

**Florida Polytechnic University Foundation
INDEPENDENT CONTRACTOR AGREEMENT**

This Independent Contractor Agreement (“Agreement”) is entered into on the date fully executed below, by and between Ballard Partners, Inc., with a principal place of business at 201 East Park Avenue, 5th Floor, Tallahassee FL 32301 (“FIRM”) and The Florida Polytechnic University Foundation, Inc. (“FOUNDATION”), 4700 Research Way, Lakeland, Florida 33805.

WHEREAS, FIRM has proposed to provide certain services for FOUNDATION, and

WHEREAS, the parties hereto desire to reduce the terms of their agreement to writing.

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

1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.
2. **Services.** FIRM agrees to perform and provide to FOUNDATION the services (“Services”) described in the Scope of Work which is labeled as Exhibit A and attached and incorporated by this reference. FIRM’s individual(s) designated as key personnel for the purposes of this Agreement is/are Carol Bracy (“Key Personnel”). FIRM may reassign or substitute Key Personnel upon consent by FOUNDATION, such consent shall not be unreasonably withheld, or upon the unavailability of assigned Key Personnel due to illness or other factors beyond FIRM’s control. In Exhibit A, the term “university” refers to Florida Polytechnic University and its board of trustees as applicable.
3. **Term.** The term of this Agreement shall begin on the date this Agreement is signed by both parties and continue, unless otherwise terminated pursuant to the terms hereof, through June 30, 2020 and may be terminated as contemplated by paragraph 7 of this Agreement.
4. **Fee for Services.** As full compensation, inclusive of any and all expenses, for the Services to be provided by FIRM hereunder, FOUNDATION agrees to pay FIRM an all-inclusive fee of US \$ 3,000 per month (“Fee”). FIRM shall submit to FOUNDATION invoices for the Fee for those Services rendered, in arrears. FOUNDATION will designate a representative to serve as FOUNDATION’s point of contact for the FIRM’s submission of invoices and questions concerning payment status.
5. **Payment.** FIRM shall submit bills for compensation for services or expenses in sufficient detail for a pre- and post-audit. FIRM is responsible for any taxes due under this Agreement. FOUNDATION will make within 30 days of receipt of a proper invoice. If FOUNDATION does not issue payment within 30 days of receipt of a proper invoice, FOUNDATION will pay to FIRM an interest penalty at the rate established pursuant to section 55.03(1), Florida Statutes, if the interest exceeds \$1.00. FOUNDATION may make payment to FIRM via the FOUNDATION’s EFT/ACH payment process. FIRM shall provide the necessary information to FOUNDATION upon request.
6. **Confidentiality of Information.** If FIRM is exposed to FOUNDATION’s confidential information (such as donor information), FIRM will keep such information confidential and will act in accordance with any guidelines and applicable laws including the Family Educational Rights and Privacy Act (FERPA) and the Gramm-Leach Bliley Act.

7. **Indemnification by FOUNDATION.** Nothing in this Agreement may be construed as an indemnification of the FIRM by the FOUNDATION or as a waiver of sovereign immunity beyond that provided in section 768.28, Florida Statutes.
8. **Termination.**
 - A. **Termination at Will.** This Agreement may be terminated by either party by providing written notice of such intent to terminate at least 30 days prior to the effective date of such termination.
 - B. **Termination for Cause.** Notwithstanding the provisions of subsection 8.A. above, FOUNDATION may, upon five (5) days' written notice to FIRM, set forth with specificity the basis for the termination to terminate this Agreement for Cause. For purposes of this Agreement, "cause" is defined as FIRM's failure to perform the Services within the time specified herein or any extension thereof or FIRM's failure to adhere to any of the terms of this Agreement.
 - C. If this Agreement is terminated, FOUNDATION shall only be liable for payment of services rendered prior to the date of termination and accepted by FOUNDATION.
9. **Force Majeure.** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by an act of war, hostile foreign action, labor strike, nuclear explosion, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
10. **Compliance with Laws.** FIRM shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority over it.
11. **Independent Contractor.** FIRM is retained by FOUNDATION only for those purposes and to the extent set forth in this Agreement, and FIRM's relation to FOUNDATION shall, during the term of this Agreement, be that of independent FIRM. FIRM is not and shall not be considered as having an employee status. FIRM is responsible for the payment of any taxes on any monies received by FIRM.
12. **Prohibitions.** Unless expressly and specifically authorized in writing by FOUNDATION in advance, FIRM is prohibited from engaging in any of the following:
 - A. Incurring any debt or obligation on behalf of FOUNDATION;
 - B. Entering into any contract, arrangement, or transaction which binds FOUNDATION to any extent or creates any obligation on FOUNDATION; and/or
 - C. Utilizing FOUNDATION's name, credit, reputation, good-will, resources, and/or assets for any purpose without the prior and explicit written approval of FOUNDATION.
13. **Indemnification.** FIRM is responsible for its performance under this Agreement. FIRM agrees to release, indemnify, defend, and hold harmless FOUNDATION, the Foundation Board of Directors, their respective trustees, officers, employees and agents of and from any and all liability, fines, royalties, fees, taxes, suits, claims, demands and actions, costs, attorney's fees and expenses of any kind or nature whatsoever ("Losses") for any loss of life, personal, bodily or economic injury or damage or loss to property arising out of the negligent acts, errors or omissions of FIRM, its officers, agents, employees and contractors; and from and against any orders, judgments or decrees which may be entered pursuant thereto. This provision shall survive the termination of this Agreement.
14. **Travel.** Travel is not applicable to this contract.
15. **Entire Agreement.** This Agreement and any documents incorporated specifically by reference represent the entire agreement between the parties and supersedes all prior oral or written statements or agreements. This Agreement may only be amended by written amendments duly executed by the parties hereto.

16. **Notices.** Any notice to either party hereunder must be in writing and signed by the party giving it, and served: 1) by hand; 2) through the United States Mail, postage prepaid, registered or certified, return receipt requested; 3) through expedited mail or package service, if a receipt showing the delivery has been retained, or 4) by e-mail and addressed as follows:

To FOUNDATION:
Florida Polytechnic University Foundation
PO Box 93553
Lakeland, FL 33804

To FIRM:
Name: Ballard Partners, Inc.
Address: 201 East Park Avenue
5th Floor
Tallahassee, FL 32301

Attn: Kathryn Mizereck
E-mail: kmizereck@floridapoly.edu

Attn: Carol Bracy
E-mail: carol@ballardpartners.com

Notice is effective upon receipt, except if notice is by e-mail, notice is effective upon acknowledgement of receipt by the party to be noticed.

- 17. **Assignment.** This Agreement may not be assigned by FIRM without the express written consent of FOUNDATION. This Agreement shall be binding upon and inure to the benefit of the parties hereto.
- 18. **Governing Law.** This Agreement and any amendments to it are governed by the laws of the State of Florida and venue of any actions arising out of this Agreement shall be in the state courts in Polk County, Florida.
- 19. **Survival.** Any provision of this Agreement providing for performance by either party after termination of this Agreement shall survive such termination and continue to be effective and enforceable.

The duly authorized representatives of the parties hereby execute this Independent Contractor Agreement.

FOUNDATION:
The Florida Polytechnic University Foundation

FIRM:
BALLARD PARTNERS, INC.

Mave
Signature

[Signature]
Signature

Randy K. Avent
Print Name

Brian D. Ballard, President
Print Name

7/3/19
Date

7/11/2019
Date

EXHIBIT A

1. Assist in formulating the university's legislative agenda
2. Represent the university's interests before the executive and legislative branches of Florida government
3. Schedule meetings with key members and staff in the executive and legislative branches
4. Advocate for passage or defeat of legislation that is relevant to the university
5. Inform the client of developments in legislation and policy relevant to the university's interests
6. Provide advice and counsel with respect to political issues and developing public policy issues
7. Provide ancillary services such as relevant news articles, analyses, and important governmental announcements