

**RESOLUTION 21-68**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH CAPITOL HILL CONSULTING GROUP, LLC FOR FEDERAL LEGISLATIVE AND EXECUTIVE BRANCH REPRESENTATION SERVICES IN THE MONTHLY AMOUNT OF \$7,500.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain Agreement between the City and Capitol Hill Consulting Group, LLC, in the monthly amount of Seven Thousand, Five Hundred Dollars (\$7,500), in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this 14<sup>th</sup> day of January, 2021.

**CITY OF PANAMA CITY BEACH**

By: \_\_\_\_\_



Mark Sheldon, Mayor

**ATTEST:**



Lynne Fasone, City Clerk

**AGREEMENT BETWEEN THE CITY OF PANAMA CITY BEACH AND CAPITOL HILL CONSULTING GROUP, LLC FOR FEDERAL LEGISLATIVE AND EXECUTIVE BRANCH REPRESENTATION SERVICES**

This Agreement (“Agreement”) is made and entered by and between the City of Panama City Beach, a political subdivision of the State of Florida (“City”), and Capitol Hill Consulting Group, LLC a District of Columbia Limited Liability Company, (“Lobbyist”) (City and Lobbyist are also sometimes referred to as a “Party” or collectively referred to as the “Parties”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. DEFINITIONS.**

1.1. **City Council** means the City Council of Panama City Beach, Florida.

1.2. **Contract Administrator** means the City Manager, the City Attorney, the Assistant City Attorney or such other person designated by the City Manager in writing.

1.3. **City Attorney** means the chief legal counsel of City appointed by the City Council, and includes any Assistant City Attorney or Senior City Attorney, or any Attorney acting on behalf of the City Attorney on matters relating to this Agreement.

1.4. **Services** means all work Lobbyist must perform under this Agreement, including without limitation all deliverables, consulting, professional lobbying services and advocacy, and other services specified in Article 3, Exhibit A, or Exhibit B. The Services are deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks that are such an inseparable part of the work described that exclusion would render performance by Lobbyist impractical, illogical, or unconscionable.

**2. EXHIBITS.**

The following exhibits are attached hereto and incorporated into this Agreement:

<b>Exhibit A</b>	<b>Scope of Services</b>
<b>Exhibit B</b>	<b>Subject Areas</b>

### **3. SCOPE OF SERVICES.**

3.1 Lobbyist shall perform all Services during the Agreement Term on a non-exclusive basis for City. Lobbyist acknowledges and agrees that it will receive specific lobbying assignments from the Contract Administrator, which assignments may be expanded, modified, or removed as necessary to accomplish the goals of City and are deemed to be within the definition of Services.

3.2 Lobbyist shall use his or her best efforts to maintain continuity in personnel throughout the term of this Agreement unless other personnel are approved by the City. Lobbyist represents that that Hon. Steve Southerland shall be the Lobbyist's primary representative and contact throughout the Term of this Agreement.

3.3 Additional Services. City and Lobbyist agree that not all Services to be performed by Lobbyist can be defined in detail at the time this Agreement is executed, and that additional Services, related to the objectives of the City and not covered in Exhibit A may be needed during the performance of this Agreement. City may, at any time by written order, direct Lobbyist to revise portions of the Services previously completed in a satisfactory manner, delete portions of the Services, or request that Lobbyist perform additional Services.

### **4. TERM AND TIME OF PERFORMANCE.**

4.1. Initial Term. The initial term of this Agreement shall begin on January 15, 2021 ("Effective Date") and shall end on January 14, 2022 ("Initial Term"). The Initial Term, Renewal Term(s) described in Section 4.2, and any Short-Term Extension(s) described in Section 4.3 are collectively referred to as the "Agreement Term."

4.2. Renewals. City shall have the option to renew this Agreement for up to two (2) additional one (1) year terms (each an "Renewal Term") by sending notice of renewal to Lobbyist at least thirty (30) days prior to the expiration of the then-current term. The City Manager is authorized to exercise these renewal options.

4.3. Short-Term Extension. If unusual or exceptional circumstances, as determined in the sole discretion of the City Manager, render the exercise of a full Renewal Term not practicable, or if no additional Renewal Terms remain and expiration of this Agreement would, as determined by the City Manager, result in a gap in the provision of Services, then the City Manager may extend this Agreement on the same terms and conditions for period(s) not to exceed six (6) months in the aggregate (a "Short-Term Extension"). The City Manager may exercise a Short-Term Extension by written notice to Lobbyist stating the duration of the extended period, which notice shall be provided to Lobbyist at least thirty (30) days prior to the end of the then-current term.

4.4. Renewal/Short-Term Extension Rates and Terms. During any Renewal Term or Short-Term Extension, Lobbyist shall perform the Services in accordance with the terms and conditions of this Agreement existing as of the date of City exercising its right to renew or extend and shall continue to be compensated at the then-existing monthly rate.

4.5. Fiscal Year. The continuation of this Agreement beyond the end of any City fiscal year is subject to both the appropriation and the availability of funds.

4.6. Time of the Essence. Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

## 5. COMPENSATION.

5.1. Compensation. For all Services provided under this Agreement, City will pay Lobbyist as follows:

Monthly Fee for Services during Agreement Term	\$ 7,500.00 per month
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Payment shall be made only for Services actually performed and completed pursuant to this Agreement, with the amounts itemized above being accepted by Lobbyist as full compensation for all such Services. Lobbyist acknowledges that the amounts set forth in this Agreement constitute a limitation upon City's obligation to compensate Lobbyist for the Services. These amounts, however, do not constitute a limitation of any sort upon Lobbyists' obligation to perform all Services.

5.2. Method of Billing and Payment.

5.2.1. Lobbyist may submit invoices for compensation no more often than on a monthly basis. An electronic invoice is due within ten (10) days after the end of the month covered by the invoice, except that the final invoice must be received no later than sixty (60) days after expiration or earlier termination of this Agreement. All invoices must be sent to the City's Finance Department at [hwhite@pcb.gov](mailto:hwhite@pcb.gov) along with a copy to the City Attorney.

5.2.2. City shall pay Lobbyist within thirty (30) days of receipt of Lobbyist's proper invoice. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the then-current form and pursuant to instructions prescribed by the Contract Administrator. Payment may be withheld for failure of Lobbyist to comply with a term, condition, or requirement of this Agreement. Payment shall be made to Lobbyist at the address designated in the Notices section.

5.3. Reimbursable Expenses. Lobbyist shall not be reimbursed for any expenses it incurs under this Agreement except for expenses related to travel outside of the District of Columbia or Bay County, Florida incurred at the express direction of the City.

5.4. Subcontractors. Lobbyist acknowledges that the professional Services provided under this Agreement are of a highly-skilled and personal nature and that it shall not subcontract any Services contemplated by this Agreement without the permission of the Contract Administrator.

5.5. Withholding by City. Notwithstanding any provision of this Agreement to the contrary, City may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the Contract Administrator or failure to comply with any provision of this Agreement. The amount withheld shall not be subject to payment of interest by City.

## 6. REPRESENTATIONS AND WARRANTIES.

6.1. Representation of Authority. Lobbyist represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of Lobbyist, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that Lobbyist has with any third party or violates any law, rule, regulation, or duty arising in law or equity applicable to Lobbyist. Lobbyist further represents and warrants that execution of this Agreement is within Lobbyist's legal powers, and each individual executing this Agreement on behalf of Lobbyist is duly authorized by

all necessary and appropriate action to do so on behalf of Lobbyist and does so with full legal authority.

6.2. Contingency Fee. Lobbyist represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Lobbyist, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

6.3. Public Entity Crime Act. Lobbyist represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. Lobbyist further represents that there has been no determination that it committed a “public entity crime” as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a “public entity crime” regardless of the amount of money involved or whether Lobbyist has been placed on the convicted vendor list.

6.4. Discriminatory Vendor and Scrutinized Companies Lists. Lobbyist represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. Lobbyist further represents that it is not ineligible to contract with City on any of the grounds stated in Section 287.135, Florida Statutes.

6.5. Warranty of Performance. Lobbyist represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all required and optional Services under this Agreement, and that each person and entity that will provide Services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area (s) for which such person or entity will render Services. Lobbyist represents and warrants that the Services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

6.6. Breach of Representations. In entering into this Agreement, Lobbyist acknowledges that City is materially relying on the representations and warranties of Lobbyist stated in this article. City shall be entitled to recover any damages it incurs to the extent any such representation or warranty is untrue. In addition, if any such representation or warranty is false, City shall have the right, at its sole discretion, to terminate this Agreement without any further liability to Lobbyist, to deduct from the compensation due Lobbyist under this Agreement the full amount of any value paid in violation of a representation or warranty, or to recover all sums paid to Lobbyist under this Agreement. Furthermore, a false representation may result in debarment from City’s competitive procurement activities.

## **7. INDEMNIFICATION.**

Lobbyist shall indemnify, hold harmless, and defend City and all of City’s officers, agents, servants, and employees (collectively, “Indemnified Party”) from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys’ fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a Party, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Lobbyist, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a “Claim”). If any Claim is brought against an Indemnified Party, Lobbyist shall, upon written notice from City, defend each Indemnified Party against each such Claim by counsel satisfactory to City or, at City’s option, pay for an attorney

selected by the City Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the Contract Administrator and the City Attorney, any sums due Lobbyist under this Agreement may be retained by City until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by City.

## **8. TERMINATION.**

8.1. Termination for Convenience. This Agreement may be terminated for convenience by the City Council. Termination for convenience by the City Council shall be effective on the termination date stated in written notice provided by City, which termination date shall be not less than fifteen thirty (30) days after the date of such written notice. Lobbyist acknowledges that it has received good, valuable, and sufficient consideration from City, the receipt and adequacy of which are acknowledged by Lobbyist, for City's right to terminate this Agreement for convenience.

8.2. Payment Post-Termination. If this Agreement is terminated for convenience by City, Lobbyist shall be paid for any Services properly performed under this Agreement, with the monthly amount prorated through the termination date specified in the written notice of termination.

8.3. Reservation of Rights and Remedies. In addition to any right of termination stated in this Agreement, City shall be entitled to seek any and all available remedies, whether stated in this Agreement or otherwise available at law or in equity.

## **9. CONFLICTS OF INTEREST.**

9.1. Lobbyist represents that, upon the execution of this Agreement and continuing throughout the Agreement Term, the following representations stated in this section are true and correct. If any of the following representations become at any time not true, Lobbyist shall immediately provide written notice of same to the Contract Administrator.

9.1.1. Neither Lobbyist nor its employees have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Lobbyists' loyal and conscientious exercise of judgment and care related to its performance under this Agreement. During the Agreement Term, none of Lobbyist's officers or employees shall serve as an expert witness against City in any legal or administrative proceeding in which he, she, or Lobbyist is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing as an expression of his or her expert opinion that is adverse or prejudicial to the interests of City in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Lobbyist or any persons in any way from representing themselves, including giving expert testimony in support of such representation, in any action or in any administrative or legal proceeding.

9.1.2. Lobbyist does not have any personal financial interest, direct or indirect, with any member of the City Council or any City employee.

9.1.3. As of the effective date of this Agreement, Lobbyist does not represent any client whose interest is currently adverse to the interests of City. If, during the term of this Agreement, Lobbyist determines that a client it represents has or may potentially have an interest adverse to the interest of City, or Lobbyist is notified by the Contract Administrator of an existing or

potential adverse interest with a client of Lobbyist, then Lobbyist shall disclose such conflicting interest as required by Section 10.2. Additionally, before proposing, advocating, or otherwise advancing any legislation, administrative rule, regulation, or policy on behalf of a client, where such legislation, rule, regulation, or policy may potentially impact City and its operations, Lobbyist shall, consistent with Section 9.2, disclose the representation and provide a copy of the legislation, administrative rule, regulation, or policy to the Contract Administrator.

9.2. Lobbyist further agrees that, in the performance of this Agreement, if any conflict of interest arises, including any adverse interest identified pursuant to Sections 9.1, Lobbyist shall disclose, in writing, such interest to City within three (3) days after the date the conflict arises, or within three (3) days after Lobbyist receives verbal or written notification from the Contract Administrator of an existing or potential adverse interest with a client of Lobbyist under Section 9.1.3. Such written disclosure shall provide sufficient information concerning Lobbyist's conflict including, but not limited to, name of the client presenting the conflicting position, the nature of the conflict, and the extent to which Lobbyist is unable to provide the Services. The Contract Administrator shall report the disclosed conflict to the City Council. The City Council may, in its sole discretion, take any action it deems appropriate, such as termination of this Agreement or waiver of the conflict, to address the conflict of interest disclosed by Lobbyist. **Waiver of any conflict of interest or termination of this Agreement is expressly reserved to the City Council.**

9.3 If this Agreement is terminated pursuant to Section 9.2 or Section 8, Lobbyist agrees, upon request of City, to assist City in obtaining the services of qualified individuals to perform the Services.

9.4. Lobbyist agrees that during the Agreement Term, neither Lobbyist, its officers, employees, agents, nor any other person providing Services, will personally represent any person or entity, irrespective of compensation, before the City Council during any regular session, extended session, and/or special session of the United States Congress. This prohibition shall apply to all direct lobbying before the City Council, and any communication, whether verbal or written, with any member of the City Council, made in connection with Lobbyist's direct or indirect representation of a client on any matter that is scheduled for or pending consideration before the City Council during the proscribed period, or on any matter that is reasonably foreseeable to be the subject of consideration or action by the City Council.

9.5. Lobbyist shall provide the Contract Administrator with a copy of Lobbyist's complete client list on a quarterly basis.

## 10. MISCELLANEOUS.

10.1. Contract Administrator Authority. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the City Code of Ordinances, the Contract Administrator may act on behalf of City under this Agreement.

10.2. Rights in Documents and Work. Any and all reports, photographs, surveys, and documents created by Lobbyist in connection with performing Services under this Agreement shall be owned by City and shall be deemed works for hire by Lobbyist and its agents; if the Services are determined not to be a work for hire, Lobbyist hereby assigns all right, title, and interest, including any copyright or other intellectual property rights in or to the work, to City. If this Agreement is

terminated, any reports, photographs, surveys, and other data and documents prepared by Lobbyist, whether finished or unfinished, shall become the property of City and shall be delivered by Lobbyist to the Contract Administrator within seven (7) days after termination of this Agreement. Any compensation due to Lobbyist may be withheld until all documents are received as provided in this Agreement.

10.3. Public Records. To the extent Lobbyist is acting on behalf of City as stated in Section 119.0701, Florida Statutes, Lobbyist shall:

10.3.1. Keep and maintain public records required by City to perform the services under this Agreement;

10.3.2. Upon request from City, provide City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

10.3.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement if the records are not transferred to City; and

10.3.4. Upon completion or termination of this Agreement, transfer to City, at no cost, all public records in possession of Lobbyist or keep and maintain public records required by City to comply with applicable public records law. If Lobbyist transfers the records to City, Lobbyist shall destroy any duplicate public records that are exempt or confidential and exempt. If Lobbyist keeps and maintains the public records, Lobbyist shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to City upon request in a format that is compatible with the information technology systems of City.

A request for public records regarding this Agreement must be made directly to City, who will be responsible for responding to any such public records requests. Lobbyist will provide any requested records to City to enable City to respond to the public records request.

Any material submitted to City that Lobbyist contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, Lobbyist must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If a third party submits a request to City for records designated by Lobbyist as Trade Secret Materials, City shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Lobbyist. Lobbyist shall indemnify and defend City and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.



**IF LOBBYIST HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO LOBBYIST'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (850.233.5100), [lfasone@pcb.gov](mailto:lfasone@pcb.gov), 17007 PANAMA CITY BEACH PARKWAY, PANAMA CITY BEACH, FLORIDA 32413.**

10.4. Audit Rights and Retention of Records. City shall have the right to audit the books, records, and accounts of Lobbyist that are related to this Agreement. Lobbyist shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Lobbyist shall make same available in written form at no cost to City. Lobbyist shall preserve and make available, at reasonable times within the City of Panama City Beach, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for at least three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Any audit or inspection pursuant to this section may be performed by any City representative (including any outside representative engaged by City). Lobbyist hereby grants City the right to conduct such audit or review at Lobbyist's place of business, if deemed appropriate by City, with seventy-two (72) hours' advance notice.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for City's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to City of any nature by Lobbyist in excess of five percent (5%) of the total contract billings reviewed by City, the reasonable actual cost of City's audit shall be reimbursed to City by Lobbyist in addition to adjusting for the overcharges. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of City's findings to Lobbyist.

10.5. Independent Contractor. Lobbyist is an independent contractor under this Agreement, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services under this Agreement, neither Lobbyist nor its agents shall act as officers, employees, or agents of City. Lobbyist shall not have the right to bind City to any obligation not expressly undertaken by City under this Agreement.

10.6. Regulatory Capacity. Notwithstanding the fact that City is a political subdivision with certain regulatory authority, City's performance under this Agreement is as a Party. If City exercises its regulatory authority, the exercise of such authority and the enforcement of any rules, regulation, laws, and ordinances shall have occurred pursuant to City's regulatory authority as a governmental body separate and apart from this Agreement and shall not be attributable in any manner to City as a Party.

10.7. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by City nor shall anything included herein be construed as consent by City to be sued by third parties in any matter arising out of this Agreement. City is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of its employees pursuant to Section 768.28, Florida Statutes.

10.8. Third-Party Beneficiaries. Neither Lobbyist nor City intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

10.9. Notices. In order for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR CITY:

Office of the City Manager  
Attn: Tony O'Rourke  
17007 Panama City Beach Parkway  
Panama City Beach, Florida 32413  
Email address: [torourke@pcb.gov](mailto:torourke@pcb.gov)

WITH A COPY TO:

Office of the City Attorney  
Attn: Cole Davis  
16901 Panama City Beach Parkway  
Suite 300  
Panama City Beach, Florida 32413  
Email address: [cdavis@handfirm.com](mailto:cdavis@handfirm.com)

FOR LOBBYIST:

Hon. Steve Southerland, Senior Vice President  
Capitol Hill Consulting Group, LLC  
499 South Capitol Street SW  
Suite 608  
Washington, DC 20003  
Email address: [ssoutherland@capitolhillcg.com](mailto:ssoutherland@capitolhillcg.com)

10.10. Assignment. Neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by Lobbyist without the prior written consent of City. Any attempted assignment by Lobbyist without written consent of City is void. In addition to any other rights or claims that City may have, if Lobbyist violates this provision, City shall have the right to immediately terminate this Agreement.

10.11. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a

waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party.

10.12. Compliance with Laws. Lobbyist and the Services must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations, and any related federal, state, or local laws, rules, and regulations.

10.13. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

10.14. Joint Preparation. This Agreement has been jointly prepared by the Parties and shall not be construed more strictly against either Party.

10.15. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein,” “hereof,” “hereunder,” and “hereinafter” refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated.

10.16. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 11 of this Agreement, the provisions contained in Articles 1 through 11 shall prevail and be given effect.

10.17. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Fourteenth Judicial Circuit in and for Bay County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Northern District of Florida.

**BY ENTERING INTO THIS AGREEMENT, LOBBYIST AND CITY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

10.19. Amendments. No modification, amendment, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by duly authorized representatives of City and Lobbyist.

10.20. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding

concerning the subject matter of this Agreement that is not contained in this written document. If, as of the date of execution of this Agreement, City has already paid Lobbyist any amounts pursuant to any prior agreement, which payments relate to any period of time during the Initial Term, the total of such payments shall be fully credited towards amounts City would have otherwise been required to pay Lobbyist pursuant to this Agreement.

#### 10.21. Payable Interest

10.21.1. Payment of Interest. City shall not be liable to pay any interest to

Lobbyist for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Lobbyist waives, rejects, disclaims, and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This subsection shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

10.21.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by City under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, one quarter of one percent (0.25%) simple interest (uncompounded).

10.22. Incorporation by Reference. Exhibits A and B are incorporated into and made part of this Agreement.

10.23. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

10.24. Use of City Logo. Lobbyist shall not use City's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of City.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: THE CITY OF PANAMA CITY BEACH, through its CITY COUNCIL, signing by and through its City Manager, authorized to execute same by City Council action on the 14 th day of January, 2021, and Lobbyist, signing by and through its Vice President, duly authorized to execute same.

WITNESSES:

CITY OF PANAMA CITY BEACH

Debbie Ward  
Signature

Debbie Ward  
Print Name of Witness above

Tony O'Rourke  
Tony O'Rourke, City Manager

Tony O'Rourke, City Manager  
Print Name and Title

Angel Agee  
Signature

Angel Agee

Print Name of Witness above

ATTEST:

Approve as to form:

By Amy E. Myers

City Attorney

Lynne Fasone  
Lynne Fasone, City Clerk

**AGREEMENT BETWEEN CITY OF PANAMA CITY BEACH AND CAPITOL HILL  
CONSULTING GROUP, LLC, FOR FEDERAL LEGISLATIVE AND EXECUTIVE  
BRANCH REPRESENTATION SERVICES**

**LOBBYIST**

WITNESSES:

**CAPITOL HILL CONSULTING GROUP,  
LLC**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Steve Southerland, Senior Vice President

\_\_\_\_\_  
Print Name of Witness above

\_\_\_\_\_  
Print Name and Title

day of \_\_\_\_\_, 2021

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name of Witness above

**ATTEST:**

\_\_\_\_\_  
Corporate Secretary or other person  
authorized to attest

(CORPORATE SEAL OR NOTARY)

## **EXHIBIT A – SCOPE OF SERVICES**

- 1.** Provide a full range of professional lobbying services and advocacy before the United States Congress, the President of the United States, the Cabinet, and executive departments, agencies, offices, commissions, and other governmental units of the United States government with respect to all of City's legislative and regulatory interests including, but not limited to, the Subject Areas listed in Exhibit B; matters contained within City's Federal legislative program; assigned executive branch projects; and other issues or projects of the City as assigned by the City Representative or designee.
- 2.** Effectively communicate City's Federal legislative program and issues to members of the U.S. Congress, the President of the United States, Cabinet, and executive departments, agencies, offices, commissions and other governmental units of the United States government.
- 3.** Upon request, arrange meetings for City Councilmembers, City officials, and staff from the Office of the City Manager with members and officials of the Legislative and Executive Branch of Federal government and other entities as necessary, including members of the Congress in leadership positions, key legislative committee members and staff, and executive branch leaders and key officials within the President's Office, Cabinet, and Federal agencies.
- 4.** Be available on a 24-hour basis during any regular session, extended session, or special session, committee week, and at other times as requested, to: assist in writing, interpreting, and monitoring legislation, agency rules and regulations; drafting legislation, amendments, proviso language, position papers, and testimony; obtaining documentation and research materials; and securing sponsors for bills, amendments, resolutions, proviso language and other legislation, as necessary to accomplish City's legislative and executive branch goals.
- 5.** Identify and discuss with City any areas of potential concern or opportunity for obtaining passage of City's legislative priorities, other issues in the Federal legislative program, and executive branch issues or projects assigned to Lobbyist.
- 6.** Proactively monitor federal legislation and regulations.
- 7.** Attend strategy meetings, legislative committee meetings, briefings, and hearings, during session and interim committee weeks, and report on all matters assigned; and participate in meetings, conference calls, and provide verbal or written reports to City at other times, as directed by Contract Administrator or designee.
- 8.** Integrate efforts with the City Manager and any other consultant contracted with the City to ensure strong, consistent legislative advocacy of City's legislative and executive branch priorities, issues and projects.
- 9.** Consult with City Councilmembers, City Manager, Contract Administrator, and such other persons designated by the Contract Administrator regarding any legislative or executive matter which may impact the City, and take any necessary action, as determined by the Contract Administrator.
- 10.** Prepare and submit written reports, as required by the Contract Administrator, regarding the status of assigned issues and projects, progress made to achieve such matters, including regular weekly status reports, during session and interim committee weeks, an end-of-session report upon the conclusion of any regular or special session; and a report relating to any City legislative or executive branch issue or project assigned.
- 11.** For each Term of this Agreement, the City shall select, in consultation with the Lobbyist, up to five (5) federal grant opportunities for Lobbyist's pursuit. Grant applications selected by the City shall be fully written, prepared and submitted by Lobbyist. The City shall assist Lobbyist in the preparation of the grant application process.

## **EXHIBIT B. SUBJECT AREAS**

- 1. Appropriations/Project Funding including but not limited to:**
  - a. Offshore Stormwater Outfall Infrastructure.**
- 2. Transportation Infrastructure Funding**
  - a. Bay Parkway Funding.**
- 3. FEMA stormwater/flood mapping regulation.**
- 4. City grant opportunities.**
- 5. Economic Development**
- 6. Disaster Recovery Appropriations/Funding**
- 7. Business Development**
- 8. Public Works-General/Funding**
- 9. Water & Wastewater Infrastructure Projects**
- 10. Telecommunications/E-Commerce**