



Kevin Madok, CPA

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

DATE: September 21, 2023
TO: Lisa Tennyson, Director
Legislative Affairs & Grants Acquisition
FROM: Pamela G. Hancock, D.C.
SUBJECT: September 20th BOCC Meeting

Attached are electronic copies of the following items for your handling:

N4 Annual agreement with Capitol Group, Inc. (Robert Reyes) for continuing lobbying services on behalf of Monroe County in the legislative and executive branches of State government effective October 1, 2023.

N5 Annual agreement with Capitol City Consulting (Nick Iarossi/Andrew Ketchel) for continuing lobbying services on behalf of Monroe County, including specifically in the executive branch of State government to advance the County's pursuit of recurring funding for the implementation of the Florida Keys Stewardship Act, resiliency funding and other issues as called upon, effective September 1, 2023.

N6 Annual agreement with Gray Robinson, P.A. (Ryan Matthews and Dean Cannon) for continuing lobbying services on behalf of Monroe County in the legislative and executive branches of State government effective October 1, 2023.

Should you have any questions please feel free to contact me at (305) 292-3550.

cc: County Attorney
Finance
File

KEY WEST
500 Whitehead Street
Key West, Florida 33040

MARATHON
3117 Overseas Highway
Marathon, Florida 33050

PLANTATION KEY
88770 Overseas Highway
Plantation Key, Florida 33070

**AGREEMENT FOR
LOBBYING SERVICES
Between
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS
And
CAPITAL CITY CONSULTING**

This Agreement (“Agreement”) made and entered into this 20th day of September, 2023, by and between Monroe County, a political subdivision of the State of Florida, and whose address is 1100 Simonton Street, Key West, Florida, 33040, its successors and assigns, hereinafter referred to as "COUNTY," through the Monroe County Board of County Commissioners (“BOCC”), and

Capital City Consulting, a limited liability company of the State of Florida, and whose address is 124 W. Jefferson Street, Tallahassee, Florida, 32301, its successors and assigns, hereinafter referred to as "LOBBYIST", and

WHEREAS, COUNTY desires to employ the professional services of LOBBYIST for the state executive branch to advance the County’s legislative pursuit of appropriation and recurring funding for the implementation of the Florida Keys Stewardship Act, resiliency funding, and other issue areas and services as assigned by the County Administrator and agreed to by the LOBBYIST; and

WHEREAS, LOBBYIST have agreed to provide the professional services as LOBBYISTS for representation as described in this agreement; and

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, COUNTY and LOBBYIST agree as follows:

1. **TERM OF AGREEMENT.** This agreement shall be effective upon approval and the agreement shall continue for a period of 1 year, beginning September 1, 2023. The County shall have the option to renew the agreement after the original terms, subject to performance by the LOBBYIST and the availability of County funds.
2. **COMPENSATION.** The County, in consideration of the LOBBYIST satisfactorily performing services, shall pay the LOBBYIST a total of \$90,000 (Ninety Thousand Dollars), on invoices submitted by LOBBYIST to the County Administrator’s office on a monthly basis. Invoices must provide sufficient detail to describe work completed under this Contract. Total Contract shall not exceed \$90,000 (Ninety Thousand Dollars) plus the cost of approved travel expenses. Travel expenses may be paid if approved by the County Administrator, as long as adequate documentation is provided by LOBBYIST including but not limited to the exact dates of travel, mileage, costs. Travel expenses are regulated by the Monroe County Code Sec. 2-106 to 2-112.

3. **SCOPE OF SERVICES.**

3.1 LOBBYIST will represent Monroe County specifically to lobby the State of Florida's Executive Branch Agencies on behalf of Monroe County, including the Governor's office, and the Department of Environmental Protection to: secure Stewardship appropriation and recurring Stewardship funding in the Governor's budget, to prevent veto of Stewardship funding if included in the final budget; to secure Governor and DEP support for resiliency funding for Monroe County; and other efforts all at the direction of Monroe County. In addition, LOBBYIST will monitor all actions of the executive branch that could impact Monroe County's interests in Florida.

3.2 Effectively communicate COUNTY's pursuit of appropriation and recurring funding for the implementation of the Florida Keys Stewardship Act to members of the Governor's office and Cabinet, and executive departments, agencies, offices, commissions and other governmental units of the state of Florida.

3.3 Effectively communicate County's pursuit of resiliency funding and other needs and requests with Governor's office, Department of Environmental Protection, Fish and Wildlife Commission, and any other agencies as requested.

3.3 Upon request, arrange meetings for County Commissioners, County officials, and staff with key officials and members of the Executive Branch of state government and other entities as Governor's Office, Cabinet, and state agencies re: County's pursuit of appropriation and recurring funding for the implementation of the Florida Keys Stewardship Act and resiliency funding.

3.4 Be available on a 24-hour basis during any Regular Session, extended session, or special session, committee week, and at other times as requested, as necessary.

3.5 Attend weekly team strategy meetings, legislative committee meetings, briefings, and hearings, during session and interim committee weeks, and report on assignment; and participate in meetings, conference calls, and provide verbal or written reports to COUNTY at other times, as directed by the Director of Legislative Affairs.

3.6 Consult with County Commissioners, County Administrator, Director of Legislative Affairs, County Attorney, and such other persons designated by the Contract Administrator and take any necessary action, as determined by the County Administrator and Director of Legislative Affairs.

3.7 Prepare and submit written reports, as may be required by the Director of Legislative Affairs, regarding the status of assignment, progress made to achieve such matters, an end-of-session report upon the conclusion of any regular or special session and a written report on each monthly invoice provided by the LOBBYIST during the period covered by the invoice.

4. **REPRESENTATIONS AND WARRANTIES.** By executing this Agreement, LOBBYIST makes the following express representations and warranties to the COUNTY:

4.1: The LOBBYIST is professionally qualified to act as the LOBBYIST for the Scope of services and is licensed to provide the designated services by all public entities having jurisdiction over the LOBBYIST and the Scope of services;

4.2: The LOBBYIST shall maintain all necessary licenses, permits or other authorizations necessary to act as LOBBYIST until the LOBBYIST'S duties hereunder have been fully satisfied;

4.3: The LOBBYIST has become familiar Monroe County's legislative issues and priorities.

4.4: The LOBBYIST shall prepare all documents, if required, by this Agreement in such a manner that they shall be accurate, coordinated and adequate for use in the subsequent implementation phases and shall be in conformity and comply with all applicable law, codes and regulations. All Documents shall be reviewed by the County Attorney, or his designee, prior to being approved by the BOCC. The LOBBYIST warrants that the documents prepared as a part of this Agreement will be adequate and sufficient to accomplish the scope of services, therefore, eliminating any additional cost due to missing or incorrect information.

4.5: The LOBBYIST assumes full responsibility to the extent allowed by law with regards to his performance and those directly under his employ.

4.6: The LOBBYIST'S services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the scope of services.

4.7: LOBBYIST is an independent contractor under this Agreement. Services provided by LOBBYIST, or subcontractor(s), shall be subject to the supervision of Capital City Consulting. In providing the services, LOBBYIST and its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the COUNTY, nor shall they accrue any of the rights or benefits of a COUNTY employee.

4.8: The LOBBYIST shall, without additional compensation, promptly correct any errors, omissions, deficiencies, or conflicts in the work product of the LOBBYIST or its subcontractors, or both.

5. **COUNTY'S RESPONSIBILITIES.** COUNTY shall provide information in its possession upon request from LOBBYIST as needed for the Project including objectives, schedule, constraints and criteria. COUNTY shall designate a representative to act on the COUNTY'S behalf with respect to the Project. The COUNTY or its representative shall render decisions in a timely manner pertaining to documents submitted by the LOBBYIST in order to avoid unreasonable delay in the orderly and sequential progress of the LOBBYIST'S services. Prompt written notice shall be given by COUNTY through its representative to LOBBYISTS if COUNTY becomes aware of any fault or defect in the Project or non-conformance with the Agreement Documents. Any information that may be of assistance to the LOBBYIST to which the COUNTY has immediate access will be provided as requested.

6. **WRITTEN NOTICE.** Any notices under this Agreement sent by the parties shall be deemed to have been duly served if delivered in person to the individuals and addresses listed below, or if delivered or sent by first class mail, certified, return receipt, or by courier with proof of delivery.

6.1: All written correspondence to the COUNTY shall be dated and signed by an authorized representative of the LOBBYIST. The correspondence shall be directed to:

Roman Gastesi, County Administrator,
and Lisa Tennyson, Director of Legislative Affairs
1100 Simonton Street

Key West, Florida 33040

With a copy to:

Bob Shillinger, County Attorney
1111 12th Street, Suite 408
Key West, FL 33040

6.2: Notice to the LOBBYIST shall be delivered to:

Nick Iarossi, Capital City Consulting
124 W. Jefferson Street
Tallahassee, Florida, 32301

7. **CONFLICT OF INTEREST.** LOBBYIST agrees it shall not contract for or accept employment for the performance of any work or service with any individual, business corporation, or government unit that would create a conflict of interest in the performance of its obligations under this Agreement. LOBBYIST further agrees it will neither take any action nor engage in any conduct that would cause any County employee or official to violate the provisions of Chapter 112, Florida Statutes, relating to ethics in government.

7.1 No LOBBYIST under contract with the county shall engage in any employment or contractual relationship with any entity, which employment or contractual relationship would or could be adverse to the COUNTY or which would or could interfere with the LOBBYIST's work on behalf of the COUNTY. Such relationship includes, but is not limited to, representing a client whose interest is currently in opposition to the interest of the COUNTY; serving as a consulting or testifying as an expert witness in litigation against the county; representing persons or entities before any board or agency of the county; or any other contractual relationship of whatever kind or nature in which the consultant uses his professional expertise or provides professional services in such a manner that a different person or entity benefits at the expense of the COUNTY in a given transaction between other person or entity in the county.

A position in opposition to a County position may take the form of an adverse policy position or fiscal impact on the County, either direct or indirect. A position in opposition to a County position is not limited to a position that conflicts with an express provision of the legislative package adopted by the Board of County Commissioners. It may also arise in other areas. Not every County interest can be anticipated or enumerated in the County's legislative package, and issues arise and change over the course of the legislative process. It is incumbent on the LOBBYIST to remain mindful of the County policy and fiscal interests and positions vis-à-vis other clients.

7.3 If actual or perceived conflict arises, the LOBBYIST must advise the County Administrator immediately in writing, provide sufficient information concerning the conflict, and seek a waiver of the conflict. The County Administrator shall report the conflict to the Board of County Commissioners.

Once a conflict waiver request has been received by the County, the County Administrator, in consultation with the County Attorney may take any action regarding the waiver request, including by not limited to the following: 1) allow a waiver and allow the LOBBYIST to continue to represent both the County and the other party; 2) disallow a waiver and require the LOBBYIST to choose between representing the County or the other party, or to discontinue representing the other party; 3) allow a limited waiver and require the LOBBYIST to continue to represent both the County and the other party under whatever limitations or restrictions the County Administrator, in consultation with the County Attorney, determines to be appropriate. Any such actions by the County Administrator shall only be effective until the Board of County Commissioners has considered the conflict action.

The Board of County Commissioners may take any action necessary, such as termination or waiver or partial waiver, to address the conflict of interest disclosed by the LOBBYIST. **Waiver of any conflict of interest or termination of this Agreement is expressly reserved to the Board.**

8. **INSURANCE.** The LOBBYIST shall provide proof of insurance showing that County is an additional insured on all policies except workers' compensation and shall maintain the required insurance at all times that this Agreement is in effect. In the event the completion of the scope of services (to include the work of others) is delayed or suspended as a result of the LOBBYIST'S failure to purchase or maintain the required insurance, the LOBBYIST shall indemnify the COUNTY from any and all increased expenses resulting from such delay.

8.1: The coverage provided herein shall be provided by an insurer with an A.M. Best Rating of VI or better, that is licensed to business in the State of Florida and that has an agent for service of process within the State of Florida. The coverage shall contain an endorsement providing thirty (30) days' notice to the COUNTY prior to any cancellation of said coverage. Said coverage shall be written by an insurer acceptable to the COUNTY and shall be in a form acceptable to the COUNTY.

- 8.2: LOBBYIST shall obtain and maintain the following policies:
- A. Workers' Compensation insurance as required by the State of Florida.
 - B. Comprehensive business automobile and vehicle liability insurance covering claims for injuries to members of the public and/or damages to property of others arising from use of motor vehicles, including onsite and offsite operations, and owned, hired or non-owned vehicles, with One Hundred Thousand Dollars (\$100,000) combined single limit. If split limits are provided, the minimum limits acceptable shall be: Fifty Thousand Dollars (\$50,000) per person, One Hundred Thousand Dollars (\$100,000) per occurrence, and Twenty Five Thousand Dollars (\$25,000) property damage.
 - C. Commercial general liability covering claims for injuries to members of the public or damage to property of others arising out of any covered act or omission of the LOBBYIST or any of its employees, or agents, including Premises and/or Operations, Products and Completed operations, personal injury liability, and expanded definition

of property damage. The minimum limits acceptable shall be: Three Hundred Thousand Dollars (\$300,000) Combined Single Limit (CSL). If split limits are provided, the minimum limits acceptable shall be: One Hundred Thousand Dollars (\$100,000) per person, Three Hundred Thousand Dollars (\$300,000) per occurrence, and Fifty Thousand Dollars (\$50,000) property damage. An occurrence Form Policy is preferred. If coverage is provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this Agreement. In addition, the period for which claims may be reported should extend for a minimum of twelve (12) months following the acceptance of work by the County.

D. LOBBYIST shall provide to the COUNTY certificates of insurance or a copy of all insurance policies including those naming the COUNTY as an additional insured. The COUNTY reserves the right to require a certified copy of such policies upon request.

9. **HOLD HARMLESS.** The LOBBYISTS covenants and agrees to indemnify and hold harmless the Monroe County Board of County Commissioners from any and all claims for bodily injury (including death), personal injury, and property damage (including property owned by Monroe County) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of services provided by LOBBYISTS or any of its Subcontractor(s) in any tier, occasioned by the negligence, errors, or other wrongful act of omission of the LOBBYISTS or its Subcontractors in any tier, their employees, or agents.

In the event the completion of the project (to include the work of others) is delayed or suspended as a result of the LOBBYISTS's failure to purchase or maintain the required insurance, the LOBBYISTS shall indemnify the County from any and all increased expenses resulting from such delay.

The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

10. **SECTION HEADINGS.** Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provision of this Agreement.
11. **OWNERSHIP OF THE PROJECT DOCUMENTS.** The documents, if any, prepared by the LOBBYIST for this Project belong to the COUNTY, and may not be reproduced and copied without acknowledgement and permission of the COUNTY.
12. **SUCCESSORS AND ASSIGNS.** The LOBBYIST shall not assign its right hereunder, except its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the COUNTY. Subject to the provisions of the immediately preceding sentence, each party hereto binds itself, its successors, assigns and legal representatives to the other and to the successors, assigns and legal representatives of such other party.

13. NO THIRD PARTY BENEFICIARIES. Nothing contained herein shall create any relationship, contractual or otherwise, with or any rights in favor of, any third party.

14. CONTRACT DOCUMENTS. This contract consists of the Agreement and its attachment. In the event of any conflict between any of the contract documents, the one imposing the greater burden on the LOBBYIST will control.

15. PUBLIC ENTITIES CRIMES. A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on contracts to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, LOBBYIST under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

By signing this Agreement, LOBBYIST represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes). Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from COUNTY's competitive procurement activities.

In addition to the foregoing, LOBBYIST further represents that there has been no determination, based on an audit, that it or any subcontractor has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" 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.

LOBBYIST will promptly notify the COUNTY if it or any subcontractor is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

16. MAINTENANCE OF RECORDS. LOBBYIST shall maintain all books, records, and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. Each party to this Agreement or its authorized representatives shall have reasonable and timely access to such records of each other party to this Agreement for public records purposes during the term of the Agreement and for four years following the termination of this Agreement. If an auditor employed by the COUNTY or County Clerk determines that monies paid to LOBBYIST pursuant to this Agreement were spent for purposes not authorized by this Agreement, the LOBBYIST shall repay the monies together with interest calculated pursuant to Sec. 55.03, of the Florida Statutes, running from the date the monies were paid by the COUNTY.

- 17. GOVERNING LAW, VENUE, INTERPRETATION, MEDIATION, WAIVER OF JURY TRIAL.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State. In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this Agreement, COUNTY and LOBBYIST agree that venue shall lie in Monroe County, Florida, in the appropriate court or before the appropriate administrative body. The Parties waive their rights to a trial by jury. The COUNTY and LOBBYIST agree that, in the event of conflicting interpretations of the terms or a term of this Agreement by or between any of the parties, the issue shall be submitted to mediation prior to the institution of any other administrative or legal proceeding.
- 18. SEVERABILITY.** If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. The COUNTY and LOBBYIST agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.
- 19. ATTORNEY'S FEES AND COSTS.** The COUNTY and LOBBYIST agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, and court costs, as an award against the non-prevailing party, and shall include attorney's fees, and courts costs, in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement, prior to or following initiation of any cause of action or administrative proceeding, shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.
- 20. BINDING EFFECT.** The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the COUNTY and LOBBYIST and their respective legal representatives, successors, and assigns.
- 21. AUTHORITY.** Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary County and corporate action, as required by law.
- 22. CLAIMS FOR FEDERAL OR STATE AID.** LOBBYIST and COUNTY agree that each shall be, and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this Agreement; provided that all applications, requests, grant proposals, and funding solicitations shall be approved by each party prior to submission.

- 23. ADJUDICATION OF DISPUTES OR DISAGREEMENTS.** COUNTY and LOBBYIST agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law. COUNTY and LOBBYIST specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.
- 24. COOPERATION.** In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this Agreement, COUNTY and LOBBYIST agree to participate in all proceedings, hearings, processes, meetings, and other activities related to the substance of this Agreement or provision of the services under this Agreement.
- 25. NONDISCRIMINATION.** LOBBYIST and COUNTY agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. LOBBYIST and COUNTY agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VII of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination in employment on the basis of race, color, religion, sex, and national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101- 6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s.3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 12101 Note), as may be amended from time to time, relating to nondiscrimination on the basis of disability; 10) Monroe County Code, Chapter 14, Article II, which prohibits discrimination on the basis of race, color, sex, religion, disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age; 11) Any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties hereto, or the subject matter of, this Agreement.
- 26. CODE OF ETHICS AND ETHICS CLAUSE.** COUNTY agrees that officers and employees of the COUNTY recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business

with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

LOBBYIST warrants that he/it has not employed, retained or otherwise had act on his/her behalf any former County officer or employee in violation of Section 2 of Ordinance No. 010-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 010-1990. For breach or violation of this provision the County may, in its discretion, terminate this Agreement without liability and may also, in its discretion, deduct from the Agreement or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former County officer or employee.

27. NO SOLICITATION/PAYMENT. The LOBBYIST and COUNTY warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the provision, the LOBBYIST agrees that the COUNTY shall have the right to terminate this Agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

28. PUBLIC ACCESS. The LOBBYIST and COUNTY shall allow and permit reasonable access to, and inspection of, all documents, papers, letters or other materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the LOBBYIST and COUNTY in connection with this Agreement; and the COUNTY shall have the right to unilaterally cancel this Agreement upon violation of this provision by LOBBYIST.

Public Records Compliance. LOBBYIST must comply with Florida public records laws, including but not limited to Chapter 119, Florida Statutes and Section 24 of article I of the Constitution of Florida. The County and LOBBYIST shall allow and permit reasonable access to, and inspection of, all documents, records, papers, letters or other "public record" materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the County and LOBBYIST in conjunction with this contract and related to contract performance. The County shall have the right to unilaterally cancel this contract upon violation of this provision by the LOBBYIST. Failure of the LOBBYIST to abide by the terms of this provision shall be deemed a material breach of this contract and the County may enforce the terms of this provision in the form of a court proceeding and shall, as a prevailing party, be entitled to reimbursement of all attorney's fees and costs associated with that proceeding. This provision shall survive any termination or expiration of the contract.

The LOBBYIST is encouraged to consult with its advisors about Florida Public Records Law in order to comply with this provision.

Pursuant to F.S. 119.0701 and the terms and conditions of this contract, the LOBBYIST is required to:

- (1) Keep and maintain public records that would be required by the County to perform the service.
- (2) Upon receipt from the County's custodian of records, provide the County 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 this chapter or as otherwise provided 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 the LOBBYIST does not transfer the records to the County.
- (4) Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the LOBBYIST or keep and maintain public records that would be required by the County to perform the service. If the LOBBYIST transfers all public records to the County upon completion of the contract, the LOBBYIST shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the LOBBYIST keeps and maintains public records upon completion of the contract, the LOBBYIST shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of records, in a format that is compatible with the information technology systems of the County.
- (5) A request to inspect or copy public records relating to a County contract must be made directly to the County, but if the County does not possess the requested records, the County shall immediately notify the LOBBYIST of the request, and the LOBBYIST must provide the records to the County or allow the records to be inspected or copied within a reasonable time.

If the LOBBYIST does not comply with the County's request for records, the County shall enforce the public records contract provisions in accordance with the contract, notwithstanding the County's option and right to unilaterally cancel this contract upon violation of this provision by the LOBBYIST. A LOBBYIST who fails to provide the public records to the County or pursuant to a valid public records request within a reasonable time may be subject to penalties under section 19.10, Florida Statutes.

The LOBBYIST shall not transfer custody, release, alter, destroy or otherwise dispose of any public records unless or otherwise provided in this provision or as otherwise provided by law.

IF THE LOBBYIST HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LOBBYIST'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, BRIAN BRADLEY AT PHONE# 305-292-3470 BRADLEY-BRIAN@MONROECOUNTY-FL.GOV, MONROE COUNTY ATTORNEY'S OFFICE 1111 12TH Street, SUITE 408, KEY WEST, FL 33040.

29. **NON-WAIVER OF IMMUNITY.** Notwithstanding the provisions of Sec. 768.28, Florida Statutes, the participation of the LOBBYIST and the COUNTY in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the COUNTY be required to contain any provision for waiver.
30. **PRIVILEGES AND IMMUNITIES.** All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of the COUNTY, when performing their respective functions under this Agreement within the territorial limits of the COUNTY shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, volunteers, or employees outside the territorial limits of the COUNTY.
31. **LEGAL OBLIGATIONS AND RESPONSIBILITIES.** Non-Delegation of Constitutional or Statutory Duties. This Agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the extent of actual and timely performance thereof by any participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this Agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory duties of the COUNTY, except to the extent permitted by the Florida constitution, state statute, and case law.
32. **NON-RELIANCE BY NON-PARTIES.** No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the LOBBYIST and the COUNTY agree that neither the LOBBYIST nor the COUNTY or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this Agreement.
33. **COUNTY FORMS.** By signing this Agreement, LOBBYIST has sworn or affirmed to the following requirements as set forth in the Public Entity Crime Statement, Ethics Statement, Drug-Free Workplace Statement and Vendor Certification Regarding Scrutinized Companies List as set forth in more detail in this Agreement.

34. NO PERSONAL LIABILITY. No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

35. ASSIGNMENT/SUBCONTRACT. LOBBYIST shall not assign or subcontract its obligations under this agreement, except in writing and with the prior written approval of the Board of County Commissioners of Monroe County, which approval shall be subject to such conditions and provisions as the Board may deem necessary.

36. INDEPENDENT CONTRACTOR. At all times and for all purposes under this agreement the LOBBYISTS are independent contractors and not employees of the Board of County Commissioners for Monroe County. No statement contained in this agreement shall be construed so as to find the LOBBYISTS or any of their employees, contractors, servants, or agents to be employees of the Board of County Commissioners of Monroe County.

37. TERMINATION

A. In the event that the LOBBYIST shall be found to be negligent in any aspect of service, the COUNTY shall have the right to terminate this agreement after five days written notification to the LOBBYIST.

B. Either of the parties hereto may cancel this Agreement without cause by giving the other party thirty (30) days written notice of its intention to do so.

C. Scrutinized Companies: If the County determines that the LOBBYIST has submitted a false certification under Section 287.135(5), Florida Statutes or has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, the County shall have the option of (1) terminating the Agreement after it has given the LOBBYIST written notice and an opportunity to demonstrate the agency's determination of false certification was in error pursuant to Section 287.135(5)(a), Florida Statutes, or (2) maintaining the Agreement if the conditions of Section 287.135(4), Florida Statutes, are met.

38. DRUG-FREE WORKPLACE. LOBBYIST in accordance with Florida Statute 287.087 hereby certifies that LOBBYIST shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2. Inform employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and

employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 (Florida Statutes) or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, or any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

The person authorized to sign the Agreement certifies that LOBBYIST complies fully with the above requirements.

39. **VENDOR CERTIFICATION REGARDING SCRUTINIZED COMPANIES LISTS**

LOBBYIST agrees and certifies compliance with the following:

Section 287.135, Florida Statutes prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, or is engaged in a Boycott of Israel. Section 287.135, Florida Statutes, also prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of \$1,000,000 or more, that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector Lists which were created pursuant to s. 215.473, Florida Statutes, or is engaged in business operations in Cuba or Syria.

As the person authorized to sign on behalf of LOBBYIST, I hereby certify that the company identified above as "LOBBYIST" is not listed on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel and for Projects of \$1,000,000 or more is not listed on either the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged in business operations in Cuba or Syria.

I understand that pursuant to Section 287.135, Florida Statutes, the submission of a false certification may subject company to civil penalties, attorney's fees, and/or costs. I further understand that any contract with the County may be terminated, at the option of the County, if the company is found to have submitted a false certification or has been placed on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel or placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or been engaged in business operations in Cuba or Syria.

Note: The List are available at the following Department of Management Services Site:
http://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists

40. EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized representative.



Attest: KEVIN MADOK, Clerk
By: *Kevin Madok*
As Deputy Clerk

BOARD OF COUNTY COMMISSIONERS OF
MONROE COUNTY, FLORIDA
By: *[Signature]*
Mayor/Chairman
Date: September 20, 2023

Capital City Consulting
BY: *[Signature]*
Authorized Signature
Print Name: Nick Larossi
Title: Owner
Date: 8/03/2023

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Christine Limbert-Barrows
CHRISTINE LIMBERT-BARROWS
ASSISTANT COUNTY ATTORNEY
DATE 9/13/23

By: _____
Authorized Signature
Print Name: _____
Title : _____
Date: _____

END OF AGREEMENT

FILED FOR RECORD
2023 SEP 21 PM 4: 31
CLK, CIR. CL.
MONROE COUNTY, FLA



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

09/11/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brown & Brown of Florida, Inc. 3520 Thomasville Rd., Ste. 500 Tallahassee FL 32309		CONTACT NAME: Tina Graham PHONE (A/C, No, Ext): (850) 656-3747 E-MAIL ADDRESS: Tina.Graham@bbrown.com FAX (A/C, No): (850) 656-4065	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Twin City Fire Insurance Company	NAIC # 29459
		INSURER B: Zenith Insurance Company	13269
		INSURER C: Continental Casualty Company	20443
		INSURER D:	
		INSURER E:	
		INSURER F:	
INSURED Capital City Consulting, LLC 124 W Jefferson St Tallahassee FL 32301			

COVERAGES **CERTIFICATE NUMBER:** 23 - 24 Master **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.


INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			21SBAVL3409	09/12/2023	09/12/2024	EACH OCCURRENCE	\$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 2,000,000
							GENERAL AGGREGATE	\$ 4,000,000
							PRODUCTS - COMP/OP AGG	\$ 4,000,000
							Employee Benefits	\$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			21SBAVL3409	09/12/2023	09/12/2024	COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			21SBAVL3409	09/12/2023	09/12/2024	EACH OCCURRENCE	\$ 2,000,000
							AGGREGATE	\$ 2,000,000
								\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	Z127447308	10/25/2022	10/25/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
C	Professional Liability			6052148721	09/12/2023	09/12/2025	Per Claim	\$1,000,000
							Aggregate	\$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Employee Dishonesty Coverage \$50,000 - Policy Number 21SBAVL3409
 Cyber Liability Coverage \$1,000,000 per Occurrence/ \$2,000,000 Aggregate - Policy #H23NGP218952-00 / 9-12-2023 to 9-12-2024 (Houston Casualty Company)

Additional Insured applies to the General Liability as per Policy Form SS 00 08. 30 Day Notice of Cancellation applies to the General Liability as per Policy Form SS 12 24.

APPROVED BY RISK MANAGEMENT

 BY 
 DATE 9.13.23

 WAIVER N/A YES
CERTIFICATE HOLDER**CANCELLATION**
 Monroe County Board of County Commissioners
 1100 Simonton Street

Key West

FL 33040

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph 6. (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section C., Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

1. Additional Insured - Designated Person Or Organization

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations; or
- b. In connection with your premises owned by or rented to you.

2. Additional Insured - Managers Or Lessors Of Premises

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

3. Additional Insured - Grantor Of Franchise

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

4. Additional Insured - Lessor Of Leased Equipment

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) Any "occurrence" that takes place after you cease to lease that land; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

6. Additional Insured - State Or Political Subdivision – Permits

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

- b.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1)** "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2)** "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

7. Additional Insured – Vendors

- a.** WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- b.** The insurance afforded to the vendor is subject to the following additional exclusions:

- (1)** This insurance does not apply to:
 - (a)** "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - (b)** Any express warranty unauthorized by you;
 - (c)** Any physical or chemical change in the product made intentionally by the vendor;
 - (d)** Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e)** Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f)** Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g)** Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- (h)** "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i)** The exceptions contained in Subparagraphs **(d)** or **(f)**; or
- (ii)** Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (2)** This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

8. Additional Insured – Controlling Interest

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

- a.** Their financial control of you; or
- b.** Premises they own, maintain or control while you lease or occupy these premises.

BUSINESS LIABILITY COVERAGE FORM

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations for the additional insured(s); or
- (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1)** The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2)** The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.