIGHTS AND REMEDIES ARE EXPRESSLY RESERVED.

- A. Consultant shall, at its own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. Consultant shall not commence work under this Contract until Consultant has obtained all the insurance required under this Contract and such insurance has been approved by City, nor shall Consultant allow any subcontractor to commence work on its own subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Contract shall be written on an "occurrence" basis, except for professional liability, which shall be on a "claims made" basis. The insurance requirements shall remain in effect throughout the term of this Contract.
1. Worker's Compensation Insurance, statutory limits as required by law; Employers Liability Insurance of not less than \$1,000,000.00 for each accident, \$1,000,000.00 disease-each employee, \$1,000,000.00 disease-policy limit.
 2. Commercial General Liability Insurance, including Independent Contractor's Liability, Completed Operations and Contractual Liability, covering but not limited to the indemnification provisions of this Contract,

fully insuring Consultant's liability for injury to or death of employees of CITY and third parties, extended to include personal injury liability coverage and for damage to property of third parties, with a combined bodily injury and property damage limit of \$1,000,000.00 per occurrence and \$2,000,000 aggregate.

3. Comprehensive Automobile and Truck Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury and property damage limit of \$1,000,000.00 per occurrence; or separate limits of \$250,000 for bodily injury (per person), \$500,000 bodily injury (per accident), and \$100,000 for property damage.
4. Professional Liability Insurance: Consultant shall obtain and maintain at all times during the prosecution of the work under this Contract professional liability insurance. Limits of liability shall be \$1,000,000.00 per occurrence and \$2,000,000 aggregate. Any such policy of insurance and the Declarations Page therefore shall identify if coverage is being provided on an "occurrence" or "claims-made" basis. If this coverage is being provided on a claims-made basis, Consultant must maintain this policy for a period of two (2) years after the completion of the project or shall purchase the extended reporting period or "tail" coverage insurance providing equivalent coverage for the same period of time.

B. Each insurance policy to be furnished by Consultant shall include the following conditions by endorsement to the policy:

1. Name City as an additional insured as to all applicable coverage, except worker's compensation and professional liability insurance;
2. Each policy will require that thirty (30) days prior to the expiration, cancellation, non-renewal or any material change in coverage, a notice thereof shall be given to City by certified mail to:

Risk Manager
City of Arlington MS# 63-0790
P.O. Box 90231
Arlington, Texas 76004-3231

However, if the policy is canceled for nonpayment of premium, only ten (10) days advance written notice to City is required; Consultant shall also notify City within twenty-four (24) hours after receipt of any notices of expiration, cancellation, nonrenewal or any material change in coverage it receives from its insurer(s).

3. The term "Owner" or "CITY" shall include all authorities, boards, bureaus, commissions, divisions, departments and offices of CITY and the individual members, employees and agents thereof in their official capacities, and/or while acting on behalf of CITY;
 4. The policy phrase "Other Insurance" shall not apply to CITY where CITY is an additional insured on the policy; and
 5. All provisions of the Contract concerning liability, duty, and standards of care together with the indemnification provision shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.
- C. Concerning insurance to be furnished by Consultant, it is a condition precedent to acceptability thereof that:
1. Any policy submitted shall not be subject to limitations, conditions or restrictions deemed inconsistent with the intent of the insurance requirements to be fulfilled by Consultant. CITY's decision(s) thereon shall be final;
 2. All policies are to be written through companies duly approved to transact that class of insurance in the State of Texas and Washington, D.C.; and
 3. The General and Automobile liability policies required herein shall be written with an "occurrence" basis coverage trigger.
- D. Consultant agrees to the following:
1. Consultant hereby waives subrogation rights for loss or damage to the extent same are covered by insurance. Insurers shall have no right of recovery or subrogation against CITY, it being the intention that the insurance policies shall protect all parties to this Contract and be primary coverage for all losses covered by the policies;
 2. Companies issuing the insurance policies and Consultant shall have no recourse against CITY for payment of any premiums, or assessments for any deductible, as all such premiums are the sole responsibility and risk of Consultant;
 3. Approval, disapproval or failure to act by CITY regarding any insurance supplied by Consultant (or any subcontractors) shall not relieve Consultant of full responsibility or liability for damages and accidents as set forth in the Contract documents. Neither shall the insolvency or denial of liability

by the insurance company exonerate Consultant from liability; and,

4. No special payments shall be made for any insurance that the Consultant and subcontractors are required to carry; all are included in the contract price and the contract unit prices.

IX. ISRAEL PROVISION

Pursuant to Chapter 2270 of the Texas Government Code, the VENDOR verifies by signing this Contract that the Vendor does not boycott Israel and will not boycott Israel during the term of this Contract

X. COMPLIANCE WITH LAWS

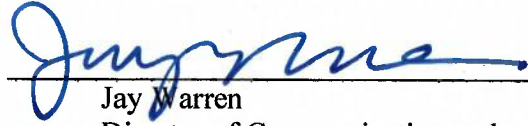
The consultant shall comply with all applicable laws.

XI. GOVERNING LAW

This agreement shall be governed by the laws of the State of Texas, venue and jurisdiction of any suit or cause of action arising under this agreement shall lie exclusively in a court of competent jurisdiction sitting in Arlington, Texas.

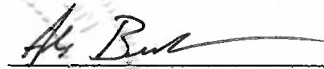
In witness hereof, the City of Arlington, Texas, has caused this agreement to be executed by its duly authorized City Manager and Consultant has executed this agreement through its duly authorized President, dated this _____ day of 2020.

FOR THE CITY OF ARLINGTON,
TEXAS



Jay Warren
Director of Communication and
Legislative Affairs

Attest:



Alexander Busken
City Secretary

FOR CAPITALEdge STRATEGIES, LLC



Ralph Garboushian
CapitalEdge Strategies, LLC
1212 New York Ave, NW
Washington, DC 20005
202-842-5430
Federal Employer ID #: 27-0248027

Approved to legal form:

By: 
Teris Solis, City Attorney