

CONTRACT FOR LOBBYING SERVICES

This Contract for Lobbying Services is hereby entered into by and between the City of DeBary, a Florida municipal corporation (“the Client”), with its principal offices located at 16 Colomba Road, DeBary, FL 32713, and Ballard Partners, Inc. (“the Firm”), a Florida Profit Corporation, with its principal offices located at 201 East Park Avenue, 5th Floor, Tallahassee, FL 32301.

Recitals

Whereas, the Client issued Request for Qualifications No. 06-23 (“RSQ”) seeking a lobbyist to work with the City Manager and Government Relations Director on behalf of the Mayor and the City Council to address matters before the State of Florida legislature, state agencies, and other quasi-governmental entities; and

Whereas, the City also sought assistance with federal lobbying efforts, including securing funding from Congress and other federal agencies that would benefit the City; and

Whereas, the City has reviewed the responses to the RSQ and wishes to retain the services of the Firm in order that the Firm may provide strategic consulting and advocacy services to the Client in connection with its business with the United States government, the Florida Legislature and executive agencies of the Florida government as requested in the RSQ; and

Whereas, the Firm wishes to provide such representation as the Client may from time to time require; and

Whereas, the parties have agreed to the terms under which the Firm will represent the Client and wish to memorialize their agreement in writing.

Now, therefore, in consideration of the mutual covenants herein contained and intending to be legally bound hereby, the parties agree as follows:

1. Term of Agreement. This agreement becomes effective on September 1, 2023 and will remain effective until August 2026 (“initial term”) with the option to renew for three (3) additional one-year terms on the anniversary of the effective date of the agreement unless either party terminates the agreement. Upon renewal of the initial term, this agreement may be terminated with thirty (30) days prior written notice issued by either party.

2. Duties of The Firm. It is the Firm’s duty to consult with the Client and advocate on its behalf those issues the Client deems necessary and appropriate before the Federal government, the Florida Legislature, and executive agencies of the Florida government as described in the Scope of Services and Strategy sections of the RSQ. Also included within the scope of the Firm’s duties is the advocacy for passage or defeat of legislation, and developments in legislation and policy relevant to the Client’s operations. The Scope of Services and Strategy sections of the RSQ are incorporated herein by reference as if fully set forth herein.

3. Duties of The Client. It shall be the Client’s duty to provide the Firm the information necessary to best represent the Client. It shall also be the Client’s duty to timely compensate the Firm for its services.

4. Compensation. The Firm shall receive from the Client an annual fee of \$78,000 for the Firm’s services under this agreement, plus the reasonable out-of-pocket costs associated with the representation, including but not limited to, necessary registration fees; and travel expenses such as hotel,

air fare, car services and meals, excluding costs typically associated with the operation of an office such as overhead, staff, and equipment. The fee shall be paid in monthly installments of \$6,500 a month, beginning September 1, 2023, and continuing to be due within forty-five days of receipt of a proper invoice from the Firm until the termination of the agreement. The Firm will bill its costs monthly. All invoicing will be governed by the applicable provisions of Part VII of Chapter 218, Florida Statutes.

5. Conflict of Interest / Waiver.

- A. *Prohibition of Conflicts of Interest (Generally).* Both parties agree that the Firm may not contract for or accept employment for the performance of any work or service with any individual, business, corporation, or governmental entity or agency that would create a conflict of interest in the performance of its obligations under this Contract, unless any such conflict is expressly waived by the Client and such waiver is permitted by applicable law. It shall be the obligation and duty of the Firm to fully advise the Client, in writing, of any potential conflicts of interest that may arise with regard to projects or subject matter assigned to the Firm by the Client. Prior to the commencement of providing work or services pursuant to this Contract, Firm shall provide the Client with a list of its present clients and work together with the Client's staff to identify any other clients the Firm has whose interests conflict or potentially conflict with the interests of the Client. Subsequent to the effective date of this Contract and prior to entering into another contract with with a prospective client to provide work or services, the Firm shall provide the Client with written notice of its intent to enter into such a contract and meet with Client staff to identify any potential conflicts that may arise out of the new contract. The Client will have the authority to either (i) veto any such contract for services or (ii) waive the conflict as permitted herein.
- B. *New Assignments / Projects.* Upon receipt of a new project or assignment to certain subject matter, Firm shall review the scope of the subject matter or project as well as the interests of any clients presently represented by the Firm with regard to such subject matter or project, in whole or in part, and advise the Client in writing as to any potential conflicts.
- C. *Waiver.* The Client may, in its sole discretion, waive any identified conflict if permitted by law or, in the alternative, hire an alternative consultant to provide the desired work or services. Any such waiver of a conflict of interest will be issued in writing on a per project or subject matter basis, identify the conflict or potential conflict, and be approved by the City Manager.
- D. *Use of Information.* Regardless of any waiver issued hereunder, neither the Firm, nor any personnel or staff members thereof, may use any information related to the representation of the Client to the disadvantage of the Client unless the Client has provided informed, written consent to any such utilization.
- E. *Ethics Laws.* Firm shall neither take any action nor engage in any conduct that would cause any of Client's employees or elected officials to violate the provisions of Chapter 112, Florida Statutes, relating to ethics in government. Firm also agrees to comply with any state or federal law or local ordinance prohibiting conflicts of interest among retained consultants.
- F. *Termination.* The Firm's failure to comply with this section or any provisions

regarding conflicts of interest in Section _____. Key Personnel will allow the Client to immediately terminate this Contract upon written notice to the Firm at no penalty and no further cost to the Client.

6. Indemnification. The Firm shall, at its own expense, indemnify, defend, and hold harmless the Client, including its districts, authorities, separate units of government established by law, ordinance or resolution, partners, elected and non-elected officials, employees, agents, and volunteers from and against all claims of every kind and nature (including losses incurred or suffered in consequences either of bodily injury to a person or damage to property), damages, losses and expenses, including, but not limited to attorney's fees, arising out of or resulting from the performance of this Contract, provided that the claim, damage, loss and expense is caused by any negligent act or omission of the Firm, or anyone directly or indirectly employed by Firm, except that the Firm will not be required to indemnify, defend, and hold harmless the Client if such claim, damage, loss, or expense is the result of the sole negligence of the Client, or of anyone directly or indirectly employed by the Client or anyone for whose acts the Client may be liable.

7. Sovereign Immunity. Client expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section of this Contract to the contrary, nothing in this Contract shall be deemed as a waiver of immunity or limits of liability beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature, and the cap on the amount and liability of the Client for damages, regardless of the number or nature of claims in tort, contract, or equity, may not exceed the dollar amount set by the legislature for tort. Nothing in this Contract may inure to the benefit of any third party for the purpose of allowing any claim against the Client, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

8. Insurance. Firm represents that it has purchased, or within ten (10) days of execution of this Contract shall purchase, at its sole expense, and thereafter shall maintain for the duration of this Contract, insurance meeting the minimum requirements as set forth below:

A. Commercial General Liability Insurance. The Firm shall acquire and maintain Commercial General Liability insurance, with limits of not less than the amounts shown above. Firm may not obtain an insurance policy wherein the policy limits are reduced by defense and claim expenses. Such insurance **must be issued on an occurrence basis** and include coverage for the Contractor's operations, independent Contractors, Subcontractors and "broad form" property damage coverages protecting itself, its employees, agents, Contractors or subsidiaries, and their employees or agents for claims for damages caused by bodily injury, property damage, or personal or advertising injury, and products liability/completed operations including what is commonly known as groups A, B, and C. Such policies must include coverage for claims by any person as a result of actions directly or indirectly related to the employment of such person or entity by the Contractor or by any of its Subcontractors arising from work or services performed under the Agreement. Public liability coverage must include either blanket contractual insurance or a designated contract contractual liability coverage endorsement, indicating expressly the Firm's agreement to indemnify, defend and hold harmless the Client as provided in this Contract. The commercial general liability policy must provide coverage to Client when it is required to be named as an additional insured either by endorsement or pursuant to a blanket additional insured endorsement, for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01), as filed for use in the State of Florida by the Insurance Services Office, without the attachment of any endorsements excluding or limiting coverage for

Bodily Injury, Property Damage, Products/Completed Operations, Independent Contractors, Property of Client in Contractor's Care, Custody or Control or Property of Client on which contracted operations are being performed. When Client is added as additional insured by endorsement, ISO Endorsements CG 20 10 and CG 20 37 or their equivalent must be used and shall provide such additional insured status that is at least as broad as ISO form CG 20 10 11 85. Firm shall require its subcontractors performing work under this Agreement to add the Client to their Commercial General Liability policy as an additional insured using ISO Endorsement CG 20 38. All commercial general liability policies must provide a waiver of subrogation in favor of the Client. The commercial general liability policy must be provided on a project or location specific basis for the location or project site where the work or services are to be performed under the Agreement. In the alternative, the commercial general liability policy may be endorsed to provide the designated aggregate per location endorsement or equivalent on a form approved or requested by the Client's Risk Manager.

- B. *Motor Vehicle Liability.* Firm shall secure and maintain during the term of the Agreement motor vehicle coverage in a combined single limit of \$250,000 with "Any Auto," Coverage Symbol 1, providing coverage for all autos operated regardless of ownership, and protecting itself, its employees, agents or lessees,, or subsidiaries and their employees or agents against claims arising from the ownership, maintenance, or use of a motor vehicle. If the Firm does not have Coverage Symbol 1 (Any Auto), Firm is limited to the use of covered autos only. If Firm does not own any vehicles, Firm will have coverage symbol 8 (Hired Autos) and coverage symbol 9 (Non-Owned Autos).
- C. *Professional Liability.* Firm shall ensure that it secures and maintains, during the term of the Agreement, Professional Liability insurance with split limits of \$1,000,000 per occurrence, \$1 million aggregate. Such policy must cover all of the Firm's or its subcontractors' professional liabilities regardless of whether occasioned by the Firm, its subcontractors, or the Firm's agents or employees.
- D. *Primary and Excess Coverage.* Any insurance required hereunder may be provided by primary and excess insurance policies meeting the minimum coverage requirements set forth herein.
- E. *Claims Made Basis Insurance Policies.* Any insurance policies written on a Claims Made Form must maintain a retroactive date prior to or equal to the effective date of the Contract. The Firm shall purchase a Supplemental Extended Reporting Period ("SERP") with a minimum reporting period of not less than three (3) years in the event the policy is canceled, not renewed, switched to occurrence form, or any other event occurs, which requires the purchase of a SERP to cover a gap in insurance for claims that may arise under or related to this Contract. The Firm's purchase of the SERP will not relieve the Firm of its obligation to provide replacement coverage. In addition, the Firm shall require the carrier immediately inform the Firm and the Client of any contractual obligations that may alter its professional liability coverage under the Agreement.
- F. *Minimum Policy Standards.* All insurance policies shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of A- and a Financial category size of VIII or greater in the "Best Key Rating Guide" published by A.M. Best

& Company, Inc.

- G. *Waiver of Subrogation.* The Firm hereby waives all rights against the Client and its subcontractors for damages by reason of any claim, demand, suit or settlement (including workers' compensation) for any claim for injuries or illness of anyone, or perils arising out of the Contract. The Firm shall require similar waivers from all its subcontractors. The firm's insurance policies must include a waiver of subrogation in favor of the Client. This provision applies to all policies of insurance required under the Agreement (including Workers' Compensation, and general liability).
- H. *Client Not Liable for Paying Deductibles.* For all insurance required of the Firm, the Client will not be responsible or liable for paying deductibles for any claim arising out of or related to the Firm's business or any subcontractor performing work or services on behalf of the Firm or for the Firm's benefit under the Contract.
- I. *Cancellation Notices.* During the term of the Agreement, Firm shall be responsible for promptly advising and providing the Client with copies of notices of cancellation or any other changes in the terms and conditions of the original insurance policies approved by the Client pursuant to this Contract within two (2) business days of receipt of such notice or change.

9. Key Personnel. The initial key personnel used by the Firm and any changes or substitutions to such key personnel must be made known to the Client or otherwise specified in the Scope of Services or any future Statement of Work, and the Client must grant approval before any such initial personnel or change or substitution becomes effective. In seeking the Client's approval of substitutions or changes in key personnel, the Firm will fully apprise the Client in writing of the qualifications and background of any proposed personnel as well as a list of other clients, matters, or interests the key personnel have worked for or on or in connection with over the last ten (10) years. While Client agrees not to unreasonably withhold any such approval, Client retains the absolute right to deny any proposed change or substitution that the Client determines, in its sole discretion, would result in, create, or lead to a potential conflict of interest. Similarly, the Client may, in its sole discretion, require the Firm to remove any personnel from all or a portion of work or services pursuant to this Contract if the Client later determines that such personnel's continued work pursuant to this Contract creates or otherwise perpetuates a conflict of interest, as determined by the Client.

Except as agreed by the parties, Firm shall provide the key personnel as long as such personnel are in Firm's employment. In the event of injury, illness, incapacitation, or death of Firm's key personnel, or if such key personnel leave Firm's employ, Firm shall replace such individual within thirty (30) business days after such injury or illness, or from the date of departure from employment or of death. Firm shall obtain prior written approval of the Client to replace key personnel, and such approval shall not be unreasonably withheld. Firm shall provide the Client with such information as necessary for Client to evaluate the new key personnel. If the Client's project manager has reasonable objections to any replacement of key personnel, Client shall notify Firm in writing regarding such objections. Promptly after its receipt of such objections, Firm shall investigate the matters stated and discuss its findings with Client. If Client thereafter requests in good faith replacement of the key personnel, Firm shall use its reasonable best efforts to replace the employee with a person of suitable ability and qualification. Firm shall use its best efforts to avoid replacing or reassigning any key personnel under this Contract. If, notwithstanding this commitment, it becomes necessary for the Firm to replace any key personnel under this Contract, Firm shall give Client as much reasonable detail as possible concerning the proposed replacement. At a minimum, Firm agrees, where reasonably possible, to provide Client with at least thirty (30) days' notice of changes to Firm's key personnel. Firm agrees to provide the Client with resumes of new key personnel, and Client

may choose to interview any such personnel prior to installation.

10. Applicable Law, Venue, and Waiver of Jury Trial. This Contract must be interpreted and construed in accordance with and is governed by the laws of the State of Florida. Venue for and jurisdiction over any controversies or legal issues arising out of this Contract, and any action involving the enforcement or interpretation of any rights hereunder, shall, if in state court, be exclusively in the 7th Judicial Circuit in and for Volusia County, Florida, or, if in federal court, the Middle District of Florida, Orlando Division. By entering into this Contract, Firm and Client hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Contract. Each party agrees to bear its own costs and attorney's fees relating to any dispute arising under this Contract.

11. Public Records. Pursuant to § 119.0701(2)(a), Florida Statutes, the Client is required to provide Firm with this statement and establish the following requirements as contractual obligations pursuant to the Contract:

IF THE FIRM HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE FIRM'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 386-601-0219, ahatch@debary.org, by mail, Attn: City Clerk, 16 Colomba Road, DeBary, FL 32713.

By entering into this Contract, Firm acknowledges and agrees that any records maintained, generated, received, or kept in connection with or related to the performance of services provided under this Contract are public records subject to the public records disclosure requirements of section 119.07(1), Florida Statutes, and Article I, section 24 of the Florida Constitution. Pursuant to section 119.0701, Florida Statutes, any contractor entering into a Contract for services with the Client is required to:

- A. Keep and maintain public records required by the Client to perform the services and work provided pursuant to this Contract.
- B. Upon request from the Client's custodian of public records, provide the Client with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion or termination of the Contract if the Firm does not transfer the records to the Client.
- D. Upon completion or termination of the Contract, transfer, at no cost, to the Client all public records in the possession of the Firm or keep and maintain public records required by the Client to perform the service. If the Firm transfers all public records to the Client upon completion or termination of the Contract, the Firm shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Firm keeps and maintains public records upon completion or termination of the Contract, the Firm shall meet all applicable requirements for retaining

public records. All records stored electronically must be provided to the Client upon request from the Client's custodian of public records, in a format that is compatible with the information technology systems of the Client.

Pursuant to current state law, requests to inspect or copy public records relating to this Contract for services must be made directly to the Client. If the Firm receives any such request, The Firm shall instruct the requestor to contact the Client. If the Client does not possess the records requested, the Client shall immediately notify the Firm of such request, and the Firm must provide the records to the Client or otherwise allow the records to be inspected or copied within a reasonable time.

Firm acknowledges that the failure to provide the public records to the Client within a reasonable time may be subject to penalties under § 119.10, Florida Statutes. Firm further agrees not to release any records that are statutorily confidential or otherwise exempt from disclosure without first receiving prior written authorization from the Client. Firm shall indemnify, defend, and hold the Client harmless from and against any and all claims, damage awards, and causes of action arising from the Firm's failure to comply with the public records disclosure requirements of section 119.07(1), Florida Statutes, or by the Firm's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. The Firm authorizes Client to seek declaratory, injunctive, or other appropriate relief against the Firm from a Circuit Court in Volusia County on an expedited basis to enforce the requirements of this section.

12. E-Verify. Firm shall comply with § 448.095, Florida Statutes, effective January 1, 2021, and register with and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Firm. Furthermore, any subcontract Firm enters into with a subcontractor or subrecipient to perform work under this Agreement must contain the following language: "The subcontractor must comply with § 448.095, Florida Statutes, and register with and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Contractor on or after the effective date of this contract and thereafter during the remaining term of such contract." If Contractor fails to comply with the foregoing or § 448.095 or § 448.09(1), Florida Statutes, the Client will take action as required by § 448.095(2)(c), Florida Statutes, which may include termination of this contract. If the Client terminates this contract due to the Firm's or a subcontractor's (or subrecipient's) failure to comply with § 448.095 or § 448.09(1), Florida Statutes, the Firm will be liable to the Client for any additional costs or expenses incurred by the Client as a result of the termination of this Contract. Furthermore, the Firm agrees to indemnify and hold harmless the Client from and against any fines, sanctions, or penalties levied against the Client by a governmental agency arising from the Firm's failure or alleged failure to comply with this paragraph, including, but not limited to, the Client's loss or repayment of grant funds. Pursuant to § 448.095(2)(d), Florida Statutes, any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination.

13. Entire Contract. This Contract contains the entire contract between the parties and supersedes all prior oral and written agreements. The Firm acknowledges that it has not relied upon any statement, representation, prior or contemporaneous written or oral promises, agreements, or warranties, except such as expressed herein.

14. Amendments. No modification, change order, amendment, or alteration in the terms or conditions contained herein will be effective unless contained in a written document prepared with the same or similar formality as this Contract and executed by Client and Firm.

15. Severability. If this Contract or a portion of this Contract is found by a court of competent

jurisdiction to be invalid, the remaining provisions shall continue to be effective unless Client or the Firm elects to terminate this Contract. The election to terminate this Contract pursuant to this provision must be made within seven (7) days after the finding by the court becomes final.

16. Compliance with Laws and Regulations. Firm agrees to comply with all federal, state, local laws, regulations, rules, policies, and guidelines pertaining to lobbying services, including but not limited to the registering and reporting requirements of the Lobbying Disclosure Act of 1995, as amended, regulations adopted thereunder, and the Lobbying Disclosure Act Guidance, as amended and last revised February 15, 2013.

17. Non-Assignment. This Contract may not be assigned by the Firm without the prior written consent of the Client.

18. Survival. All provisions of this Contract that contemplate obligations of the parties continuing beyond the termination or expiration of this Contract will survive such termination or expiration, including, but not limited to any provisions pertaining to indemnification, public records handling and retention, and statutory requirements such as E-Verify.

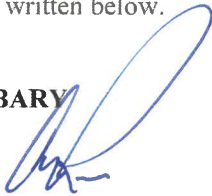
19. Notices. All notices or other written communications required pursuant to this Contract will be considered to have been provided when sent via certified U.S. mail, return receipt requested, or personally delivered with receipt confirmation to the parties at the following addresses:

To Firm: Brian D. Ballard, President
Ballard Partners, Inc.
201 East Park Avenue
5th Floor
Tallahassee, FL 32301

To Client: City Manager
City of DeBary
16 Colomba Road
DeBary, FL 32713

IN WITNESS WHEREOF, the parties have made and executed this Contract for Lobbying Services on the date last written below.

CITY OF DEBARY



By: Carmen Rosamonda
Title: City Manager

Date:

9/7/23

BALLARD PARTNERS, INC.



By: Brian D. Ballard
Title: President

Date:

8/31/2023