

**City of North Port
Agreement No. 2013-63
Professional Lobbyist Services**

THIS AGREEMENT is made this 1st day of October, 2013 by and between the CITY OF NORTH PORT, a municipal corporation of the State of Florida, hereinafter referred to as the "CITY" and GREENBERG TRAUIG, P.A., a Florida corporation, hereinafter referred to as "LOBBYIST".

The parties agree as follows:

1. PURPOSE

The purpose of this Agreement is to provide for the professional services of LOBBYIST for the coordination of the CITY's legislative relations and for lobbying requirements, as described in paragraph 2 below.

2. SERVICES

LOBBYIST shall provide necessary legislative relations and lobbying services to the City of North Port. Such services shall include but shall not be limited to work for the purpose of securing appropriations issues; transportation and stormwater projects; and passing or killing legislation. LOBBYIST shall be guided by the CITY's adopted State legislative priorities. LOBBYIST shall regularly report the status of pending legislation and appropriations to the CITY.

3. COMPENSATION

For all professional services provided by LOBBYIST, as described in paragraph 2, the CITY shall pay LOBBYIST a monthly retainer of **Four Thousand Six Hundred Seventy-five dollars and zero cents (\$4,675.00)** for the duration of the Agreement. Nominal costs incident to the LOBBYIST's representation of the CITY are included in the retainer and will not be billed in addition. Any additional costs must be approved by the City Manager in writing or e-mail in advance, and will be billed separately.

4. LIABILITY OF LOBBYIST

The LOBBYIST shall be fully liable for the actions of its directors, officers, members, partners, or subcontractors, and the employees and agents of each of them, and shall fully indemnify, defend and hold harmless the CITY, its commissioners, employees, agents and assigns from all demands, claims, suits, actions, judgments, damages, fines, fees, taxes, assessments, penalties, losses, expenses, costs of every type and description, and reasonable attorneys' fees (at both trial and appellate levels), of any nature or kind whatsoever caused by, or arising out of or related to the performance or breach of this Agreement by the LOBBYIST, its officers, directors, members, partners, or subcontractors, and employees or agents of any of them; provided, however, that the LOBBYIST shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the CITY.

To the extent applicable, the LOBBYIST shall fully indemnify, defend and hold harmless the CITY, and its commissioners, agents, employees and assigns from any demands, claims, suits, actions, judgments, damages, fines, fees, taxes, assessments, penalties, losses, expenses, costs of every type and description, and reasonable attorneys' fees (at both trial and appellate level), arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right; provided, however, that the foregoing obligation shall not apply to the misuse or modification of LOBBYIST's products by the CITY or any of its commissioners, agents, employees, and assigns, or to the operation or use of LOBBYIST's products by the CITY or

any of its commissioners, agents, employees, and assigns in a manner not contemplated by the Agreement.

In the event of a claim, the CITY shall promptly notify the LOBBYIST in writing by prepaid certified mail (return receipt requested), or by delivery through any nationally recognized courier service (such as Federal Express or UPS) which provides evidence of delivery, at the following address:

Hayden R. Dempsey
Greenberg Traurig, P.A.
101 East College Avenue
Tallahassee, FL 32301

Notification may also be provided by fax to the following fax number: (850) 681-0207.

The CITY shall provide all available information and assistance that the LOBBYIST may reasonably require regarding any claim. This Agreement for indemnification shall survive termination or completion of this Agreement. The insurance coverage and limits required in this Agreement may or may not be adequate to protect the CITY and such insurance coverage shall not be deemed a limitation on the LOBBYIST's liability under the indemnity provided in this section. In any proceedings between the parties arising out of or related to this Indemnity provision, the prevailing party shall be reimbursed all costs, expenses and reasonable attorney fees through all proceedings (at both trial and appellate levels).

5. LOBBYIST'S INSURANCE

A. INSURANCE

Before performing any work, LOBBYIST shall procure and maintain, during the life of the Agreement, the insurance listed below, unless otherwise specified. The policies of insurance shall be primary and written on forms acceptable to the CITY and placed with insurance carriers approved and licensed by the Insurance Department in the State of Florida and meet a minimum financial AM Best and Company rating of no less than "Excellent." No changes are to be made to these specifications without prior written specific approval by the City Manager or designee. The City Manager or designee may alter the amounts or types of insurance policies required by this Agreement upon Agreement with LOBBYIST.

1. Workers Compensation: Coverage to apply for all employees at the statutory limits provided by state and federal laws. The policy must include Employers' Liability with a limit of \$500,000 each accident; \$500,000 each employee; and \$500,000 policy limit for disease.
2. Professional Liability Insurance: Minimum \$1,000,000 per occurrence for this project, and with a \$2,000,000 policy term general aggregate. Coverage shall be extended beyond the policy year term either by a supplemental extended reporting period (ERP) with as great of duration as available, with no less coverage and reinstated aggregate limits, or by requiring that any new policy provide a retroactive date no later than the inception date of claims made.
3. Comprehensive Commercial General Liability Insurance: Occurrence from required. Aggregate must apply separately to this Agreement. Minimum \$500,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed ops; and \$100,000 fire damage.
4. Automobile Insurance: To include all vehicles owned, leased, hired and non-owned vehicles

with limits of not less than \$1,000,000 per each accident and for property damage and bodily injury, with contractual liability coverage for all work performed under this Agreement.

The City of North Port is to be named additional insured on Comprehensive Commercial General Liability Policy and the Business Auto Policy. Certification of same shall be required. All certificates of insurance must be on file with and approved by the CITY before commencement of any work activities under this Agreement.

Any and all deductibles to the above referenced policies are to be the responsibility of the LOBBYIST. The LOBBYIST's insurance is considered primary for any loss, regardless of any insurance maintained by the CITY. The LOBBYIST is responsible for all insurance policy premiums, deductibles, SIR (self-insured retentions) or any loss or portion of any loss that is not covered by any available insurance policy.

All insurance policies must be issued by companies of recognized responsibility licensed to do business in Florida and must contain a provision that prohibits cancellation unless the CITY is provided notice as stated within the policy. It is the LOBBYIST's responsibility to provide notice to the CITY.

B. WAIVER OF SUBROGATION

All required insurance policies, with the exception of Professional Liability and Workers Compensation, are to be endorsed with a waiver of subrogation. The insurance companies, by proper endorsement or thru other means, agree to waive all rights of subrogation against the CITY, its officers, officials, employees and volunteers, and the CITY's insurance carriers, for losses paid under the terms of these policies that arise from the contractual relationship or work performed by the LOBBYIST for the CITY. It is the LOBBYIST's responsibility to notify their insurance company of the Waiver of Subrogation and request written authorization or the proper endorsement. Additionally, the LOBBYIST, its officers, officials, agents, employees, volunteers, and any subcontractors, agree to waive all rights of subrogation against the CITY and its insurance carriers for any losses paid, sustained or incurred, but not covered by insurance, that arise from the contractual relationship or work performed. This waiver also applies to any deductibles or self-insured retentions the LOBBYIST or its agents may be responsible for.

C. POLICY FORM

1. All policies, required by this Agreement, with the exception of Professional Liability and Workers Compensation, or unless specific approval is given by Risk Management through the CITY's Purchasing Office, are to be written on an occurrence basis, shall name the City of North Port, its Commissioners, officers, agents, employees and volunteers as additional insured as their interest may appear under this Agreement. Insurer(s), with the exception of Professional Liability and Workers Compensation, shall agree to waive all rights of subrogation against the City of North Port, its Commissioners, officers, agents, employees or volunteers.
2. Insurance requirements itemized in this Agreement, and required of the LOBBYIST, shall be provided by or in behalf of all subcontractors to cover their operations performed under this Agreement. The LOBBYIST shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to subcontractors.
3. Each insurance policy required by this Agreement shall:
 - a. Apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability.

- b. Be endorsed to state that coverage shall not be suspended, voided or cancelled by either party except after notice is delivered in accordance with the policy provisions. The LOBBYIST is to notify the City Purchasing Office by written notice via certified mail, return receipt requested.
 4. The CITY shall retain the right to review, at any time, coverage, form, and amount of insurance.
 5. The procuring of required policies of insurance shall not be construed to limit LOBBYIST's liability nor to fulfill the indemnification provisions and requirements of this Agreement. The extent of LOBBYIST's liability for indemnity of the CITY shall not be limited by insurance coverage or lack thereof, or unreasonably delayed for any reason, including but not limited to, insurance coverage disputes between the LOBBYIST and its carrier.
 6. The LOBBYIST shall be solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and shall be solely responsible for the payment of all deductibles and retentions to which such policies are subject, whether or not the CITY is an insured under the policy.
 7. Claims Made Policies will be accepted for professional liability and hazardous materials and such other risks as are authorized by the CITY's Purchasing Office. All Claims Made Policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of not less than two (2) years. If provided as an option, the LOBBYIST agrees to purchase the extended reporting period on cancellation or termination unless a new policy is affected with a retroactive date, including at least the last policy year.
 8. Certificates of Insurance evidencing Claims Made or Occurrences form coverage and conditions to this Agreement, as well as the Agreement number and description of work, are to be furnished to the CITY's Purchasing Office (4970 City Hall Boulevard, Suite 337, North Port, FL 34286) prior to commencement of work AND a minimum of thirty (30) calendar days prior to expiration of the insurance contract when applicable. All insurance certificates shall be received by the CITY's Purchasing Office before the LOBBYIST will be allowed to commence or continue work. The Certificate of Insurance issued by the underwriting department of the insurance carrier shall certify compliance with the insurance requirements provided herein.
 9. Notices of Accidents (Occurrences) and Notices of Claims associated with work being performed under this Agreement shall be provided to the LOBBYIST's insurance company and the CITY's Purchasing Office as soon as practicable after notice to the insured.
6. **EFFECTIVE DATE, DURATION**
This Agreement shall be effective as of October 1, 2013 and shall be for a term of three (3) years and may be renewed at the same prices, terms, and conditions for two (2) additional one (1) year terms if mutually agreeable to both parties, and may be terminated as provided in Paragraphs 7 and 13.
7. **TERMINATION**
The CITY may terminate this Agreement at any time, without cause, upon thirty (30) days advance written notice to LOBBYIST. LOBBYIST shall be entitled to compensation only up to the date of termination, which shall be pro-rated for any month in which termination occurs.

LOBBYIST may terminate their participation in this Agreement upon thirty (30) days' written notice to the CITY.

In the event LOBBYIST breaches this Agreement, the CITY shall provide written notice of the breach and LOBBYIST shall have ten (10) days from the date the notice is received to cure. If LOBBYIST fails to cure within the ten (10) days, the City Manager or designee shall have the right to immediately terminate the Agreement and/or refuse to make any additional payment, in whole or in part, in addition to any other remedies available at law.

8. PRIORITY

LOBBYIST shall not be prohibited from representing or providing like services to other persons and entities besides the CITY, so long as LOBBYIST avoids any representation or relation which would create a conflict of interest, as determined by the City Manager.

9. MALPRACTICE INSURANCE

LOBBYIST shall carry professional malpractice insurance or other form of insurance satisfactory to the CITY's Risk Management Administrator, which shall provide coverage of not less than \$500,000.

10. LEGAL

LOBBYIST shall only utilize the legal services of the Office of the City Attorney, or a designee of that office, for any CITY related matters arising out of this Agreement.

11. NOT ASSIGNABLE

This Agreement shall not be assigned by any party.

12. PUBLIC RECORDS PROVISION

In accordance with F.S. §119.0701, and as amended, LOBBYIST shall comply with all public records laws, and shall specifically:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service.

(b) Provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided in chapter 119 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.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of the LOBBYIST upon termination of the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.

Failure of the LOBBYIST to comply with these requirements shall be a material breach of this Agreement.

13. WARRANTY

LOBBYIST warrants that its employees, representatives and principals have complied with all the registration requirements per Florida Statutes, and will comply with the rules, statutes and

regulations adopted by the Florida Legislature or any entity that regulates the action or conduct that pertains to lobbyists. LOBBYIST warrants that it and its employees, representatives and principals will comply with all reporting requirements and record keeping requirements per Florida Statutes, and all other rules and regulations adopted by any regulatory entity that pertains to lobbyists. LOBBYIST warrants that no provision of this Agreement is in conflict with Sections 112.3215 or 112.3217 of the Florida Statutes. Failure of the LOBBYIST to comply with any of the provisions in this paragraph shall constitute a material breach and the CITY may immediately cancel this Agreement not withstanding any other termination provision of this Agreement.

14. GOVERNING LAW AND SEVERABILITY

The rights and obligations of the parties under this Agreement shall be governed by the laws of the State of Florida and the venue for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement shall be in Sarasota County, Florida. If any term, condition or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on each party.

15. ATTORNEYS FEES

In any proceedings between the parties arising out of or related to this Agreement, the prevailing party shall be reimbursed all costs, expenses and reasonable attorney fees through all proceedings (at both trial and appellate levels).

IN WITNESS WHEREOF, the parties have executed this Agreement on the date indicated above.

ATTEST:

CITY OF NORTH PORT, FLORIDA

By: Helen M. Raimbeau
Helen Raimbeau, City Clerk, MMC

By: Jonathan R. Lewis
Jonathan R. Lewis, ICMA-CM, City Manager

APPROVED AS TO FORM AND CORRECTNESS:

By: Robert K. Robinson
Robert K. Robinson, City Attorney

WITNESS: Tom M. Kian

GREENBERG TRAUIG, P.A.
By: Hayden R. Dempsey