

CONTRACT FOR
CITY OF CAPE CORAL
STATE LEGISLATIVE AND EXECUTIVE BRANCH LOBBYING SERVICES

CITY CONTRACT #ACM2340KS

THIS CONTRACT is made this 8th day of February 2023 by and between the CITY OF CAPE CORAL, FLORIDA, hereinafter called "CITY", and BALLARD PARTNERS, INC. located at 201 East Park Avenue, 5th Floor, Tallahassee, Florida 32301, hereinafter called "CONTRACTOR".

WITNESSETH: For and in consideration of the payments and agreements mentioned hereinafter:

1. The Contractor will provide State Legislative and Executive Branch Lobbying Services.
2. The Contractor will furnish all of the material, supplies, tools, equipment, labor and other services necessary for the completion of the services described in the Contract Documents.
3. The Contractor agrees to provide all items described in the contract documents as outlined in **EXHIBIT A** as referenced herein and made a part thereof. Compensation in the amount of **\$60,000**, payable in monthly installments of \$10,000 each month
4. The term of the contract is for a six-month period, effective February 8, 2023, with optional six-month renewal periods if agreed upon by the CITY and the CONTRACTOR,
5. This Contract may be terminated by the City for its convenience upon thirty (30) days prior written notice to the Contractor. In the event of termination, the Contractor shall be paid in full for all outstanding monies due for goods provided under this Contract.
6. The Term "Contract Documents" shall include:
This Contract as well as any written amendments, and any other documents attached hereto and/or referenced herein.

In the event of conflict between any provision of any other document referenced herein as part of the contract and this contract, the terms of this contract shall control.

7. **Assignment:** This Contract may not be assigned except with the written consent of the City, and if so assigned, shall extend and be binding upon the successors and assigns of the Contractor.
8. **Disclosure:** The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other compensation contingent upon or resulting from the award or making of the Contract.
9. **Administration of Contract:** The City representative, shall administer this Contract for the City.
10. **Governing Law:** The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. All claim and/or dispute resolution under this Agreement, whether by mediation, arbitration, litigation, or other method of dispute resolution, shall take place in Lee County, Florida.

More specifically, any litigation between the parties to this Agreement shall be conducted in the Twentieth Judicial Circuit, in and for Lee County, Florida. In the event of any litigation arising out of this

Contract, the prevailing party shall be entitled to recover from the non-prevailing party reasonable costs and attorney's fees.

CONTRACT FOR
CITY OF CAPE CORAL
STATE LEGISLATIVE AND EXECUTIVE BRANCH LOBBYING SERVICES

CITY CONTRACT #ACM2340KS

11. **Amendments:** No Amendments or variation of the terms or conditions of this Contract shall be valid unless in writing and signed by the parties.
12. **Indemnity:** To the extent permitted by law (F.S. 768.28), the Contractor shall indemnify and hold harmless the City, its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and any persons employed or utilized by Contractor in the performance of this Contract.
13. **Invalid Provision:** The invalidity or unenforceability of any particular provision of this Contract shall not affect the other provisions hereof, and the Contract shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
14. **Record Keeping:** The awarded contractor shall maintain auditable records concerning the procurement adequate to account for all receipts and expenditures, and to document compliance with the specifications. These records shall be kept in accordance with generally accepted accounting principles, and the City reserves the right to determine the record-keeping method in the event of non-conformity.

Contractor shall keep full and detailed accounts and financial records pertaining to the provision of services for the City. Prior to commencing work, Contractor shall review with and obtain the City's approval of the accounting procedures and records to be utilized by the Contractor on the Project. Contractor shall preserve the aforementioned Project records for a period of ten (10) years after final payment, or for such longer period as may be required by law.

15. **Public Records:** Pursuant to Florida Statute §287.058 (1) (c), this contract may be unilaterally cancelled by the City if the Consultant, refuses to allow public access to all documents, papers, letters, or other material made or received by the Consultant in conjunction with this contract, unless the records are exempt from disclosure.
16. **Payments:** The City shall make payment and Contractor shall be in receipt of all sums properly invoiced within thirty (30) days of the City's receipt of such invoice; unless, within a fifteen (15) day period, City notifies Contractor in writing of its objection to the amount of such invoice, with City's determination of the proper amount of such invoice. City shall pay any undisputed portion of such invoice within such thirty (30) day period.

If City shall give such notice to the Contractor within such fifteen (15) day period, such dispute over the proper amount of such invoice shall be resolved, and after final resolution of such dispute, City shall promptly pay the Contractor the amount so determined, less any amounts previously paid by City with respect to such invoice. In the event it is determined that the City has overpaid such invoice, the Contractor shall promptly refund to the City the amount of such overpayment.

17. **Insurance:** Without limiting its liability, the awarded firm shall be required to procure and maintain at its own expense during the life of the contract, insurance of the types and in the minimum amounts stated below as will protect the proposing company, from claims which may arise out of or result from the proposer's execution of the project, whether such execution by himself or by any sub-contractor, or by

CONTRACT FOR
CITY OF CAPE CORAL
STATE LEGISLATIVE AND EXECUTIVE BRANCH LOBBYING SERVICES

CITY CONTRACT #ACM2340KS

anyone directly or indirectly employed by any of them or by anyone for whose acts any of them may be liable.

Workers' Compensation Insurance covering all employees meeting Statutory Limits in compliance with the applicable State and Federal laws. The policy must include Employer's Liability with a minimum limit of \$1,000,000 for each accident.

Comprehensive General Liability coverage shall have minimum limits of \$1,000,000 per occurrence, combined single Limit for Bodily Injury Liability and Property Damage Liability. This shall include Premises and/or Operations; Independent Contractors and Products and/or Completed Operations; Broad Form Property Damage; and Contractual Liability Endorsement.

Business Auto Policy: Shall have minimum limits of \$1,000,000.00 per occurrence. Combined Single Limit for Bodily Injury and Property Damage Liability. This shall include owned vehicles, hired and non-owned vehicles, and employees' non-ownership.

Certificate of Insurance: The City of Cape Coral is to be specifically included as an additional insured under the firms' General Liability policy. This does not pertain to Workers' Compensation.

In the event the insurance coverage expires prior to the completion of the project, a renewal certificate shall be issued thirty (30) days prior to said expiration date.

The policy shall provide a 30-day notification clause in the event of cancellation or modification to the policy.

Unless otherwise specified, it shall be the responsibility of the contractor to ensure that all subcontractors comply with the same insurance requirements spelled out above.

Certificates of insurance must be on file with and approved by the City of Cape Coral before the commencement of any work activities.

Policies should be written on an "occurrence" basis.

18. **Unauthorized Aliens:**
The employment of unauthorized aliens by any Contractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of any contract resulting from this solicitation. This applies to any sub-contractors used by the Contractor as well.
19. **Entire Agreement:** This Contract constitutes the entire and exclusive agreement between the parties and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements, whether written or verbal.
20. **Annual Appropriation Contingency:** Pursuant to Florida Statute §166.241, the City's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. This Contract is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of the City if the City Council reduces or eliminates appropriations.

CONTRACT FOR
CITY OF CAPE CORAL
STATE LEGISLATIVE AND EXECUTIVE BRANCH LOBBYING SERVICES

CITY CONTRACT #ACM2340KS

21. **Scrutinized Companies List:** Pursuant to 287.135 Florida Statute, s. 215.4725 and s. 215.473, companies contracting with public agencies are prohibited from contracting for goods or services over one million (\$1,000,000) dollars that appear on the Scrutinized Companies List.
22. **Immigration Affidavit Certification and E-Verify Validation:** *As a condition precedent to entering into this AGREEMENT*, and in compliance with The Immigration and Nationality Act (INA), 8 U.S.C. Section 1324a(e) Section 274A(e) and Florida Statute State Section §448.095, Contractor or Consultant and their subcontractors shall register with and use the E-Verify system to verify work authorization status of all employees hired after January 1, 2021.

The Employment Eligibility Verification System (E-Verify) is operated by the Department of Homeland Security in partnership with the Social Security Administration.

The following conditions must be met by all Contractors, Consultants and Subcontractors:

- a. Contractor or Consultant shall require each of its subcontractors to provide them with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor, Consultant or Bidder shall maintain a copy of the subcontractor's affidavit as part of and pursuant to the records retention requirements of this AGREEMENT.
- b. The CITY, Contractor, Consultant, Bidder or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated The Immigration and Nationality Act (INA) contained in 8 U.S.C. Section 1324 a(e) Section 274A(e) Section §448.09(1), Florida Statute or the provisions of this section shall terminate the contract with the person or entity.
- c. The CITY, upon good faith belief that a subcontractor knowingly violated the provisions of this section, but Contractor or Consultant otherwise complied, shall promptly notify Contractor or Consultant and they shall immediately terminate the contract with the subcontractor.
- d. A contract terminated under the provisions of this section is not a breach of contract and may not be considered such. Any contract termination under the provisions of this section may be challenged pursuant to Section §448.095(2)(d), Florida Statute. Contractor or Consultant acknowledges that upon termination of this AGREEMENT by the CITY for a violation of this section by Contractor or Consultant, that the Contractor or Consultant may not be awarded a public contract for at least one (1) year. Contractor or Consultant further acknowledges that Contractor or Consultant is liable for any additional costs incurred by the CITY as a result of termination of any contract for a violation of this section.
- e. ***Subcontracts:*** Contractor, Consultant or subcontractor shall insert in any subcontracts the clauses set forth in this section, including this subsection, requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor or Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

CONTRACT FOR
CITY OF CAPE CORAL
STATE LEGISLATIVE AND EXECUTIVE BRANCH LOBBYING SERVICES
CITY CONTRACT #ACM2340KS

23. Safety and OSHA Compliance:
The Contractor shall comply in all respects with all Federal, State and Local safety and health regulations.

Copies of the Federal regulations may be obtained from the U.S. Department of Labor, Occupation Safety and Health Administration (OSHA), Washington, DC 20210 or their regional offices.
The Contractor shall comply in all respects with the applicable Workman's Compensation Laws.
24. Electronic Signatures: The parties acknowledge and agree that this Contract may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.
25. Counterparts: This Contract may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instrument.
26. Key Staff: The parties acknowledge and agree that Contractor was retained by the City, in part, on the basis of qualifications of particular staff, hereinafter referred to as "Key Staff". Contractor agrees that the key personnel who will be providing services to the City is Dane Eagle. Consultant shall ensure that key staff is available for services hereunder as long as said key staff is in Contractor's employment. Contractor will obtain prior written acceptance from City's representative with such information necessary to determine suitability of new key staff.

(this section intentionally left blank)

CONTRACT FOR
CITY OF CAPE CORAL
STATE LEGISLATIVE AND EXECUTIVE BRANCH LOBBYING SERVICES
CITY CONTRACT #ACM2340KS

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed, by their duly authorized officials this Contract which shall be deemed an original on the date last signed as below written:

WITNESS CITY:

CITY:

City of Cape Coral, Florida

Signature: 

Signature: 

Typed Name: Kimberly Bruns, CMC

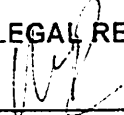
Typed Name: Roberto Hernandez

Title: City Clerk

Title: City Manager

Date: 2/8/2023


CITY LEGAL REVIEW:


For Dolores Menendez
City Attorney

2/3/2023
Date

CONTRACTOR:

Company: Ballard Partners, Inc.

Signature: 

Printed Name: Brian D. Ballard

Title: President

Date: 2/3/2023

CITY OF CAPE CORAL
STATE LEGISLATIVE AND EXECUTIVE BRANCH LOBBYING SERVICES
CITY CONTRACT #ACM2340KS

EXHIBIT "A"
SCOPE OF SERVICES

City intends to engage Contractor on a temporary basis to provide legislative and executive branch lobbying services. Contractor shall provide a full range of professional lobbying services and advocacy before the Florida Legislature, the Governor, the Cabinet and executive departments, agencies, offices, commissions, and other governmental units of the State of Florida with respect to all matters contained within the City's legislative priorities, and other issues or projects affecting City.

Contractor's services during the term of this contract shall include but not be limited to:

- 1) Work with the City Council, City Manager, City staff and the City's full lobbying team in developing special or general legislation as directed by the City Council.
- 2) Attend the State legislative session on behalf of the City.
- 3) Testify and lobby on behalf of the City to the Governor and Cabinet, and all state agencies on behalf of the City.
- 4) Appear and testify at State agency hearings, rulemaking proceedings and other administrative and legislative meetings in order to promote and seek passage of legislation affecting the City and directed by the City Council.
- 5) Coordinate and participate in appointments/meetings between the City's elected officials, City Manager, City staff and the City's full lobbying team with appropriate State officials/legislators.
- 6) Report regularly to the City Council, City Manager, and other applicable staff as designated by the City, through correspondence, informational bulletins, and personal briefings concerning legislation, appropriations, rules, policy and program directions. This will include, but not be limited to, forwarding copies of appropriate bills to the City's representative; informing the City of various meetings/hearings attended on City's behalf; providing the City with any applicable interim studies prepared by the House or Senate, clippings information from the Florida Administrative Weekly which may be pertinent to the City.
- 7) Provide the City Council and the City Manager with periodic reports during the time that the Florida Legislature has been called into regular and special session. Additionally, the Contractor shall send immediate alerts to the City Manager and City representative when an immediate action may be required to be taken by the City or any action is being contemplated by the Florida Legislature, which will directly impact the City.
- 8) Assist in arranging trips to Tallahassee for staff or elected officials when required to address specific issues affecting the City. Additionally, the Contractor shall enhance the legislative program process by initiating discussions, conferences and meetings with the City, by and through its elected officials and City Manager.

CITY OF CAPE CORAL
STATE LEGISLATIVE AND EXECUTIVE BRANCH LOBBYING SERVICES
CITY CONTRACT #ACM2340KS

- 9) Submit a report summarizing the status of the City's legislative priorities within one week of the closing of the legislative session and a more detailed final written report on specific legislation and new requirements affecting the City within a reasonable time period, not to exceed 30 days from the close of session.
- 10) Submit periodic written reports during those months that the legislature is not in session on issues of interest or concern to the City. Such information may include, but not limited to, actions taken at interim committee meetings, rulemaking hearings, status of studies underway, funding opportunities, and advance notice of legislation being proposed.
- 11) Assist the City in coordinating applications and obtaining State grants or appropriations. Contractor is not expected to prepare grant applications.
- 12) Monitor, review and comment on the progress of bills, amendments, applications and proposals that may affect the City; proposed changes to funding formulas or allocations and agency proposals, administrative rules and regulations.
- 13) Assist in drafting letters, briefing sheets and other written communication materials used to promote the City's legislative priorities and interests.

(this section intentionally left blank)