Florida International University Foundation, Inc.

INDEPENDENT CONTRACTOR AGREEMENT (for Services <$75,000)

This Independent Contractor Agreement ("Agreement") is entered into on the date fully executed below, by and between Capital City Consulting, with a principal place of business at 124 W. Jefferson Street, Tallahassee, FL 32301 ("Contractor") and The Florida International University Foundation, Inc. ("FIU").

WHEREAS, Contractor has proposed to provide certain services for FIU, and

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

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. **Recitals**. The above recitals are true and correct and are incorporated herein by this reference.

2. **Services.** Contractor agrees to perform and provide to FIU the services ("Services") described in the Scope of Work which is labeled as Exhibit A and attached and incorporated by this reference. Contractor's individual(s) designated as key personnel for the purposes of this Agreement is/are Nick Iarossi ("**Key Personnel**"). Contractor may reassign or substitute Key Personnel upon consent by FIU, such consent shall not be unreasonably withheld, or upon the unavailability of assigned Key Personnel due to illness or other factors beyond Contractor's control.

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 *(Enter date of Termination)* June 30, 2020 or until Services are fully rendered, whichever is later.

4. **Fee for Services.** As full compensation, inclusive of any and all expenses, for the Services to be provided by Contractor hereunder, FIU agrees to pay Contractor a fee of Fourty-two thousand and five hundred ($42,500) (the "Fee"). Contractor shall submit to FIU invoices for the Fee for those Services rendered, in arrears. FIU will designate a representative to serve as FIU's point of contact for the Contractor's submission of invoices and questions concerning payment status.

5. **Payment.** Contractor shall submit bills for compensation for services or expenses in sufficient detail for a pre-and post-audit. Contractor is responsible for any taxes due under this Agreement. FIU will make payment in accordance with FIU Regulation FIU-2202 entitled "Prompt Payment." If FIU does not issue payment within 40 days of receipt of a proper invoice, FIU will pay to Contractor, an interest penalty at the rate established pursuant to §55.03(1) Fla. Stat. if the interest exceeds one dollar ($1.00). Contractors experiencing payment problems may contact the Vendor Ombudsman at (305) 348-2101. FIU may make payment to Vendor via the University's EFT/ACH payment process. Vendor shall provide the necessary information to FIU upon request.

6. **Confidentiality of Information.** If Contractor is exposed to FIU's confidential information, Contractor will keep such information confidential and will act in accordance with any guidelines and applicable laws (such as FERPA and the Gramm-Leach Bliley Act.) If Contractor will have

access to any protected health information, Contractor will enter into a business associates agreement with FIU. If Contractor is acting as a consultant to FIU and is representing FIU's interests in dealings with other third parties, Contractor shall not accept employment with or act as an independent contractor for such third parties for a period of one year after this Agreement is terminated. This provision shall survive termination of the Agreement.

7. **Compliance with Public Records Law.** FIU is subject to applicable public records laws as provided by provisions of Florida Statutes Chapter 119, and FIU will respond to such public records request without any duty to give the Contractor prior notice. If Contractor is a "contractor" as defined under Section 119.0701, Florida Statutes, Contractor shall comply with all applicable public records laws. Specifically, Contractor shall: (1) keep and maintain public records required by FIU to perform the service; (2) upon request from FIU's custodian of public records, provide FIU 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 under that section, or as otherwise provide by law; (3) 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 of the contract if Contractor does not transfer the records to FIU; and (4) upon completion of the contract, transfer, at no cost, to FIU all public records in possession of Contractor or keep and maintain public records required by FIU to perform the Service. If Contractor transfers all public records to FIU upon completion of the contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to FIU, upon request by FIU's public records custodian, in a format that is compatible with FIU's information technology systems. If FIU receives a request for public records, and FIU does not possess such records, FIU shall immediately notify Contractor of such request, and Contractor must provide them to FIU or allow the records to be inspected or copied within a reasonable time. If Contractor does not comply with the request for records, FIU shall enforce the terms of the contract, and Contractor may be subject to civil action under Section 119.0701, Florida Statutes, and the penalties outlined under Section 119.10, Florida Statutes. FIU may unilaterally cancel the Agreement for Contractor's refusal to allow public access to all public records that were made or received in conjunction with the Agreement. This provision shall survive the expiration or earlier termination of the Agreement. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (305) 348-1377, BY EMAIL AT recordsmanagement@fiu.edu, OR BY MAIL at 11200 SW 8 ST., GL 460, MIAMI, FLORIDA 33199.**

8. **Indemnification/Copyright and Intellectual Property.** If Contractor uses copyrighted materials or documents not owned by FIU ("Copyrighted Materials") in Contractor's performance of the Agreement, Contractor represents and warrants that it owns, or is licensed to use and to authorize others to use, the Copyrighted Materials. Contractor will, at its expense, defend any suit brought against FIU and will indemnify FIU against an award of damages and costs made against FIU by a settlement or final judgment that is based on a claim that FIU's use of the Copyrighted Materials infringes a trademark or copyright of a third party. This provision shall survive termination of the Agreement.

9. General Provisions.

A. Nothing in this Agreement shall be construed as an indemnification of the Contractor by the FIU nor as a waiver of sovereign immunity beyond that provided in Florida Statutes §768.28.

B. FIU is self-insured, and will provide its Certificate of Insurance upon request; FIU is not required to obtain additional insurance for this Agreement.

10. Termination.

A. **Termination at Will.** This Agreement may be terminated by FIU by written notice to Contractor of such intent to terminate at least ten (10) days prior to the effective date of such termination.

B. **Termination for Cause.** Notwithstanding the provisions of subsection 10.A. above, FIU may, upon five (5) days' written notice to Contractor setting forth with specificity the basis for the termination, terminate this Agreement for Cause. For purposes of this Agreement, "Cause" is defined as Contractor's failure to perform the Services within the time specified herein or any extension thereof or Contractor's failure to adhere to any terms of this Agreement.

C. If this Agreement is terminated, FIU shall only be liable for payment of goods received and services rendered prior to the date of termination and accepted by FIU.

11. Insurance. Contractor will have and maintain types and amounts of insurance that at a minimum cover the Contractor's (or subcontractor's) exposure in performing this Agreement.

12. 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.

13. Compliance with Laws. In the performance of this Agreement, Contractor shall, at its own expense, at all times during the Term, comply with all applicable federal, state, and local laws, rules, regulations, and ordinances and all other governmental requirements. Contractor acknowledges and agrees that Contractor has and will at all times during the Term maintain all governmental permits, licenses, consents, and approvals necessary to perform its obligations under this Agreement.

14. Independent Contractor. Contractor is retained by FIU only for those purposes and to the extent set forth in this Agreement, and Contractor's relation to FIU shall, during the term of this Agreement, be that of independent contractor. Contractor is not and shall not be considered as having an employee status. Contractor is responsible for the payment of any taxes on any monies received by Contractor.

15. Prohibitions. Unless expressly and specifically authorized in writing by FIU in advance, Contractor is prohibited from engaging in any of the following:

A. incurring any debt or obligation on behalf of FIU;

B. entering into any contract, arrangement, or transaction which binds FIU to any extent or creates any obligation on FIU; and/or

C. utilizing FIU's name, credit, reputation, good-will, resources, and/or assets for any purpose without the prior and explicit written approval of FIU.

16. Indemnification. Contractor is responsible for its performance under this Agreement. Contractor agrees to release, indemnify, defend and hold harmless Florida International University, the FIU Board of Trustees, the Florida Board of Governors, the State of Florida and 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 Contractor, 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.

17. Travel. If FIU is specifically responsible for reimbursing Contractor for travel expenses pursuant to the Agreement, such expenses shall only be paid to the extent permitted by Fla. Stat. §112.061 and FIU policy 1110.060 Travel: University Travel Expense.

18. 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.

19. 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; or 3) through expedited mail or package service, if a receipt showing the delivery has been retained, and addressed as follows:

To FIU:
Florida International University
Foundation, Inc.
Address: _____
_____
_____
Attn: _____

To Contractor:

Name: _Capital City Consulting
Address: 124 W Jefferson Street
_Tallahassee, FL 32301_____
_____
Attn: _Nick Iarossi_____

Notice is effective upon receipt.

20. Assignment. This Agreement may not be assigned by Contractor without the express written consent of FIU. This Agreement shall be binding upon and inure to the benefit of the parties hereto.

21. Governing Law. This Agreement is 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 Miami-Dade County, Florida.

22. Software. If Contractor is providing software, FIU may create and retain a copy of the software and related documentation for back up and disaster recovery purposes, and for archival purposes for use after this Agreement is terminated. This provision shall survive Termination of the Agreement.

23. 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.

24. No counterparts; facsimile signatures allowed. This Agreement may not be executed in counterparts. The Agreement, along with any and all Exhibits, may be executed and delivered by facsimile signature by any of the parties to the other parties; to the extent permissible under Florida law, a facsimiles signature shall have the same legal force and effect as an original signature and the receiving party may rely on the receipt of such document so executed and delivered by facsimile signature as if the original had been received.

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

FIU:
The Florida International University Foundation, Inc.

Signature

Print Name: Howard Lipman
Print Title: CEO
Date: 1/17/2020

Contractor:

Capital City Consulting, LLC

Signature

Print Name: Nick Iarossi
Print Title: Owner
Date: 1/8/20

Exhibit "A"

Scope of Work

[*Enter Scope of Work- specify work to be completed, deliverables and due dates, etc*]

This contract is for consulting services on state executive and legislative governmental Affairs. The vendor will provide strategic advice and analysis of state affairs and work in cooperation with FIU Governmental Relations to develop and implement a state relations strategy. The vendor will also provide professional lobbying services before the Florida Legislature, the Governor, Cabinet and executive departments, agencies and other governmental units of the State. The vendor will develop strategic relationships and facilitate meetings with key members of the Florida House and Senate. The vendor will provide background information about pertinent legislation and or amendments that affect FIU.