

INDEPENDENT CONTRACTOR AGREEMENT

This AGREEMENT (“Agreement”) is effective as of the date listed below by and between the City of Aurora, Illinois, a home rule municipal corporation (“City”) and the Consultant, an independent contractor for the purposes specified herein.

Consultant:	Roger C. Marquardt & Co., and Illinois Corporation
Effective Date:	January 1, 2024
Purpose(s):	State Governmental Affairs, Lobbying and General Consulting
Term:	January 1, 2024 – December 31, 2024; early termination as set forth in Agreement.
Compensation:	\$6,365.25 per month to be paid in accordance with the Local Government Prompt Payment Act.

RECITALS

WHEREAS, the City is desirous of receiving certain services rendered by the Consultant for the purposes described herein; and

WHEREAS, the Consultant has demonstrated expertise in providing such services, has represented that it has the requisite knowledge, skill, and expertise and other resources necessary to perform such services and is desirous of rendering such services to the City;

NOW THEREFORE, in considering of the foregoing and mutual covenants contained herein, the parties hereby agree as follows:

1. **Incorporation of Recitals:** The matters recited above are hereby incorporated and made a part of this Agreement.
2. **Term:** The term of this Agreement shall be as set forth herein, unless terminated sooner as provided for herein.
3. **Termination**
 - a. Except as set forth in this Agreement, either party shall have the right to terminate this Agreement for any cause or for no cause at all upon thirty (30) days written notice served upon the other party. Notwithstanding the foregoing, in the event of the Consultant’s insolvency, bankruptcy, receivership, or allegation of wrongdoing

by one of its principals arising from or related to the nature of services provided, termination shall be effective immediately upon the Consultant's notice by the City.

- b. Upon termination, the liabilities of the parties to this Agreement shall cease, but the parties shall not be relieved of the duty to perform their respective obligations to each other up to the date of termination or to pay for deliverables tendered prior to termination. There shall be no termination expenses.
 - c. Upon termination of this Agreement, all data, work products, reports, and documents produced by the Consultant as a result or in furtherance of this Agreement shall be the property of the City. The Consultant shall provide all deliverables within fourteen (14) days of termination in accordance with other provisions of this Agreement.
4. **Scope of Services:** The Consultant agrees to provide the services required and, if applicable, set forth in Exhibit A, including but not limited to any deliverables set forth thereon in accordance with the terms and conditions of this Agreement. The City may from-time-to-time request changes in the scope of Services. Any such changes, including any increase or decrease in the Consultant's compensation shall be documented by a written amendment to this Agreement in accordance with State law and City Ordinance.
5. **Compensation and Payment:** Compensation for services during the term of this agreement shall be as provided above and shall not exceed any aggregate amount specified by this Agreement. Compensation shall be based on actual Services performed during the term of this Agreement for the sole benefit of the City. The City shall not be obligated to pay for any services not in compliance with this Agreement. The City will not reimburse the Consultant for any expenses, including, but not limited to travel and mileage expenses, incurred in the Consultant in the performance of this Agreement. In the event of early termination of this Agreement, the City shall only be obligated to pay the fees incurred up to the date of termination. In no event will the City be liable for any costs incurred or Services performed after the effective date of termination as provided herein.

The Consultant shall provide the City with monthly invoices referencing this Agreement along with any additional supporting materials the City may request. The City shall pay all such invoices in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1 *et. seq.*

6. **Non-Appropriation:** Expenditures not appropriated in the current fiscal year budgeted are deemed contingent liabilities and are subject to appropriation in subsequent fiscal year budgets. In the event the City Council of the City does not appropriate sufficient funds in a subsequent fiscal year for performance under this Agreement, the City shall notify the Consultant and the Agreement shall terminate on the last day of the fiscal period for which funds were appropriated. In no event shall the City be liable to the Consultant for any amount in excess of the cost of the services rendered up to and including the last day of the fiscal period.

7. **Events of Default and Remedies:**

- a. **Events of Default.** Events of default include, but are not limited to any of the following: (1) Any material misrepresentation by the Consultant in the inducement of this Agreement or the performance of services; (2) Breach of any provision, representation or warranty made by the Consultant under this Agreement; (3) Failure of the Consultant to perform in accordance with or comply with the terms and conditions of this Agreement; (4) Failure to maintain in good standing any licenses or registration required by any governmental authority to perform services of the nature contemplated by this Agreement.
- b. **Remedies.** In the event the Consultant defaults under this Agreement and such default is not cured within fifteen (15) calendar days after written notice is given by the City, the City may take the following actions: (1) It may terminate the agreement immediately; and (2) it may debar the Consultant from the award of future City contracts. The remedies available to the City as set forth herein are not intended to be exclusive and the City may pursue any and all other remedies available at law or equity.

8. **Standards of Performance:** The Consultant agrees to devote such time, attention, skill, and knowledge as is necessary to perform Services effectively and efficiently. The Consultant acknowledges and accepts a relationship of trust and confidence with the City and agrees to cooperate with the City in performing Services to further the best interests of the City.

9. **Assignment:** This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that neither party may assign this Agreement or any obligations imposed hereunder without the prior written consent of the other party.

10. **Confidentiality and Ownership of Documents:**

- a. **Confidential Information.** In the performance of Services, the Consultant may obtain or have access to certain information that is not generally known to others ("Confidential Information"). The Consultant agrees not to use or disclose to any third party, except in the performance of Services, any Confidential Information or any records, reports or documents prepared or generated as a result of this Agreement without the prior written consent of the City. The Consultant shall not issue publicity news releases or grant press interviews, except as may be required by law, during or after the performance of the Services, nor shall it disseminate any information regarding Services without the prior written consent of the City. The Consultant agrees to cause its personnel, staff and/or subcontractors, if any, to undertake the same obligations of confidentiality agreed to by it under this Agreement. The terms of this Paragraph 10 a. shall survive the expiration or termination of this Agreement.
- b. **Ownership.** All records, reports, documents, and other materials prepared by the Consultant in performing Services, as well as all records, reports, documents, and

other materials containing Confidential Information prepared or generated as a result of this Agreement, shall at all times be and remain the property of the City. All of the foregoing items shall be delivered to the City upon demand at any time and in any event, shall be promptly delivered to the City upon expiration or termination of the Agreement. In the event any of the above items are lost or damaged while in the Consultant's possession, such items shall be restored or replaced at the Consultant's expense.

11. **Representations and Warranties of the Consultant:** The Consultant represents and warrants that the following shall be true and correct as of the effective date of this Agreement and shall continue to be true and correct during the Term of this Agreement.
 - a. **Licensed Professionals.** Services required to be performed by professionals or those which require any licensure of any kind shall be performed only by those licensed to perform such services by the State of Illinois.
 - b. **Compliance with Laws.** The Consultant is and shall remain in compliance with all local, state and federal laws, City ordinances, and regulations relating to this Agreement and the performance of Services. Further, the Consultant is and shall remain in compliance with all City policies and rules, including, but not limited to, criminal background checks.
 - c. **Good Standing.** The Consultant is not in default and has not been deemed by the City to be in default under any other Agreement with the City during the five (5) year period immediately preceding the effective date of this Agreement.
 - d. **Authorization.** In the event the Consultant is an entity other than a sole proprietorship, the Consultant represents that it has taken all action necessary for the approval and execution of this Agreement, and execution by the person signing on behalf of the Consultant is duly authorized by the Consultant and has been made with complete and full authority to commit the Consultant to all terms and conditions of this Agreement which shall constitute valid, binding obligations of the Consultant.
 - e. **Illegal Gifts and Gratuities.** No payment, gratuity or offer of employment, except as permitted by the State Officials and Employees Ethics Act and the City of Aurora's Ethics Ordinance was made by or to the Consultant in relation to this Agreement or as an inducement for award of this Agreement.
12. **Independent Contractor:** The Parties understand and that the relationship of the Consultant to the City is and shall continue to be that of an independent contractor and neither the Consultant nor any of the Consultant's employees shall be entitled to receive City employee benefits. As an independent contractor, the Consultant agrees to be responsible for the payment of all taxes and withholdings specified by law, which may be due in regard to compensation paid by the City. The Consultant agrees that neither the Consultant nor its employees, staff or subcontractors shall represent themselves as employees or agents of the City.

13. **Indemnification**: the Consultant agrees to indemnify and hold harmless the City, its members, trustees, employees, agents, officers and officials, from and against any and all liabilities, taxes, tax penalties, interest, losses, penalties, damages and expenses of every kind, nature and character, including costs and attorney fees, arising out of, or relating to, any and all claims, liens, damages, obligations, actions, suits, judgments, settlements, or causes of action of every kind, nature and character, in connection with or arising out of the acts or omissions of the Consultant or its employees or its subcontractors under this Agreement. This includes, but is not limited to, the unauthorized use of any trade secrets, U.S. patent or copyright infringement. The indemnities set forth herein shall survive the expiration or termination of this Agreement. Notwithstanding the foregoing, the Consultant and City shall not be deemed to have waived any rights, protections or immunities under the Local Government and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101, et. seq.

14. **Insurance**: At all times during the term of the contract, the Consultant and its independent contractors shall maintain, at their sole expense, insurance coverage for the Contractor, its employees, officers and independent contractors, as follows
 - a. **Certificates of Insurance**. The City shall be named as additional insured on all certificates of insurance. The Consultant shall deliver copies of its certificates of insurance to the Law Department Division of Risk Management, 44 E Downer Pl, Aurora, IL 60507. The certificates shall reflect that insurance carrier of the insured is required to notify the City of termination of any or all of these coverages, prior to the completion of any contract, at least 30 days prior to expiration.

 - b. **Automobile Insurance**. If the Consultant will be driving a vehicle in the course of performing the Services, the Consultant shall attach a copy of its current automobile insurance card confirming that the vehicle is covered by insurance.

 - c. **Waiver**. In consideration of the City agreeing to waive its requirement that the Consultant carry Commercial General Liability Insurance, Professional Liability Insurance and Worker's Compensation and Employer's Liability Insurance, the Consultant agrees to hold the City, its elected and appointed officers, employees, agents and officials, harmless from all liability in any claim or action made by the Consultant or any third party, and harmless from any judgment awarded by any court or administrative body, for personal injury, disability or death, or damage or destruction of property resulting from or connected with the Services, unless caused by the gross negligence of the City.

15. **Notices**: All notices required under this Agreement shall be in writing and sent to the addresses and persons set forth below, or to such other addresses as may be designated by a party in writing. All notices shall be deemed received when (i) delivered personally; (ii) sent by confirmed telex or facsimile (followed by the actual document); or (iii) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. The parties shall direct notices as set forth in Exhibit A.

16. **Entire Agreement and Amendment:** This Agreement, including all exhibits and referenced documents constitutes the entire agreement of the parties with respect to the matters contained herein. All attached exhibits are incorporated into and made a part of this Agreement. No modification of or amendment to this Agreement shall be effective unless such modification or amendment is in writing and signed by both parties hereto. Any prior agreements or representations, either oral or written, relating to the subject matter of this Agreement are of no force nor effect.
17. **Governing Law and Venue:** This Agreement shall be governed and construed in accordance with the substantive and procedural laws of the State of Illinois notwithstanding their conflict or choice of law principles. The parties agree that the exclusive venue for any litigation arising from or related to this Agreement shall be the Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois.
18. **Waiver:** No delay or omission by the City to exercise any right hereunder shall be construed as a waiver of any such right and the City reserves the right to excuse any such right from time-to-time as often and as it may deem expedient.
19. **Construction:** This Agreement has been negotiated and prepared by the Parties and their respective counsel, and should any provision of this Agreement require judicial interpretation, the court interpreting or construing the provision shall not apply any rule of construction that a document is to be construed more strictly against one party.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly-authorized representatives as of the dates listed below

CITY OF AURORA, ILLINOIS

By: _____

Its: _____

CONSULTANT

By:  _____

Its: President _____

Exhibit A

SCOPE OF SERVICES

1. **Services to be Rendered.** The Consultant shall provide to the City the lobbying services and general consulting services of Scott R. Marquardt, a lobbyist registered with the Secretary of State of Illinois, to represent the interests of the City before the executive and legislative branches of Illinois State government. As used in this Exhibit, the terms “lobbyist,” “lobby” or “lobbying” have the same meaning as set forth in Section 2(e) of the Lobbyist Registration Act. The Consultant shall initiate and maintain communication with appropriate State governmental officials with the goal of achieving the ends desired by the City.

The Consultant will provide Illinois political and legislative analysis on all bills and resolutions in which the City has any interest, direct or indirect, present or prospective; and represent the City in legislative and regulatory matters before the Illinois General Assembly and other Illinois governmental bodies. The Consultant will register on behalf of the City in accordance with any local, state and federal advocacy disclosure requirements, and the parties expressly agree and understand that Consultant shall cause the City to be registered as a lobbying entity with the Secretary of State and will register as a contractual lobbyist on the City’s behalf.

The Consultant shall: (i) represent City before state government in Illinois on key state advocacy issues involving municipal government and budgetary items and, revenue; (ii) represent City in meetings with key legislators, and other key agencies; (iii) produce framed messaging for elected officials of the General Assembly and relevant legislative staff; (iv) track and monitor all pertinent legislation related to the proposal; (v) foster and maintain cohesive relationships with supporters of the aforementioned proposal; (vi) provide assistance in the production of fact sheets, talking points, and membership materials; (vii) develop and assist in managing strong relationships with members of the General Assembly, specifically the Black and Latino Caucuses; (viii) provide recommendations and strategies for promoting the City; (ix) foster and maintain cohesive relationships with the Mayor of Chicago, her designees and associates; (x) foster and maintain cohesive relationships with the executive branch of state government; and (xi) complete all duties as assigned.

2. **Identification of Legislative Priorities and Positions.** Unless otherwise directed by the City in writing, the Deputy Chief of Staff of the City, Alexandra Voigt, shall identify and prioritize the administrative and legislative action desired by the City. Should Ms. Voigt be unavailable, the Consultant shall consult with a City staff member designed by Ms. Voigt to act in her stead.
3. **Reports.** The Consultant shall provide Ms. Voigt with regular updates and reports, not less than monthly, on progress made toward achieving the City’s policy goals and objectives including a description of the communications the Consultant has had with representatives of the executive or legislative branches of Illinois State government.
4. **Coordination with Other City Lobbyists.** The Parties understand and acknowledge that the City is not retaining the Consultant to provide services as the City’s primary or exclusive Illinois lobbyist. The Consultant shall perform the services described herein in conjunction and coordination with the services rendered by others performing lobbyist services on behalf of the City.

5. **Engagement of Other Consultants and Lobbyists.** The Consultant may engage the services of additional lobbyists or consultants (collectively “subcontractors”) to assist in its representation of the City provided that all compensation for such subcontractors shall be and remain the sole responsibility of the Consultant. The City shall not be responsible for the costs of any subcontractor retained by the Consultant.

6. **Compliance with Laws and Ordinances.** The Consultant will comply and cause its employees and subcontractors performing services for the City to comply with all applicable federal and State laws and City ordinances, including, but not limited to, the Lobbyist Registration Act, the State Officials and Employees Ethics Act, and the City of Aurora Ethics Ordinance. The Consultant shall maintain its registration in good standing with the Illinois Secretary of State, both as to its business and lobbyist registrations. The Consultant shall not in any way directly or indirectly attempt to or use any unlawful means to influence the official actions of any public official nor shall it permit any subcontractor to do so.

NOTICES

If to the City

Ms. Alexandra Voigt
City of Aurora
44 E Downer Pl
Aurora, IL 60507
voigta@aurora.il.us

If to the Consultant

Mr. Scott R. Marquardt
Roger C. Marquardt & Co.
2001 Butterfield Rd. #1100
Downers Grove, IL 60515
Scott@marquardtco.com