

LEGISLATIVE #

110483

**AGREEMENT BETWEEN CITY OF GAINESVILLE
AND ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC.**

Continuing Contract for Remediation Services

THIS AGREEMENT is made and entered into this ____ day of _____ 2011, by and between the **CITY OF GAINESVILLE PUBLIC WORKS DEPARTMENT**, (“**CITY** ”), a Florida municipal corporation, 405 NW 39th Avenue, Gainesville, FL 32609, and **ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC.**, (“**ECT**”), 3701 NW 98th Street, Gainesville, FL 32606, collectively as **PARTY** or **PARTIES** respectively.

WHEREAS, CITY requires recurring remediation services for the Depot Park project for a not to exceed amount of \$2,700,000; and

WHEREAS, City of Gainesville d/b/a Gainesville Regional Utilities (“GRU”) procured a continuing contract for said services with ECT; and

WHEREAS, CITY desires to enter into an agreement with ECT for said services under the provisions of GRU Contract No. 2008-167.

NOW, THEREFORE, in consideration of the foregoing premises and covenants contained herein, the parties agree as follows:

1. ECT shall provide remediation services under the provisions of GRU Contract No. 2008-167 which is attached hereto and incorporated by reference:
2. The term of the Agreement shall begin on the date first written above and will continue through September 30, 2012 and through any negotiated extensions.
3. CITY shall pay ECT in accordance with the pricing contained in the GRU Agreement and negotiated pricing as described in Attachment B. Payment of any amount due on this Agreement shall be made upon verified invoice within thirty (30) days of the receipt of the approved invoice.
4. The parties further acknowledge and agree:
 - 4.1 This Agreement is based on GRU Contract No. 2008-167 which covers commercial terms, general and special conditions, technical specifications, governing law and insurance. Copies of insurance certificates and notices as they relate to this Agreement shall be sent to City of Gainesville, Public Works Department, 405 NW 39th Avenue, Gainesville, Florida, 32609.
 - 4.2 The Depot Park Remediation Project is divided into two (2) Phases. The Phase 1 consists of areas marked as 3, 5, 7 & 8 as shown on Attachment “B” and has an estimated cost of \$1,295,460.63 and is scheduled to take eight (8) weeks to complete. Phase 2 consists of areas 1, 2 and 6 as shown on Attachment “B” and has an estimated cost of \$1,396,707.06 and is scheduled to take an additional four (4) weeks to complete. Phase 2 remediation will depend upon funding availability and the City, in its sole discretion, will decide if and when Phase 2 will be remediated, if performed at all under this Agreement. This decision will be made prior to substantial completion of Phase 1.

- 4.3 Notification to CITY shall be made to Public Works Department, Administrative Services Division, at the address enumerated in 4.1 above.
- 4.4 The PARTIES agree that all references to "GRU" in Attachment "A" shall be replaced with "CITY".

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first above written in two (2) counterparts, each of which shall without proof or accounting for the other counterparts be deemed an original contract.

**ENVIRONMENTAL CONSULTING &
TECHNOLOGY, INC.**

CITY OF GAINESVILLE

By: _____

By: _____

Approved as to Form and Legality:

By: _____

**EJCDC
STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE**

THIS AGREEMENT is dated as of the 15th day of January 2009 by and between City of Gainesville, d/b/a Gainesville Regional Utilities, P.O. Box 147117, Station A130, Gainesville, Florida 32614-7117 and Environmental Consulting & Technology, Inc., 3701 NW 98th Street, Gainesville, Florida 32606-5004.

City of Gainesville d/b/a Gainesville Regional Utilities ("OWNER") and Environmental Consulting & Technology, Inc. ("CONTRACTOR" or "ENGINEER"), in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. REMEDIATION

1.01. CONTRACTOR shall complete all Remediation as specified or indicated in the Contract Documents. The Remediation is generally described as follows:

Phase A—Poole Roofing and Former CSXT Parcel Phase 1 Remediation: Remediation of a petroleum and coal tar-contaminated site including sheet piling two structures; temporary piped storm water bypasses; installation of storm water piping and open channel for future storm water park; water and wastewater piping demolition, demolition and reconstruction of storm water piping and related structures; contaminated soil excavation, hauling, and landfill disposal; dewatering; contaminated ground water treatment and disposal; and other related works.

Phase B—Depot Avenue Reconstruction: reconstruction of an existing roadway including paving, sidewalk, curb and gutter, storm sewer system, bicycle path, and other related works.

Article 2. THE PROJECT

2.01. The Project for which the Remediation under the Contract Documents may be the whole or only a part is generally described as follows:

The Remedial Action Plan Modification for Poole Roofing and Initial Remedial Action Plan for Former CSXT Parcel (ECT March 2008) and that portion of the MGP/Poole Roofing/CSX Site Remediation commonly referred to as Phase 1 on accompanying drawing Number R19 of the Source Removal Plan for Poole Roofing & Sheet Metal (Former Manufactured Gas Plant site), 710 SE 2nd Street, Gainesville, Florida, FDEP Facility ID No. 018518101; Brown Field Area No. BF010001000 in Technical Specifications at Exhibit A

Article 3. CONTRACT TIMES

3.01. Days to Achieve Substantial Completion and Final Payment

A. The Remediation excavation and backfill will be completed within 120 calendar days after the date when the contract times commence to run as provided in paragraph 2.02.A of the General Conditions. OWNER will complete installation of electrical duct bank, reclaimed water line, water main, and sanitary sewer within 150 calendar days of Notice to Proceed. Substantial completion of all work, including road and storm water construction, will occur within 210 days of Notice to Proceed. All work contemplated under this Agreement will be completed and ready for final payment in accordance with paragraph 13.09 of the General Conditions within 240 days after the date when the contract times commence to run.

3.02. Liquidated Damages

- A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement.
- B. CONTRACTOR and OWNER further recognize that OWNER will suffer financial loss if the Remediation is not completed within the times specified in paragraph 3.01.A, plus any extensions thereof allowed in accordance with Article 11 of the General Conditions. The parties also recognize the delays, expenses and difficulties involved in proving the actual loss suffered by OWNER if the Remediation is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER \$500.00 for each day that expires after the time specified in paragraph 3.01.A for substantial completion until the Remediation is substantially complete. After substantial completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Remediation within the time specified in paragraph 3.01.A for completion and readiness for final payment or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$500.00 for each day that expires after the time specified in paragraph 3.01.A for completion and readiness for final payment.

Article 4. COMPENSATION

4.01. Recognizing and accepting that final cost of Remediation cannot be established until all sub-contract bids are received and evaluated, payment for professional services shall be as follows:

A. CONTRACTOR shall bid the Work, evaluate bids and submit to the OWNER a final contract price within forty-five (45) days following receipt of a Notice to Proceed. OWNER shall have thirty (30) days to evaluate the final Proposal. If accepted an amendment to this Agreement will be issued incorporating final pricing, but in no amount exceeding the City Commission approved funding amount for the Work. Payment to CONTRACTOR shall be based on the Schedule of Values, which will include the unit costs bid by the CONTRACTOR'S Subcontractors plus the OWNER'S share of Department of Environmental Protection (DEP) approved payment for services. In the event bids for Remediation come back beyond OWNER'S reasonable expectations, OWNER reserves the right to not issue the amendment and re-negotiate this Agreement or cancel this Agreement upon thirty (30) days notice without penalty. The CONTRACTOR acknowledges the scope of work contemplated by this Agreement is to be funded partially by the FDEP PCPP Program and partially by OWNER. The FDEP share of the costs will be authorized by the state in Work Orders issued directly to CONTRACTOR. The maximum OWNER funded amount will be delineated in an amendment issued prior to the Notice to Proceed.

Article 5. PAYMENT PROCEDURES

5.01. CONTRACTOR shall submit and OWNER will process Applications for Payment in accordance with Article 13 of the General Conditions.

A. Progress Payments; Retainage. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment, within 30 business days of

receipt of approved invoice during performance of the Remediation as provided in paragraphs 5.01.A.1 and A.2 below. All such payments will be measured by the accepted Schedule of Values established under paragraph 2.06.A of the General Conditions (and in the case of Unit Price Remediation based on the number of units completed).

1. Prior to Substantial Completion, progress payments will be made in accordance with the Schedule of Values.
2. Upon Substantial Completion, payment will be made in accordance with the Schedule of Values.
3. Retainage shall be ten percent (10%) the amount paid for completed work and invoiced to date. OWNER shall consider a reduction in the amount of retainage for the amount contained in the landfill.

B. Final Payment. Upon final completion and acceptance of the Remediation in accordance with paragraph 13.09 of the General Conditions, OWNER shall pay the remainder of the retainage.

Article 6. INTEREST

6.01. All moneys not paid when due as provided in Article 13 of the General Conditions shall bear interest at the highest lawful rate provided under Florida Statutes.

Article 7. CONTRACTOR'S REPRESENTATIONS

7.01. CONTRACTOR makes the following representations:

A. CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda if any) listed in paragraphs 8.01.A through F but excluding the documents described in paragraph 8.01.G.

B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, performance or furnishing of the Remediation.

C. CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and regulations that may affect cost, progress, performance or furnishing of the Remediation.

D. CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site which have been identified or made available by OWNER.

E. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Remediation as indicated in the Contract Documents.

F. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

G. CONTRACTOR has given OWNER written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by OWNER is acceptable to CONTRACTOR, and the Contract Documents are

generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Remediation.

Article 8. CONTRACT DOCUMENTS

8.01. The Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Remediation consist of the following:

- A. This Agreement (pages 1 to 46, inclusive).
- B. Exhibits to this Agreement A thru D inclusive.
- C. CONTRACTOR's Technical Specifications
- D. Contract Drawings dated December 2008, included herein by reference
- E. Performance, Payment, and other bonds
- F. Standard General Conditions of the Agreement between OWNER and CONTRACTOR
- G. All requirements of the FDEP Petroleum Cleanup Preapproval Program, including the October 3, 2008 Standard Operating Procedures document and any subsequent revisions INCORPORATED herein by reference.
- H. The following which may be delivered, prepared, or issued after the Effective Date of this Agreement and are not attached hereto.
 1. Notice to Proceed.
 2. All written amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.03.A of the General Conditions.

8.02. The documents listed in paragraph 8.01 above are attached to this Agreement (except as expressly noted otherwise above).

8.03. There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.03.A of the General Conditions.

Article 9. MISCELLANEOUS

9.01. The Standard General Conditions of the Agreement between OWNER and CONTRACTOR are referred to herein as the General Conditions.

9.02. Terms used in this OWNER-CONTRACTOR Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated therein.

9.03. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no

assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.04. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

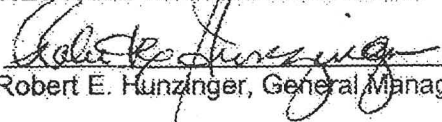
9.05. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

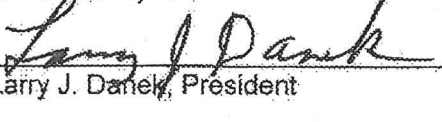
IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed, initialed or identified by OWNER and CONTRACTOR.

This OWNER-CONTRACTOR Agreement will be effective on the 15th day of January, 2009.

**CITY OF GAINESVILLE DBA
GAINESVILLE REGIONAL UTILITIES**

**ENVIRONMENTAL CONSULTING &
TECHNOLOGY, INC.**

By: 
Robert E. Hunzinger, General Manager

By: 
Larry J. Danek, President

Address for giving notices:

Address for giving notices:

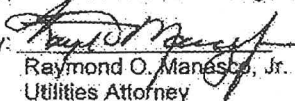
P.O. Box 147117

3701 NW 98th Street

Gainesville, FL 32614-7117

Gainesville, FL 32606-5004

Approved as to form and legality

By: 
Raymond O. Manasco, Jr.
Utilities Attorney

Designated Representative:

Designated Representative:

Name: Patricia J. Hart, P.E.

Name: Larry J. Danek

Title: Project Services Director

Title: President

Address: 301 S.E. 4th Avenue

Address: 3701 NW 98th Street

Phone: (352) 393-1926

Phone: (352) 332-0444

Facsimile: (352) 334-3151

Facsimile: (352) 332-6722

E-Mail: hartpj@gru.com

E-Mail: ldanek@ectinc.com

STANDARD GENERAL CONDITIONS OF THE AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR PHASE ONE, POOLE ROOFING
SITE REMEDIATION

Copyright ©2000 National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4344

TABLE OF CONTENTS

	Page
ARTICLE 1--DEFINITIONS	10
1.01 Defined Terms	10
1.02 Terminology	14
ARTICLE 2 PRELIMINARY MATTERS	14
2.01 Delivery of Bonds	14
2.02 Commencement of Contract Times; Notice to Proceed	14
2.03 Starting the Remediation	14
2.04 Before Starting Remediation	14
2.05 Initial Conference	15
2.06 Initially Acceptable Schedules	15
ARTICLE 3 CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE	15
3.01 Intent	15
3.02 References	16
3.03 Amending and Supplementing Contract Documents	16
3.04 Reuse of Documents	17
ARTICLE 4 AVAILABILITY OF LANDS; DIFFERING SITE CONDITIONS	
REFERENCE POINTS; HAZARDOUS CONDITIONS	18
4.01 Availability of Site and Other Lands	18
4.02 Existing Conditions	18
4.03 Reference Points	19
4.04 Differing Site Conditions	19
ARTICLE 5 BONDS AND INSURANCE	20
5.01 Performance, Payment and Other Bonds	20
5.02 CONTRACTOR's Liability Insurance	20
5.03 OWNER's Liability Insurance	20
5.04 Property Insurance	20
5.05 Receipt and Application of Proceeds	20
5.06 Acceptance of Bonds and Insurance; Option to Replace	20
5.07 Partial Utilization--Property Insurance	21
5.08 Licensed Sureties and Insurers; Certificates of Insurance	21
ARTICLE 6 -- CONTRACTOR'S RESPONSIBILITIES	21
6.01 Professional Services	21
6.02 Supervision and Superintendence of Construction	22
6.03 Labor, Materials and Equipment	22
6.04 Progress Schedule	23
6.05 Concerning Subcontractors, Suppliers and Others	23
6.06 Patent Fees and Royalties	23
6.07 Permits	24
6.08 Laws and Regulations	24
6.09 Taxes	24
6.10 Use of Site and Other Areas	24
6.11 Record Documents	25
6.12 Safety and Protection	25
6.13 Safety Representative	26
6.14 Hazard Communication Programs	26
6.15 Emergencies	26
6.16 Submittals	26
6.17 Continuing the Remediation	27

6.18	CONTRACTOR's General Warranty and Guarantee	27
6.19	Indemnification	28
	ARTICLE 7 OTHER CONSTRUCTION	28
7.01	Related Construction at Site	28
7.02	Coordination	29
	ARTICLE 8 OWNER'S RESPONSIBILITIES	29
8.01	General	29
8.02	Scope of OWNER's Safety and Hazardous Waste Responsibilities	31
8.03	Resident Project Representation	31
8.04	Indemnification	31
	ARTICLE 9 CHANGES IN THE REMEDIATION; CLAIMS	31
9.01	General--Rights and Obligations	31
9.02	Notice of Intent to Make Claim	31
9.03	Claim Documentation	32
9.04	Decision	32
9.05	Time Limit Extension	32
9.06	Exceptions	32
9.07	Execution of Change Orders	32
9.08	Notice to Sureties	32
	ARTICLE 10 CONTRACT PRICE AND COSTS OF REMEDIATION	32
10.01	General	32
10.02	Cost of the Remediation	33
10.03	Cash Allowances	33
10.04	Unit Prices	33
	ARTICLE 11 CHANGE OF CONTRACT TIMES	34
11.01	General	34
11.02	Time Extensions	34
	ARTICLE 12 TESTS AND INSPECTIONS, CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE CONSTRUCTION	35
12.01	Notice of Defects	35
12.02	Access to Construction	35
12.03	Tests and Inspections	35
12.04	Uncovering Construction	35
12.05	OWNER May Stop the Construction	35
12.06	Correction or Removal of Defective Construction	36
12.07	Correction Period	35
12.08	Acceptance of Defective Construction	37
12.09	OWNER May Correct Defective Construction	36
	ARTICLE 13 PAYMENTS TO CONTRACTOR AND COMPLETION	37
13.01	Schedule of Values	37
13.02	Application for Progress Payment	37
13.03	CONTRACTOR's Warranty of Title	38
13.04	Progress Payments	38
13.05	Substantial Completion	39
13.06	Partial Utilization	39
13.07	Final Inspection	40
13.08	Final Application for Payment	40
13.09	Final Payment and Acceptance	40
13.10	Waiver of Claims	41
	ARTICLE 14 SUSPENSION AND TERMINATION	41
14.01	OWNER May Suspend Remediation	41
14.02	OWNER May Terminate for Cause	41

14.03	OWNER May Terminate for Convenience	42
14.04	CONTRACTOR May Stop Remediation or Terminate	42
14.05	Obligations Upon Termination	43
ARTICLE 15 DISPUTE RESOLUTION		43
15.01	Methods and Procedures	43
ARTICLE 16 MISCELLANEOUS		44
16.01	Giving Notice	44
16.02	Computation of Times	44
16.03	Notice of Claim	44
16.04	Cumulative Remedies	44
16.05	Survival of Obligations	44
16.06	Waiver of Consequential Damages	45
16.07	No Third-Party Beneficiaries	45
16.08	No Waiver By Non-Enforcement	45
16.09	Controlling Law	45
16.10	Limitation of Liability	45
ARTICLE 17 Owner's Option to Extend the Agreement		45

**STANDARD GENERAL CONDITIONS OF THE AGREEMENT
BETWEEN OWNER AND ENVIRONMENTAL REMEDIATOR****ARTICLE 1—DEFINITIONS****1.01 Defined Terms**

A. Wherever used in the Contract Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

1. Addenda--Written or graphic instruments issued prior to the opening of Proposals which clarify, correct or change the Request for Proposals or the Contract Documents.
2. Agreement--The written instrument which is evidence of the agreement between OWNER and CONTRACTOR covering the Remediation. Other Contract Documents are attached to the Agreement and made a part thereof as provided therein.
3. Application for Payment--The form which is to be used by CONTRACTOR in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
4. Asbestos--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
5. Bonds--Performance and Payment Bonds and other instruments of security.
6. Change Directive--A written directive to CONTRACTOR, issued on or after the Effective Date of the Agreement and signed by OWNER ordering an addition, deletion or revision in the Remediation, or responding to differing site conditions under which the Remediation is to be performed as provided in paragraph 4.04 or to emergencies under paragraph 6.15. A Change Directive will not change the Contract Price or the Contract Times, but is evidence that the parties expect that the change directed or documented by a Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.
7. Change Order--A written order which is signed by CONTRACTOR and OWNER which authorizes an addition, deletion or revision in the Remediation, or an adjustment in the Contract Price or the Contract Times, or both, issued on or after the Effective Date of the Agreement.
8. Conceptual Documents--The drawings and specifications and/or other graphic or written materials, criteria and information concerning OWNER's requirements for the Project, such as Remediation objectives and constraints, space, capacity and performance requirements, flexibility and expandability, including those items enumerated in the Request for Proposals which show or describe the character and scope of, or relate to, the Remediation to be performed or furnished and which have been prepared by or for OWNER.
9. Construction--The performing or furnishing of labor, the furnishing and operation of equipment, the furnishing and incorporating of materials and equipment into the Remediation, all as required by the Contract Documents.

10. Contaminant--Any substance or material that is regulated by Laws or Regulations to protect the public health or the environment due to its characteristics or as a result of its quantity or both. A contaminant may include, but is not limited to the following: Asbestos, Hazardous Substances, Hazardous Wastes, PCBs, Petroleum, or Radioactive Materials.
11. Contract Documents--The Agreement and those documents identified as Contract Documents in the Agreement
12. Contract Price--The moneys payable by OWNER to CONTRACTOR for completion of the Remediation in accordance with the Contract Documents.
13. Contract Times--The numbers of days or the dates stated in the Agreement to (i) achieve Substantial Completion, and (ii) complete the Remediation so that it is ready for final payment in accordance with paragraph 13.08.A.
14. CONTRACTOR--The individual or entity with whom OWNER has entered into the Agreement (Referred to by DEP as "Designated Contractor"; Engineer of Record for the Project).
15. Drawings--Those portions of the Contract Documents prepared by or for CONTRACTOR and approved by OWNER consisting of drawings, diagrams, illustrations, schedules and other data which show the scope, extent, and character of the Remediation.
16. Effective Date of the Agreement--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
17. Engineer--A duly licensed individual or entity designated by OWNER to perform or furnish specified Professional Services in connection with the Remediation. For this Agreement, the Contractor is also the Engineer of Record for the project.
18. Field Order--A written order issued by OWNER which requires minor changes in the Remediation but which does not involve a change in the Contract Price or the Contract Times.
19. Hazardous Substance -- Unless otherwise defined in the Supplementary Conditions the term Hazardous Substance shall have the meaning provided in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Section 9601(14)), as amended.
20. Hazardous Waste--Unless otherwise defined in the Supplementary Conditions, the term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 U.S.C. Section 6903), as amended.
21. Indemnitee -- CONTRACTOR, Subcontractors, Suppliers, Engineers and the officers, directors, employees, agents, other consultants and subcontractors of each and any of them.
22. Laws and Regulations; Laws or Regulations--Any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.
23. Liens--Charges, security interests or encumbrances upon Project funds, real property or personal property.

24. Milestone--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Remediation.
25. Notice of Award-- not used.
26. Notice to Proceed--A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run.
27. OWNER--The public body, or authority, individual or entity with whom CONTRACTOR has entered into the Agreement and for whom the Remediation is to be provided.
28. OWNER's Consultant--An individual or entity having an agreement with OWNER to furnish services as OWNER's consultant with respect to the Project and who is identified as such in the Supplementary Conditions.
29. OWNER's Project Manager--A person designated in writing to act as OWNER's representative regarding CONTRACTOR's performance of the Remediation. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies, make decisions regarding performance of the Remediation, and provide such other services as may be agreed upon.
30. Partial Utilization--Use by OWNER of a substantially completed part of the Remediation for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Remediation.
31. PCBs--Polychlorinated biphenyls.
32. Petroleum--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Wastes.
33. Professional Services--Services required to be performed by a licensed or registered professional, as well as services provided by, for or on behalf of such a professional, including but not limited to investigation, testing, evaluation, alternatives analysis, regulatory submittals and reports.
34. Project--The total undertaking of which the Remediation to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.
35. Proposal--The documents submitted by a proposer to serve as CONTRACTOR in response to the Request for Proposals setting forth the Remediation concepts, proposed prices, and other conditions for the Remediation to be performed.
36. Radioactive Material--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.) as amended from time to time.
37. Remediation-- The entire completed effort or the various separately identifiable parts thereof required to be performed or furnished under the Contract Documents. Remediation includes and is the result of performing or furnishing professional services and Construction required by the Contract Documents.
38. Request for Proposals-- not used.

39. Resident Project Representative--The authorized representative of OWNER who may be assigned to the Site or any part thereof.
40. Schedule of Values--A schedule prepared by CONTRACTOR and acceptable to OWNER indicating that portion of the Contract Price to be paid for each major component of the Remediation.
41. Site--Lands, structures, facilities or other areas designated in the Contract Documents to be furnished by OWNER as the location of the Remediation and for the performance of the construction, storage, and access.
42. Specifications--Those portions of the Contract Documents prepared by or for CONTRACTOR and approved by OWNER consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Remediation and certain administrative details applicable thereto.
43. Subcontractor--An individual or entity having a direct contract with CONTRACTOR or having a subcontract with such an individual or entity to perform a part of the Remediation.
44. Submittal-- A written or graphic document prepared by or for CONTRACTOR which is required by the Contract Documents to be submitted to OWNER by CONTRACTOR. Submittals may include drawings, specifications, progress schedules, shop drawings, samples, cash flow projections, and Schedules of Values. Submittals other than drawings and specifications are not Contract Documents.
45. Substantial Completion--The time at which the Construction (or a specified part) has progressed to the point where it is sufficiently complete, in accordance with the Contract Documents, so that the construction (or a specified part) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the construction refer to Substantial Completion thereof.
46. Supplementary Conditions--The part of the Contract Documents which amends or supplements these General Conditions.
47. Supplier--A manufacturer, fabricator, supplier, distributor, material supplier having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Remediation by CONTRACTOR or any Subcontractor.
48. Uncovering Costs--The costs and damages resulting from an OWNER request under paragraphs 12.03.C or 12.04.B caused by or resulting from the uncovering, exposure, observation, inspection and testing any part of the Construction, including but not limited to the costs of satisfactory replacement or rework. Such costs and damages further include but are not limited to all fees and charges of engineers, architects, attorneys and other professionals, all court or arbitration or other dispute resolution costs, and all costs of repair or replacement of work of others.
49. Unit Price Remediation--Remediation to be paid for on the basis of unit prices.

1.02 Terminology

A. Day

1. The word "day" shall constitute a calendar day of 24 hours measured from midnight until the next midnight.

B. Defective

1. The word "defective" is an adjective which when modifying the term construction refers to construction that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to OWNER's final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion).

ARTICLE 2 PRELIMINARY MATTERS

2.01 Delivery of Bonds

A. CONTRACTOR shall deliver such Bonds as CONTRACTOR may be required to furnish in accordance with paragraph 5.01.

2.02 Commencement of Contract Times; Notice to Proceed

A. A Notice to Proceed will be issued. The Contract Time will commence on the date of the Notice to Proceed, which may be given at any time within two-hundred seventy (270) days after the Effective Date of the Agreement.

2.03 Starting the Remediation

A. CONTRACTOR shall start to perform the Remediation on the date when the Contract Times commence to run.

2.04 Before Starting Remediation

A. CONTRACTOR shall submit to OWNER the following within ten days after commencement of the Contract Times:

1. A preliminary progress schedule indicating the times for starting and completing the various stages of the Remediation.

2. A preliminary schedule of required submittals and the times for submitting, reviewing and processing each submittal;

3. A preliminary Schedule of Values for all of the Remediation which will include quantities and prices of items aggregating the Contract Price and will subdivide the Remediation into component parts in sufficient detail to serve as the basis for progress payments during performance of the Remediation;

4. A Site-specific health and safety plan; and

5. A description of required training and certification for employees of CONTRACTOR and its subcontractors.

B. Before any Remediation at the Site is started, CONTRACTOR and OWNER shall each deliver to the other certificates of insurance (and other evidence of insurance which either of them may reasonably request) which CONTRACTOR and OWNER respectively are required to purchase and maintain in accordance with paragraphs 5.02.A and 5.04.A.

2.05 Initial Conference

A. Within 20 days after the Contract Times start to run a conference attended by OWNER and CONTRACTOR and others as appropriate will be held to establish a working understanding among the parties as to the Remediation and to discuss the Remediation concepts, schedules and submittals referred to in paragraph 2.04.A, procedures for handling submittals, processing Applications for Payment, maintaining required records, items required pursuant to paragraphs 6.07 and 8.01.A and other matters.

2.06 Initially Acceptable Schedules

A. At least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, OWNER and others as appropriate will be held to review for acceptability the schedules submitted in accordance with paragraph 2.04.A. CONTRACTOR shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to CONTRACTOR until the schedules are submitted to and acceptable to OWNER as provided below.

1. The progress schedule will be acceptable to OWNER if it provides an orderly progression of the Remediation to completion within any specified milestones and the contract times, but such acceptance will neither impose on OWNER responsibility for the sequencing, scheduling or progress of the Remediation nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefore. The format and structure of the progress schedule will be in a format acceptable to both PARTIES. OWNER's acceptance shall not be deemed to confirm that the schedule is a reasonable plan for performing the Remediation.

2. CONTRACTOR's schedule of submittals will be acceptable to OWNER if it provides a workable arrangement for reviewing and processing the required submittals.

3. CONTRACTOR's Schedule of Values will be acceptable to OWNER as to form and substance.

ARTICLE 3 CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 Intent

A. The Contract Documents comprise the entire agreement between OWNER and CONTRACTOR concerning the Remediation. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. It is the intent of the Contract Documents to describe a complete Project (or part thereof) to be remediated in accordance with the Contract Documents. Any services, materials or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be furnished and performed whether or not specifically called out. When words or phrases which have a well-known technical or Construction

industry or trade meaning are used to describe work, materials or equipment, such words or phrases shall be interpreted in accordance with that meaning.

C. OWNER and CONTRACTOR understand that the Site contains contaminants and that the scope of the Remediation may include the management and movement of contaminants either on-site, off-site or both. They further understand that CONTRACTOR has no responsibility for either the presence of contaminants present at the Site or site conditions existing on the Effective Date of the Agreement. It is the intent of the Contract Documents that:

1. OWNER's status as an owner or operator of the Site or as a handler, generator, arranger or transporter of contaminants, if any, shall not be transferred in any way to CONTRACTOR;
2. CONTRACTOR shall not be deemed or alleged by OWNER to be an owner or operator of the Site; and
3. CONTRACTOR's liability for the contaminated material shall be limited to the excavation, loading, hauling and dumping in the authorized land fill.

3.02 References

A. Reference to standards, specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, specification, manual, code or laws or regulations in effect on the last day for receipt of proposals except as may be otherwise specifically stated in the Contract Documents.

B. Except as otherwise specifically stated in the Contract Documents or as may be provided by amendment or supplement thereto issued by one of the methods indicated in paragraph 3.03.A, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity or discrepancy between the provisions of the Contract Documents and:

1. the provisions of any such standard, specification, manual, code or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
2. the provisions of any such Laws or Regulations applicable to the performance of the Remediation (unless such an interpretation of the provisions of the Contract Documents would result in violation of such law or regulation).

C. No provision of any such standard, specification, manual, code or instruction shall be effective to change the duties and responsibilities of OWNER, CONTRACTOR or any of their Subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall it be effective to assign to OWNER any duty or authority to supervise or direct the furnishing or performance of the Remediation or any duty or authority to undertake responsibility inconsistent with the provisions of paragraph 8.02 or any other provision of the Contract Documents.

3.03 Amending and Supplementing Contract Documents

A. The Contract Documents may be amended to provide for additions, deletions and revisions in the Remediation or to modify the terms and conditions thereof in one or more of the following ways:

1. OWNER's approval of required submittals (pursuant to paragraph 6.16.B);
2. A Change Directive;

3. A Change Order; or
4. A Field Order.

3.04 Reuse of Documents

A. All documents including drawings and specifications prepared or furnished by CONTRACTOR pursuant to this Agreement are instruments of service in respect of the Project and CONTRACTOR shall retain an ownership and property interest therein whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with the use and occupancy of the Project by OWNER and others. However, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project.

B. Any reuse without written verification or adaptation by CONTRACTOR for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to CONTRACTOR. Any such reuse or adaptation will entitle CONTRACTOR to further compensation at rates to be agreed upon by OWNER and CONTRACTOR.

C. Copies of OWNER-furnished data that may be relied upon by CONTRACTOR are limited to the printed copies (also known as hard copies) that are delivered to CONTRACTOR. Files in electronic media format of text, data, graphics, or of other types that are furnished by OWNER to CONTRACTOR are only for convenience of CONTRACTOR. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Copies of documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by CONTRACTOR. Files in electronic media format of text, data, graphics, or of other types that are furnished by CONTRACTOR to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

E. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. CONTRACTOR shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.

F. When transferring documents in electronic media format, CONTRACTOR makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by CONTRACTOR at the beginning of this Project.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

H. All intellectual property rights developed in the performance of the Agreement are and shall remain the property of CONTRACTOR.

**ARTICLE 4 AVAILABILITY OF LANDS; DIFFERING SITE CONDITIONS; REFERENCE POINTS;
HAZARDOUS CONDITIONS****4.01 Availability of Site and Other Lands**

A. OWNER shall furnish and provide access to:

1. all lands, including the Site and rights-of-way and easements for access thereto, as indicated in the Contract Documents, and
2. such other lands and facilities that are designated or required for the use of CONTRACTOR, including but not limited to such off-site lands and facilities as are reasonably necessary to conduct investigation and monitoring.

B. If OWNER's furnishing of these lands is untimely or incomplete, or both, and if this causes CONTRACTOR to be delayed in performing the Remediation or incur additional costs, and if CONTRACTOR and OWNER are unable to agree on entitlement to or the amount or extent of any adjustments in the Contract Price or the Contract Times as a result, CONTRACTOR may make a claim therefor as provided in Article 9. Failure to furnish lands and provide access for 30 or more days is cause for termination by CONTRACTOR under paragraph 14.04.A.

C. Upon reasonable written request, OWNER shall furnish CONTRACTOR with a correct statement of record legal title and legal description of the Site and OWNER's interest therein as necessary for giving notice. OWNER shall identify any encumbrances or restrictions not of general application but specifically related to use of lands so furnished with which CONTRACTOR will have to comply in performing the Remediation. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise provided in the Contract Documents.

D. CONTRACTOR shall provide for all additional lands and access thereto that may be required for off-site temporary Construction facilities or storage of materials and equipment; provided that CONTRACTOR shall not be required to provide land and access thereto for the storage, treatment or disposal of any Contaminant.

4.02 Existing Conditions

A. OWNER represents that OWNER has fully disclosed to CONTRACTOR any information that OWNER knows or has reason to suspect concerning the existence of contaminants at the Project Site. OWNER will be responsible for any existing condition encountered at the Site that was not identified in the Contract Documents to be within the scope of the Remediation.

B. OWNER acknowledges that CONTRACTOR may have legal obligations with respect to public health and safety and will cooperate with CONTRACTOR to help ensure compliance with these obligations.

C. CONTRACTOR shall periodically advise OWNER of the presence and condition of contaminants encountered at the Site.

D. If CONTRACTOR discovers or identifies conditions for which it reasonably believes that OWNER is legally required to provide notice to a public agency, it shall so advise OWNER and give OWNER the first opportunity to provide such notification. In any event CONTRACTOR shall have the right to report the presence of any contaminant to public agencies having jurisdiction if it reasonably believes that it is required by law to do so.

E. To the fullest extent permitted by laws and regulations, OWNER shall indemnify and hold harmless Indemnitee from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or resulting from: (1) any existing condition at the Site; (2) any allegation or claim that any Indemnitee is liable as an owner or operator; or (3) any allegation or claim that any Indemnitee is liable as a handler, generator, arranger, transporter, treater, storer or disposer of any contaminant. Nothing in this paragraph 4.02.E. shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

F. The parties acknowledge and understand that the presence of Contaminants and other potentially hazardous conditions at the Site were not caused by or the responsibility of CONTRACTOR, and that the Contract Documents do not transfer any legal responsibilities for such conditions from OWNER to CONTRACTOR. Accordingly, OWNER shall maintain complete and absolute responsibility for the ownership, title and management of all Contaminants resulting from investigation and Remediation activities. This includes but is not limited to generation, handling, storage, transportation, treatment, arranging for disposal and disposal of waste materials from CONTRACTOR's activities on and off the Site, including but not limited to soil cuttings, drilling mud, purged ground water, decontamination fluids, disposable sampling equipment, and disposable personal protective equipment.

4.03 Reference Points

A. CONTRACTOR shall be responsible for laying out the Project and shall protect and preserve the reference points established by OWNER pursuant to paragraph 8.01.A.7.e and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to OWNER whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 Differing Site Conditions

A. CONTRACTOR shall promptly, and before the conditions are disturbed, give written notice to OWNER of:

1. sub-surface or latent physical conditions at the Site which differ materially from those indicated in the Contract Documents; or
2. unknown physical conditions at the Site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character called for by the Contract Documents; or
3. the presence of contaminants, contaminated areas or contaminated resources not disclosed in those Contract Documents in existence as of the date of receipt of the Proposal.

B. OWNER will investigate the Site conditions promptly after receiving the notice. If (i) the conditions do materially so differ, or (ii) there is contamination not disclosed in the Contract Documents, and either (i) or (ii) cause an increase or decrease in CONTRACTOR's cost of, or the time required for, performing any part of the Remediation, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the Contract Price or times modified in writing by Change Order in accordance with Article 9.

C. No request by CONTRACTOR for an equitable adjustment under paragraph 4.04 shall be allowed unless CONTRACTOR has given the written notice required; provided that the time prescribed in 9.02.A for giving written notice may be extended by OWNER.

ARTICLE 5 BONDS AND INSURANCE

5.01 Performance, Payment and Other Bonds

A. CONTRACTOR shall furnish performance and payment bonds in the amount of three million dollars (\$3 million) as security for the faithful performance and payment of all CONTRACTOR's obligations to furnish, provide and pay for the Remediation. These bonds will remain in effect for 30 days after final payment has been made, at which point OWNER shall notify surety that bond is to be released. All Bonds will be in the form prescribed by the Contract Documents (see Exhibit B) except as provided otherwise by laws or regulations, and will be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

B. If the surety on any bond furnished by CONTRACTOR is declared bankrupt, or becomes insolvent, or has its right to do business terminated in any state where any part of the Project is located, or ceases to meet the requirements of paragraph 5.01.A, CONTRACTOR will substitute another bond and surety meeting the requirements of paragraphs 5.01.A. and 5.08 within 30 days of any of the aforementioned events.

5.02 CONTRACTOR's Liability Insurance

A. CONTRACTOR shall purchase and maintain the liability insurance set forth in Exhibit C.

5.03 OWNER's Liability Insurance

A. In addition to the insurance required to be provided by CONTRACTOR under paragraph 5.02, OWNER will purchase and maintain its own liability insurance, at its expense, or maintain such program of self-insurance that will protect OWNER against claims which may arise due to its ownership of the Site.

5.04 Property Insurance

This Section 5.04 is NOT being used.

5.05 Receipt and Application of Proceeds

This Section 5.05 is NOT being used.

5.06 Acceptance of Bonds and Insurance; Option to Replace

A. If either party has any objection to the coverage afforded by or other provisions of the bonds or insurance required to be purchased and maintained by the other party according to Article 5 on the basis of their not complying with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by paragraph 2.04.B. OWNER and CONTRACTOR shall each provide to the other such additional information regarding the bonds or insurance provided as the other may reasonably request. If either

party fails to purchase or maintain all of the bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Remediation, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent bonds or insurance to protect such other party's interests at the expense of the party who was supposed to provide such coverage, and a Change Order will be issued to adjust the Contract Price accordingly.

5.07 Partial Utilization--Property Insurance

A. If OWNER desires to occupy or use a portion or portions of the Site subject to the Remediation prior to Substantial Completion of all the Construction, such use or occupancy must be accomplished according to the procedures set forth in paragraph 13.06.A. No such use or occupancy will, however, actually commence before the insurers providing the property insurance, if any, have acknowledged notice of such use or occupancy in writing by agreeing to make the necessary changes in coverage. These insurers will issue the necessary endorsements for such use or occupancy as soon thereafter as possible.

5.08 Licensed Sureties and Insurers; Certificates of Insurance

A. All Bonds and insurance required by the Contract Documents to be purchased and maintained by OWNER or CONTRACTOR will be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

B. CONTRACTOR will deliver to OWNER, with copies to each other entity indicated in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by OWNER or any other entity) which CONTRACTOR is required to purchase and maintain according to paragraph 5.02.

ARTICLE 6 -- CONTRACTOR'S RESPONSIBILITIES

6.01 Professional Services

A. Standard of Care:

1. CONTRACTOR may perform or furnish Professional Services in all phases of the Project. The standard of care for all such services performed or furnished under this Agreement will be the care and skill ordinarily used by members of CONTRACTOR's profession practicing under similar conditions at the same time and locality.
2. CONTRACTOR makes no representation, or warranty or guarantee, express or implied, including without limitation the implied at law warranties of merchantability and fitness for a particular purpose, as to its findings, recommendations, plans, specifications, drawings, or professional judgment or advice except as provided in paragraph 6.01.A.1.
3. OWNER acknowledges that compliance with the standard of care is not an assurance that all risks applicable to OWNER in connection with the Project have been identified and managed.

B. General Scope of Professional Services: After the Contract Times commence to run, CONTRACTOR shall perform the specific professional services described to OWNER in the Contract Documents. Generally, CONTRACTOR, under the scope of professional services, shall:

1. Consult with OWNER to understand OWNER's requirements for the Project.
2. Advise OWNER as to the necessity of OWNER's providing or obtaining from others additional reports, data or services of the types provided in paragraph 8.01.A.7.a-h and assist OWNER in obtaining such reports, data, or services.
3. Assist OWNER to identify and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Remediation to be performed by CONTRACTOR.
4. Prepare documentation, drawings and specifications necessary to accomplish the objectives of the Remediation for review and approval by OWNER.
5. Assist OWNER in preparing and making submittals for required public agency approvals, if any.
6. Collect, analyze and evaluate samples of environmental media and Contaminants as necessary for the Remediation.

6.02 Supervision and Superintendence of Construction

A. CONTRACTOR shall supervise, inspect and direct any Construction competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to provide the Construction in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures employed by it to perform Construction. The means, methods, techniques, sequences and procedures employed by OWNER or other contractors pursuant to Article 7 are the sole responsibility of the performing party. CONTRACTOR shall be responsible to see that the completed Construction conforms to the Contract Documents and shall keep OWNER advised as to the quality and progress of the Construction.

B. CONTRACTOR shall keep on the Site at all times during Construction a qualified resident superintendent, satisfactory to OWNER in its reasonable judgment, who shall not be replaced without written notice to OWNER except under extraordinary circumstances and who shall be replaced for cause if reasonably requested by OWNER in writing. The superintendent will be CONTRACTOR's representative at the Site and shall have authority to act on behalf of CONTRACTOR. All communications to the superintendent shall be as binding as if given to CONTRACTOR.

6.03 Labor, Materials and Equipment

A. CONTRACTOR shall provide suitably qualified personnel to survey and lay out the Construction and perform Construction as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the Site. Except as otherwise required for the safety or protection of persons or the Remediation or property at or adjacent to the Site, and except as otherwise indicated in the Contract Documents, all Construction at the Site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Construction on Saturday, Sunday or any legal holiday without OWNER's written consent, which will not be unreasonably withheld.

B. Unless otherwise specified in the Contract Documents, CONTRACTOR shall furnish or cause to be furnished and assume full responsibility for materials, equipment, labor, transportation,

Construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, and completion of the Construction.

C. All materials and equipment incorporated into the Construction shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Contract Documents shall expressly run to the benefit of OWNER. If required by OWNER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with instructions of the applicable supplier, except as otherwise provided in the Contract Documents.

6.04 Progress Schedule

A. CONTRACTOR shall adhere to the progress schedule established in accordance with paragraph 2.06.A as it may be adjusted from time to time.

B. Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of Article 11. Such adjustments may only be made by a Change Order.

6.05 Concerning Subcontractors, Suppliers and Others

A. CONTRACTOR shall not employ any subcontractor, engineer, supplier or other individual or entity against whom OWNER may have reasonable objection. CONTRACTOR shall not be required to employ any subcontractor, engineer, supplier or other individual or entity to furnish or perform any of the Remediation against whom CONTRACTOR has reasonable objection.

B. CONTRACTOR shall be fully responsible to OWNER for all acts and omissions of the subcontractors, engineers, suppliers and other individuals or entities performing or furnishing any of the Remediation under a direct or indirect contract with CONTRACTOR. Nothing in the Contract Documents shall create for the benefit of any such subcontractor, engineer, supplier or other individual or entity any contractual relationship between OWNER and any such subcontractor, engineer, supplier or other individual or entity, nor shall it create any obligation on the part of OWNER to pay or to see to the payment of any moneys due any such subcontractor, engineer, supplier or other individual or entity except as may otherwise be required by laws and regulations.

C. CONTRACTOR shall be solely responsible for scheduling and coordinating subcontractors, engineers, suppliers and other individuals and entities performing or furnishing any of the Remediation under a direct or indirect contract with CONTRACTOR. CONTRACTOR shall require all subcontractors, engineers, suppliers and such other individuals and entities performing or furnishing any of the Remediation to communicate with OWNER through CONTRACTOR.

D. All services performed or provided to and material and equipment supplied to CONTRACTOR by a subcontractor or supplier will be pursuant to an appropriate written sub-agreement between CONTRACTOR and the subcontractor, engineer or supplier which specifically binds the subcontractor, engineer or supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER.

6.06 Patent Fees and Royalties

A. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Remediation or the incorporation in the Remediation of any invention,

design process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design process, product or device is specified in the conceptual documents for use in the performance of the Construction and if to the actual knowledge of OWNER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the conceptual documents. To the fullest extent permitted by laws and regulations, CONTRACTOR shall indemnify and hold harmless OWNER, from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or resulting from any infringement of patent rights or copyrights incident to the use in the performance of the Remediation or resulting from the incorporation in the Remediation of any invention, design process, product or device not specified in the conceptual documents.

6.07 Permits

A. CONTRACTOR shall directly or through one or more subcontractors obtain and pay for those permits, approvals, certifications and licenses specifically described and identified as CONTRACTOR's responsibility in the Contract Documents. OWNER shall assist CONTRACTOR in obtaining such permits, approvals, certifications and licenses.

B. OWNER shall be responsible to obtain and pay for all required permits, approvals, certifications, licenses, utility charges, governmental charges and inspections that are not specifically identified in the Contract Documents as CONTRACTOR's responsibility. CONTRACTOR shall assist OWNER in obtaining such permits, approvals, certifications and licenses.

6.08 Laws and Regulations

A. Except as provided in Paragraph 4.02.D, CONTRACTOR shall give all notices and comply with all laws and regulations of the place of the Project which are applicable to performance of the Construction. Except where otherwise expressly required by applicable laws and regulations or the Contract Documents, OWNER shall not be responsible for monitoring CONTRACTOR's compliance with any laws or regulations relating to Construction.

B. If CONTRACTOR performs any Construction knowing or having reason to know that it is contrary to laws or regulations, CONTRACTOR shall bear all costs arising therefrom.

C. Changes in laws and regulations not in effect on the date of receipt of Proposals having an effect on the cost or time of performance may be the subject of a claim under Article 9.

6.09 Taxes

A. CONTRACTOR shall pay all sales, consumer, use, gross receipts and other similar taxes required to be paid by CONTRACTOR in accordance with the laws and regulations of the place of the Project which are applicable during the performance of the Remediation.

6.10 Use of Site and Other Areas

A. CONTRACTOR shall confine Construction equipment, the storage of materials and equipment and the operations of Construction workers to those lands and areas permitted by OWNER and other land and areas permitted by laws and regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with Construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area incurred by any person or entity other than OWNER, or to the owner or occupant thereof or of any

adjacent land or areas, resulting from the performance of the Construction. Should any claim be made by any such owner or occupant that it has suffered damages solely because of the performance of the Construction, CONTRACTOR shall promptly take reasonable action to settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

B. CONTRACTOR shall manage accumulations of materials and rubbish related to on-site investigations and Construction, subject to OWNER's responsibilities for materials and rubbish that may be contaminated during the performance of the Remediation.

6.11 Record Documents

A. CONTRACTOR shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Field Orders and Change Directives, in good order and annotated to show changes made during Construction. These record documents together with all approved submittals will be available to OWNER for reference. Upon completion of the Remediation, these record documents and Submittals, including a reproducible set of record drawings, will be delivered to OWNER.

6.12 Safety and Protection

A. CONTRACTOR shall maintain a safe working environment during performance of the Remediation. CONTRACTOR shall comply, and shall secure compliance by its employees, agents, and subcontractors, with all applicable health and safety laws and regulations, including without limitation, Federal OSHA (and specifically including 29 CFR 1910.120 and 1926.65) and equivalent laws and regulations.

B. CONTRACTOR shall prepare and implement its own project health and safety plan, based on its health and safety program and all written programs required by Federal, State and local regulations and shall bear responsibility for the completeness and accuracy of the plan. CONTRACTOR's health and safety plan and required documentation shall be available at the Site for review by OWNER, subcontractors and regulatory personnel.

C. CONTRACTOR shall consider the requirements of any applicable site safety plan prepared by OWNER when developing CONTRACTOR's health and safety plans.

D. CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Construction. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Construction;
2. all Construction and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
3. other property at or adjacent to the Site, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities and underground facilities not designated for removal, relocation or replacement in the course of Construction.

E. CONTRACTOR shall comply with applicable laws and regulations of any public body having jurisdiction for safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall

concealed pipes, tanks, cables, utilities, or other manmade obstructions ("Underground Facilities") that may affect or be affected by CONTRACTOR's services. CONTRACTOR shall be entitled to rely on such information.

13. Report to the appropriate Federal, state, or local public agencies, as required, any conditions at the Site that may present a potential danger to public health, safety, or the environment.

B. OWNER's responsibilities to purchase and maintain liability and property insurance are set forth in paragraphs 5.03.A.

8.02 Scope of OWNER's Safety and Hazardous Waste Responsibilities

A. OWNER shall not supervise, direct or have control or authority over, nor be responsible for, CONTRACTOR's means, methods, techniques, sequences or procedures of Construction or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with laws and regulations applicable to the furnishing or performance of the Remediation. OWNER will not be responsible for CONTRACTOR's failure to perform or furnish the Remediation in accordance with the Contract Documents.

B. OWNER's responsibilities regarding undisclosed contaminants and existing conditions uncovered or revealed at the Site are set forth in paragraph 4.04.

8.03 Resident Project Representation

A. OWNER may furnish a Resident Project Representative to observe the performance of Construction. The duties, responsibilities and limitations of authority of any such Resident Project Representative and assistants will be as provided in the Supplementary Conditions.

8.04 Indemnification (This section not used)

ARTICLE 9 CHANGES IN THE REMEDIATION; CLAIMS

9.01 General--Rights and Obligations

A. Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions or revisions in the Remediation within the general scope of the Agreement by a Change Order or a Change Directive. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Remediation involved which will be performed under the applicable provisions of the Contract Documents (except as otherwise specifically provided). However, OWNER does not have the right to order additions or revisions which would require CONTRACTOR to deal with contaminants, contaminated areas, or contaminated resources not disclosed in the Contract Documents in existence as of the date of receipt of Proposals.

9.02 Notice of Intent to Make Claim

A. If OWNER and CONTRACTOR are unable to agree as to the extent, if any, of an adjustment in the Contract Price or an adjustment of the Contract Times that should be allowed as a result of any order of OWNER under paragraph 9.01.A or other occurrence for which the Contract Documents provide that such adjustment(s) may be made, a claim may be made. Written notice of intent to make such a claim will be submitted to the other party no later than 30 days after the start of the occurrence or event giving rise to the claim.

9.03 Claim Documentation

A. Substantiating documentation shall be submitted by the claiming party within 30 days after delivery of the notice required by paragraph 9.02.A.

9.04 Decision

A. If CONTRACTOR has given notice of claim pursuant to paragraph 9.02.A. OWNER shall render a decision on the claim not more than 30 days after the receipt of the substantiating documentation required by paragraph 9.03.A. This decision will be final and binding unless CONTRACTOR gives notice of intention to exercise its rights under Article 15 within 30 days of receipt of the decision and exercises such rights within 30 days of giving the notice of intent.

B. If OWNER has given the notice of claim pursuant to paragraph 9.02.A. CONTRACTOR shall render a decision on the claim not more than 60 days after the receipt of the substantiating documentation required by paragraph 9.03.A. This decision will be final and binding unless OWNER gives notice of intention to exercise its rights under Article 15 within 30 days of receipt of the decision and exercises such rights within 30 days of giving the notice of intent.

9.05 Time Limit Extension

A. The time limits of paragraphs 9.03.A and 9.04.A and B may be extended by mutual agreement.

9.06 Exceptions

A. CONTRACTOR will not be entitled to an increase in the Contract Price or an extension of the Contract Times regarding any Remediation performed that is not required by the Contract Documents as they may be amended as provided in paragraph 3.03, except in the case of an emergency as provided in paragraph 6.15 or in the case of uncovering Construction as provided in paragraph 12.04.

9.07 Execution of Change Orders

A. OWNER and CONTRACTOR shall execute appropriate Change Orders covering changes in:

1. the Remediation which are (i) ordered by OWNER under paragraph 9.01, (ii) required because of acceptance of defective Construction under paragraph 12.08 or correcting defective Construction under paragraph 12.09 or (iii) agreed to by the parties; and
2. the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Remediation actually performed in accordance with a Change Directive.

9.08 Notice to Sureties

A. If notice of any change affecting the general scope of the Remediation or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be CONTRACTOR'S responsibility.

ARTICLE 10 CONTRACT PRICE: CHANGES AND COSTS OF REMEDIATION**10.01 General**

- A. The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the Remediation.
- B. The Contract Price may only be changed by a Change Order. Any claim for an adjustment in the Contract Price will be based on written notice delivered by the party making the claim to the other party promptly according to paragraph 9.02.A.
- C. The value of any Remediation covered by a Change Order or of any claim for an adjustment in the Contract Price will be determined as follows:
 - 1. Where the Remediation involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved;
 - 2. Where the Remediation involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily according to paragraph 10.02) or by mutually agreed unit prices;
 - 3. Where the Remediation involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under paragraph 10.01.C.2, on the basis of the Cost of the Remediation (determined as provided in paragraph 10.02).

10.02 Cost of the Remediation

For costs not included in 10.01C.1. or 10.01C.2. above, labor and non-labor shall be charged at the rates shown in City of Gainesville Public Works Contract PWSS990186-DH and its Amendments.

10.03 Cash Allowances

This Section 10.03 is NOT used.

10.04 Unit Prices

- A. Where the Contract Documents provide that all or part of the Remediation is to be paid on the basis of Unit Prices, initially the Contract Price will be deemed to include for all of the Unit Price Remediation an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Remediation times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Remediation are not guaranteed and are solely for the purpose of comparison of Proposals or determining an initial Contract Price, or both.
- C. Determinations of the actual quantities and classifications of Unit Price Remediation performed by CONTRACTOR will be made by OWNER.
- D. Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.
- E. The unit price of an item of Unit Price Remediation shall be subject to adjustment if:

1. the total estimated cost of a particular item of Unit Price Remediation as stated in the Agreement amounts to 10 percent or more of the initial Contract Price; and
2. the actual quantity of that particular item of Unit Price Remediation performed by CONTRACTOR differs by more than 15 percent from the estimated quantity of such item indicated in the Agreement; and
3. CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result of having incurred additional expense or OWNER believes that OWNER is entitled to a decrease in Contract Price.

F. If the parties are unable to agree as to the amount of any increase or decrease, then either party may make a claim according to Article 9.

ARTICLE 11 CHANGE OF CONTRACT TIMES

11.01 General

A. The Contract Times (or Milestones) may only be changed by a Change Order. Any claim for an adjustment of the Contract Times (or Milestones) will be based on written notice under paragraph 9.02.

11.02 Time Extensions

A. Where CONTRACTOR is prevented from completing any part of the Remediation within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be equitably adjusted if a claim is made as provided in Article 9. Delays beyond the control of CONTRACTOR will include, but not be limited to, acts or neglect by OWNER, governmental agencies, acts or neglect of utility owners or other contractors performing other work as contemplated by Article 7, fires, floods, epidemics, abnormal weather conditions or acts of God. Delays attributable to and within the control of a Subcontractor or Supplier will be deemed to be delays within the control of CONTRACTOR.

B. Nothing in this paragraph 11.02 bars a change in Contract Price under Article 10 to compensate for the direct costs incurred by CONTRACTOR due to:

1. delay, interference, or disruption directly attributable to actions or inactions of OWNER or OWNER's Consultants; or
2. delays in performance of the Remediation directly caused by unforeseeable delays in regulatory agency reviews and approvals.

C. However, OWNER will not be liable to CONTRACTOR for that portion of the costs arising out of (i) delays caused by or within the control of CONTRACTOR, or (ii) delays beyond the control of both parties, including but not limited to fires, floods, epidemics, abnormal weather conditions and acts of God.

ARTICLE 12 TESTS AND INSPECTONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE CONSTRUCTION**12.01 Notice of Defects**

A. Prompt written notice of all defective Construction of which OWNER has actual knowledge will be given to CONTRACTOR by OWNER. All defective Construction may be rejected, corrected or accepted as provided in this Article 12.

12.02 Access to Construction

A. OWNER, OWNER's Consultants, other representatives and personnel of OWNER, independent testing laboratories and governmental agencies with jurisdictional interests will have access to the Construction at the Site at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's Site safety procedures and programs so that they may comply with them.

12.03 Tests and Inspections

A. If the Contract Documents or laws or regulations of any public body having jurisdiction require any part of the Construction specifically to be inspected, tested or approved, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests or approvals, pay all their costs, and furnish OWNER the required certificates of inspection, testing or approval. CONTRACTOR shall also be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests or approvals required by the Contract Documents for OWNER's acceptance of materials or equipment to be incorporated in the Construction or of materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase of them for incorporation in the Construction.

B. CONTRACTOR shall give OWNER reasonable notice of the planned schedule for all required inspections, tests or approvals.

C. If any Construction (or the Construction work of others) that is required to be inspected, tested or approved is covered by CONTRACTOR without written concurrence of OWNER, it must, if requested by OWNER, be uncovered for observation. CONTRACTOR shall be responsible for Uncovering Costs unless CONTRACTOR has given OWNER timely notice of CONTRACTOR's intention to cover it and OWNER has not acted with reasonable promptness in response to such notice.

12.04 Uncovering Construction

A. If any Construction is covered contrary to the written request of OWNER, it must, if requested by OWNER, be uncovered for OWNER's observation and recovered at CONTRACTOR's expense.

B. If OWNER considers it necessary or advisable that covered Construction be observed by OWNER or inspected or tested by others, CONTRACTOR, at OWNER's request, shall uncover, expose or otherwise make available for observation, inspection or testing as OWNER may require, that portion of the Construction in question, furnishing all necessary labor, material and equipment.

1. If it is found that such Construction is defective:

- a. CONTRACTOR shall be responsible for Uncovering Costs, and
- b. OWNER shall be entitled to an appropriate decrease in the Contract Price.

2. If it is found that such Construction is not defective, CONTRACTOR will be allowed an increase in the Contract Price for the resulting Uncovering Costs or an extension of the Contract Times or both.
3. If the PARTIES are unable to agree as to the amount or extent of Uncovering Costs, CONTRACTOR or OWNER may make a claim therefore as provided in Article 9.

12.05 OWNER May Stop the Construction

A. If the Construction is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Construction in such a way that the completed Construction will conform to the Contract Documents, OWNER may order CONTRACTOR to stop any or all of the Construction, until the cause for such order has been eliminated; however, this right of OWNER to stop Construction will not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any other party.

12.06 Correction or Removal of Defective Construction

A. OWNER will have authority to disapprove or reject defective Construction and will have authority to require special inspection or testing of the Construction whether or not the Construction is fabricated, installed or completed. If required by OWNER, CONTRACTOR shall promptly, as directed, either correct all defective Construction, whether or not fabricated, installed or completed, or, if the Construction has been rejected by OWNER, remove it from the Site and replace it with non-defective Construction. CONTRACTOR shall bear all direct costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

12.07 Correction Period

A. If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents, any Construction is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and according to OWNER's written instructions, (i) correct such defective Construction, or, if it has been rejected by OWNER, remove it from the Site and replace it with Construction that is not defective, and (ii) satisfactorily correct or remove and replace any damage to other Construction or the work of others resulting from such defective Construction. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Construction corrected or the rejected Construction removed and replaced, and all direct costs and damages caused by or resulting from such removal and replacement (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, all court or arbitration or other dispute resolution costs, and all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

B. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Construction, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Change Order.

C. Where defective Construction (and damage to other Construction resulting there from) has been corrected, removed or replaced under this paragraph 12.07, the correction period hereunder with respect to corrected Construction will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

12.08 Acceptance of Defective Construction

A. If, instead of requiring correction or removal and replacement of defective Construction, OWNER prefers to accept it, OWNER may do so. CONTRACTOR shall pay all costs attributable to OWNER's evaluation of and determination to accept such defective Construction (such costs to include but not be limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs). If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Construction; and OWNER will be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to its amount, OWNER may make a claim as provided in Article 9. If the acceptance occurs after final payment, an appropriate amount will be paid by CONTRACTOR to OWNER.

12.09 OWNER May Correct Defective Construction

A. If CONTRACTOR fails within a reasonable time after written notice from OWNER to correct defective Construction or to remove and replace rejected Construction as required by OWNER according to paragraphs 12.06.A or 12.07.A, or if CONTRACTOR fails to perform the Construction according to the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph OWNER shall proceed expeditiously. In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the Site, take possession of all or part of the Construction, and suspend CONTRACTOR's services related to that Construction, and incorporate in the Construction all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's Representatives, agents and employees, OWNER's other contractors and consultants access to the Site to enable OWNER to exercise the rights and remedies under this paragraph. All costs and damages incurred or sustained by OWNER in exercising such rights and remedies will be charged against CONTRACTOR and OWNER will be entitled to an appropriate decrease in the Contract Price. If the PARTIES are unable to agree as to its amount, OWNER may make a claim under Article 9. Such costs and damages will include but not be limited to all fees and charges of engineers, architects, attorneys and other professionals, all court or arbitration or other dispute resolution costs and all costs of repair or replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR's defective Construction. CONTRACTOR will not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the construction attributable to the exercise by OWNER of Owner's rights and remedies under this paragraph.

ARTICLE 13 PAYMENTS TO CONTRACTOR AND COMPLETION

13.01 Schedule of Values

A. The Schedule of Values established under paragraph 2.06.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to OWNER.

13.02 Application for Progress Payment

A. At least 20 days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to OWNER for review an Application for Payment filled out and signed by CONTRACTOR covering the Remediation completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract

Documents. If payment is requested on the basis of materials and equipment not incorporated in the Remediation but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by a bill of sale, invoice or other documentation warranting that OWNER has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect OWNER's interest in such materials and equipment, all of which will be satisfactory to OWNER.

B. Beginning with the second Application for Payment, each Application shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied on account to discharge CONTRACTOR's legitimate obligations associated with prior Applications for Payment.

C. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

13.03 CONTRACTOR's Warranty of Title

A. CONTRACTOR warrants and guarantees that title to all Construction materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens. This paragraph 13.03.A does not apply to any documents covered by paragraph 3.04.A.

13.04 Progress Payments

A. Progress payments shall be made by OWNER to CONTRACTOR according to the following procedure:

1. OWNER will, within ten days of receipt of each Application for Payment, either indicate in writing its acceptance of the Application and state that the Application is being processed for payment, or return the Application to CONTRACTOR indicating in writing its reasons for refusing to accept the Application. Not more than 30 days after accepting such Application the amount will become due and when due will be paid by OWNER to CONTRACTOR.

2. If OWNER should fail to pay CONTRACTOR at the time the payment of any amount becomes due, then CONTRACTOR may, at any time thereafter, upon serving written notice that CONTRACTOR will stop the Remediation within seven days after receipt of the notice by OWNER, and after such seven day period, stop the Remediation until payment of the amount owing has been received. Written notice shall be deemed to have been duly served if sent by certified mail to the last known business address of OWNER.

3. Payments due but unpaid will bear interest at the rate specified in the Agreement.

4. No Progress Payment nor any partial or entire use or occupancy of the Project by OWNER will constitute an acceptance of any Remediation not according to the Contract Documents.

B. OWNER may refuse to make the whole or any part of any such payment, or because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any previous payment, to the extent that is reasonably necessary to protect OWNER from loss because:

1. The Construction is defective, or completed Construction has been damaged by CONTRACTOR and requires correction or replacement; or

2. The Contract Price has been reduced by Change Order; or
3. This Section 13.04B.3. is NOT used.
4. OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.02.A.1 through A.3; or
5. Claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the remediation; or
6. Waivers of Lien have not been provided for payments previously made to CONTRACTOR.
7. There are other items entitling OWNER to a set-off against the amount for which application is made.

13.05 Substantial Completion

A. When CONTRACTOR considers the Construction ready for its intended use CONTRACTOR shall notify OWNER in writing that the Construction is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that OWNER issue a certificate of Substantial Completion. Within a reasonable time thereafter, OWNER and CONTRACTOR shall make an inspection of the Construction to determine the status of completion. If OWNER does not consider the Construction substantially complete, OWNER will notify CONTRACTOR in writing giving its reasons. If OWNER considers the Construction substantially complete, OWNER will prepare and deliver to CONTRACTOR a certificate of Substantial Completion which shall fix the date of Substantial Completion. There will be attached to the certificate a list of items to be completed or corrected before final payment. At the time of delivery of the certificate of Substantial Completion OWNER will deliver to CONTRACTOR a written determination as to division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, maintenance, heat, utilities, insurance and warranties.

B. OWNER will have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but OWNER will allow CONTRACTOR reasonable access to complete or correct items on the list of items to be completed.

13.06 Partial Utilization

A. Use by OWNER of any substantially completed part of the Construction which (i) has specifically been so identified for early use in the Contract Documents, or (ii) OWNER and CONTRACTOR agree constitute a separately functioning and usable part of the Construction that can be used by OWNER for its intended purpose without significantly interfering with CONTRACTOR's performance of the remaining Construction, may be accomplished prior to Substantial Completion of all of the Construction. The procedures to allow for this use are:

1. At any time during Construction, OWNER may request CONTRACTOR in writing to permit OWNER to use any part of the Construction which OWNER believes to be ready for its intended use and substantially complete. Within a reasonable time after such request, OWNER and CONTRACTOR will make an inspection of that part of the Construction to determine its status of completion. If CONTRACTOR agrees that such part of the Construction is substantially complete, CONTRACTOR will certify to OWNER that such part of the Construction is substantially complete and request OWNER to issue a certificate of Substantial Completion for that part of the Construction.

2. At any time during Construction, CONTRACTOR may notify OWNER in writing that CONTRACTOR considers any part of the Construction ready for its intended use and substantially complete and request OWNER to issue a certificate of Substantial Completion for that part of the Construction. Within a reasonable time after such requests, OWNER and CONTRACTOR will make an inspection of that part of the Construction to determine its status of completion. If OWNER does not consider that part of the Construction to be substantially complete, OWNER will notify CONTRACTOR in writing giving its reasons. If OWNER considers that part of the Construction to be substantially complete, the provisions of paragraph 13.05 will apply regarding the issuing of a certificate of Substantial Completion of that part of the Construction and the division of responsibility involving such work and its access.

B. No occupancy or separate operation of part of the Construction will be accomplished prior to complying with the property insurance requirements of paragraph 5.07.

13.07 Final Inspection

A. Upon written notice from CONTRACTOR that the entire Construction or an agreed portion thereof is complete, OWNER will make a final inspection with CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Construction is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Construction or remedy such deficiencies.

13.08 Final Application for Payment

A. After CONTRACTOR has completed all such corrections to the satisfaction of OWNER and delivered according to the Contract Documents all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by paragraph 5.08.B, certificates of inspection, marked-up record documents (as provided in paragraph 6.11) and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment will be accompanied (unless previously delivered) by: (i) all documentation called for in the Contract Documents; (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to OWNER) of all Liens filed in connection with the Remediation. In lieu of such releases or waivers of Liens and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills and other indebtedness connected with the Remediation for which OWNER or OWNER's property might in any way be responsible have been paid or otherwise satisfied.

13.09 Final Payment and Acceptance

A. If OWNER is satisfied that the Remediation has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, OWNER will, within ten days after receipt of the final Application for Payment, give written notice to CONTRACTOR that the Remediation is acceptable. Otherwise, OWNER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to process final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Thirty days after the presentation to OWNER of the acceptable Application and accompanying documentation, in appropriate form and substance and with OWNER's notice of acceptability, the amount will become due and will be paid by OWNER to CONTRACTOR.

B. If, through no fault of CONTRACTOR, final completion of the Remediation is significantly delayed, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment, and without terminating the Agreement, make payment of the balance due for that portion of the Remediation fully completed and accepted. If the remaining balance to be held by OWNER for Remediation not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.01.A, the written consent of the surety to the payment of the balance due for that portion of the Remediation fully completed and accepted shall be submitted by CONTRACTOR to OWNER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

13.10 Waiver of Claims

A. The making and acceptance of final payment will constitute:

1. A waiver of all claims by OWNER against CONTRACTOR, except claims arising from unsettled liens, defective Construction appearing after final inspection under paragraph 13.07, from failure to provide Professional Services consistent with the standard of care of paragraph 6.01.A.1, from failure to comply with the Contract Documents, including any special guarantees, or from CONTRACTOR's continuing obligations under the Contract Documents; and
2. A waiver of all payment claims by CONTRACTOR against OWNER other than those previously made in writing and still unsettled.

ARTICLE 14 SUSPENSION AND TERMINATION

14.01 OWNER May Suspend Remediation

A. At any time and without cause, OWNER may suspend any or all of the Remediation for a period of not more than 90 days by notice in writing to CONTRACTOR which will fix the date on which Remediation will be resumed. CONTRACTOR shall resume the Remediation on the date so fixed. CONTRACTOR will be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes a claim therefor as provided in Article 9.

14.02 OWNER May Terminate for Cause

A. The occurrence of any one or more of the following events justifies termination for cause:

1. CONTRACTOR repeatedly fails to perform the Remediation according to the Contract Documents, including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.06.A, as revised from time to time.
2. CONTRACTOR disregards laws or regulations of any public body having jurisdiction.
3. CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents.

B. OWNER may, after giving CONTRACTOR (and the surety, if any) 30 days' written notice and to the extent permitted by laws and regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the Site and take possession of the Remediation, incorporate in the Remediation all materials and equipment stored at the Site or for which OWNER has paid

CONTRACTOR but which are stored elsewhere, and finish the Remediation as OWNER may deem expedient. In such case CONTRACTOR will not be entitled to receive any further payment until the Remediation is finished. If the unpaid balance of the Contract Price exceeds all costs, losses and damages sustained by OWNER arising out of or resulting from completing the Remediation (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) such excess will be paid to CONTRACTOR. If such costs, losses and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such costs, losses and damages incurred by OWNER will be incorporated in a Change Order, provided that when exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Remediation to be performed.

C. Notwithstanding paragraph 14.02.B, this Agreement will not terminate if CONTRACTOR begins, within seven days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof. However, if and to the extent such failure cannot be reasonably cured within such 30 day period, and if CONTRACTOR has diligently attempted to cure such failure and thereafter continues diligently to cure it, then the cure period under this paragraph will extend up to, but in no case more than, 60 days after the date of receipt of the notice.

D. Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

14.03 OWNER May Terminate for Convenience

A. Upon seven days' written notice to CONTRACTOR, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate the Agreement. In such case, CONTRACTOR will be paid (without duplication of any items) for:

1. Remediation executed according to the Contract Documents prior to the effective date of termination;
2. Expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials or equipment required by the Contract Documents in connection with uncompleted Remediation;
3. Amounts paid in settlement of terminated contracts with Subcontractors, Engineers, Suppliers and others (including but not limited to all fees and charges of Engineers, Architects, Attorneys and other professionals and all court or arbitration or other dispute resolution costs incurred in connection with termination of such contracts; and
4. Reasonable expenses directly attributable to termination.

B. CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

14.04 CONTRACTOR May Stop Remediation or Terminate

A. If, through no act or fault of CONTRACTOR, the Remediation is suspended for a period of more than 90 days by OWNER or under an order of court or other public authority, or OWNER fails to act on any Application for Payment within 30 days after it is submitted, or OWNER fails for 30 days to pay CONTRACTOR any sum finally determined to be due, or OWNER fails for 30 days to furnish lands

and access pursuant to paragraph 4.01.A, or OWNER repeatedly fails to perform a material obligation of the Agreement, then CONTRACTOR may, upon seven days' written notice to OWNER, and provided OWNER does not remedy such suspension or failure within that time, terminate the Agreement and recover from OWNER payment on the same terms as provided in paragraph 14.03.A. In lieu of terminating the Agreement and without prejudice to any other right or remedy, if OWNER has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may upon seven days' written notice to OWNER stop the Remediation until payment is made of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 14.04.A are not intended to preclude CONTRACTOR from making claim under Article 9 for an increase in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping Remediation as permitted by this paragraph.

B. If CONTRACTOR encounters contaminants different in type or extent from that originally represented by OWNER, CONTRACTOR may, at its option, terminate the Agreement and be paid for those items described in paragraph 14.03.A. In lieu of terminating the Agreement and without prejudice to any other right or remedy, CONTRACTOR may suspend performance under this Agreement pending negotiation of a satisfactory Change Order to provide for the newly discovered existing conditions.

14.05 Obligations Upon Termination

A. In the event of termination under paragraph 14.03 or 14.04:

1. CONTRACTOR shall promptly:

a. Subject to paragraph 14.05.A.1.b. and c., cease operations;

b. Take actions necessary, or that OWNER may direct, for the protection and preservation of the Remediation; and

c. Except for Remediation directed to be performed prior to the effective date of termination, terminate all existing subcontracts, and purchase orders and enter into no further subcontracts and purchase orders.

2. OWNER shall promptly take such actions as are reasonably necessary to close out the Agreement, including the making of final payment under paragraph 13.09.

14.06 Funding

A. OWNER and CONTRACTOR recognize and confirm this project is subject to funding by the City of Gainesville and the State of Florida. The OWNER and the State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the City and State, respectively.

ARTICLE 15 DISPUTE RESOLUTION

15.01 Methods and Procedures

A. If and to the extent that OWNER and CONTRACTOR have agreed on the method and procedure for resolving disputes between them that may arise under this Agreement, such dispute resolution method and procedure, if any, will be as set forth in Exhibit D. If no such agreement on the method and procedure for resolving such disputes has been reached, OWNER and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.

ARTICLE 16 MISCELLANEOUS**16.01 Giving Notice**

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given:

1. If delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended;
2. If delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice; or
3. If transmitted by facsimile, the time at which a machine generated confirmation states the notice was received at the facsimile telephone number of the intended recipient last known by the sender.

16.02 Computation of Times

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

B. A calendar day of twenty-four hours measured from midnight to the next midnight will constitute a day.

16.03 Notice of Claim

A. Should OWNER or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this paragraph 16.03.A will not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

16.04 Cumulative Remedies

A. The duties and obligations imposed by and the rights and remedies available under these General Conditions, in particular but without limitation, any general or specific warranties and indemnities imposed upon the parties, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or by other provisions of the Contract Documents. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply.

16.05 Survival of Obligations

A. All representations, indemnifications, and warranties made in the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Remediation and termination or completion of the Agreement.

16.06 Waiver of Consequential Damages

A. To the fullest extent permitted by law, and except as specifically provided to the contrary herein, CONTRACTOR and OWNER waive Claims against each other for special, incidental and consequential damages arising out of this Agreement. This mutual waiver includes, but is not limited to:

1. damages incurred by OWNER for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

2. damages incurred by CONTRACTOR for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Remediation.

B. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination according to Article 14. Nothing contained in this Paragraph 16.06 will be deemed to preclude an award of liquidated damages, when applicable, according to the requirements of the Contract Documents.

16.07 No Third-Party Beneficiaries

A. This Agreement is not intended to, and does not, create any rights or benefits to individuals or entities other than OWNER and CONTRACTOR.

16.08 No Waiver By Non-Enforcement

A. Non-enforcement of any provision by either party will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or the remainder of the Contract Documents.

16.09 Controlling Law

A. This Agreement is to be governed by the law of the state in which the Project is located.

16.10 Limitation of Liability

A. There will no limitation of liability.

ARTICLE 17 – OWNER'S OPTION TO EXTEND AGREEMENT

17.01 It is the intent of OWNER to utilize this Contract between OWNER and CONTRACTOR for the completion of that Work referred to as "Phase One" as identified on Sheet No. R-19 "Site Control Plan" in the contract Drawings. Phase One generally includes the Poole Roofing and CSXT IRA areas of the remediation.

17.02 Should OWNER receive authority to continue and remediate the remaining portion of the site, known as Phase Two, which generally includes the remainder of the CSXT remediation as identified on Sheet No. R-19 "Site Control Plan" in the contract Drawings and should OWNER opt at its sole discretion to use CONTRACTOR for said Work, the negotiated terms and conditions of this Contract shall apply to Phase Two.

GRU and ECT for MGP/CSSX/Pooler Rfg. Remediation
December, 2008

OWNER, at any time during the progress of the Project, may order in writing changes, additions or modifications to the plans and specifications and the same shall not void this Agreement.



Environmental Consulting & Technology, Inc.

October 27, 2011
ECT No. 090335-0300

Mr. John Veilleux, P.E.
City of Gainesville Public Works Department
Gainesville, Florida 32614-7117

Re: Proposal to Amend Contract for Depot Park Non-MGP Remediation

Dear Mr. Veilleux:

Environmental Consulting & Technology, Inc. (ECT), is pleased to submit this proposal to use ECT's contract with Gainesville Regional Utilities (GRU) as a bridge contract to remediate the remaining soil contamination on the Depot Park site. The remaining soil contamination is related to past railroad activities rather than from the former manufactured gas plant (MGP) that GRU is responsible for remediating. Since this remaining soil contamination presents a direct-exposure risk to park visitors, it must be removed and/or capped with 2 feet of clean soil to prevent contact by park visitors.

SCOPE OF WORK

In accordance with ECT's October 2011 Remedial Action Plan Modification, the remaining areas with soil contamination will be cleared of all vegetation except for 12 heritage trees, then the top 2 feet of soil will be removed from these areas and transported offsite for disposal at the Waste Management, Inc. Chesser Island landfill in Folkston, Georgia. The excavated areas will then be capped with 2 feet of clean fill soil by others (the pond contractor). The soil under the drip line of the heritage trees will be tested for arsenic and polycyclic aromatic hydrocarbons (PAHs) so that a site wide average contaminant concentration can be calculated. If the site average concentrations are below the soil applicable cleanup target levels (SCTLs), the soil under the heritage trees can remain in place. Otherwise, additional soil will need to be removed until the site average concentrations are below the SCTLs.

In addition to the contaminated soil excavation, the concrete slab at the former Rinker location will be removed, and all the soil currently stockpiled on the site will be spread on the northern portion of the site such that the backfilled elevation is 2 feet below the final park grade, with the understanding that the pond contractor will cap these areas with clean fill soil.

The work areas are shown on Figure 1. ECT understands the first phase of this work will include removing the concrete slab in Area 8, backfilling the stockpiled soil in Area 7, and excavating the contaminated soil from Areas 3 and 5. The second phase would include the excavation of the contaminated soil from Areas 1, 2, and 6 as funds become available. ECT understands that not all the Phase 2 funds are currently available and that the remediation work may need to be shut down until all the funds are available. Depending on the length of the shutdown, an additional mobilization charge may be required.

3701 Northwest
98th Street
Gainesville, FL
32606

(352)
332-0444

FAX (352)
332-6722

Y:\GRS11\DEPOT PARK\CO TO AMMEND CONTRACT NON-MGP REM DOC 1--102711

An Equal Opportunity/Affirmative Action Employer

Mr. John Veilleux, P.E.
 City of Gainesville Pubic Works
 October 27, 2011
 Page 2

The costs for Phase 1 are shown in Table 1, and the costs for Phase 2 are shown on Table 2. The bid item numbers and unit rates correspond to the GRU contract with the following exceptions:

- Item 2.1a (Mobilization)—new item to reflect reduced mobilization cost.
- Item 3a (Project Coordination)—new item to reflect reduced cost.
- Item 4.3 (Health & Safety)—new item to reflect reduced costs.
- Item 19.16 (Concrete slab Demo)—new item.
- Item 20.9 (Tub Grinding)—new item to reflect reduced cost.
- Item 17.1 (Warranties & Bonds)—new item to reflect reduced cost.
- Item 43.1 (ECT bond)—new item to reflect reduced cost.

In addition to the remediation field work, costs are included for ECT to prepare a second Remedial Action Plan Modification for the capping of the excavated areas where contamination is still present, as well as to prepare a final source removal report.

SUMMARY OF COSTS

Phase 1 (Areas 3, 5, 7, and 8)	\$1,295,460.63
Phase 2 (Area 1, 2, and 6)	\$1,396,707.06
TOTAL Amendment Costs	\$2,692,167.70


SCHEDULE

ECT estimates that it will take 8 weeks to complete Phase 1 and another 4 weeks to complete Phase 2, assuming no delay between the phases due to funding issues.

If you have any questions regarding this letter, please contact me at 352.332.0444.

Sincerely,

ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC.


 Kevin Cubinski, P.E.
 Senior Engineer

KRC/saw

ATTACHMENTS

cc: Project File

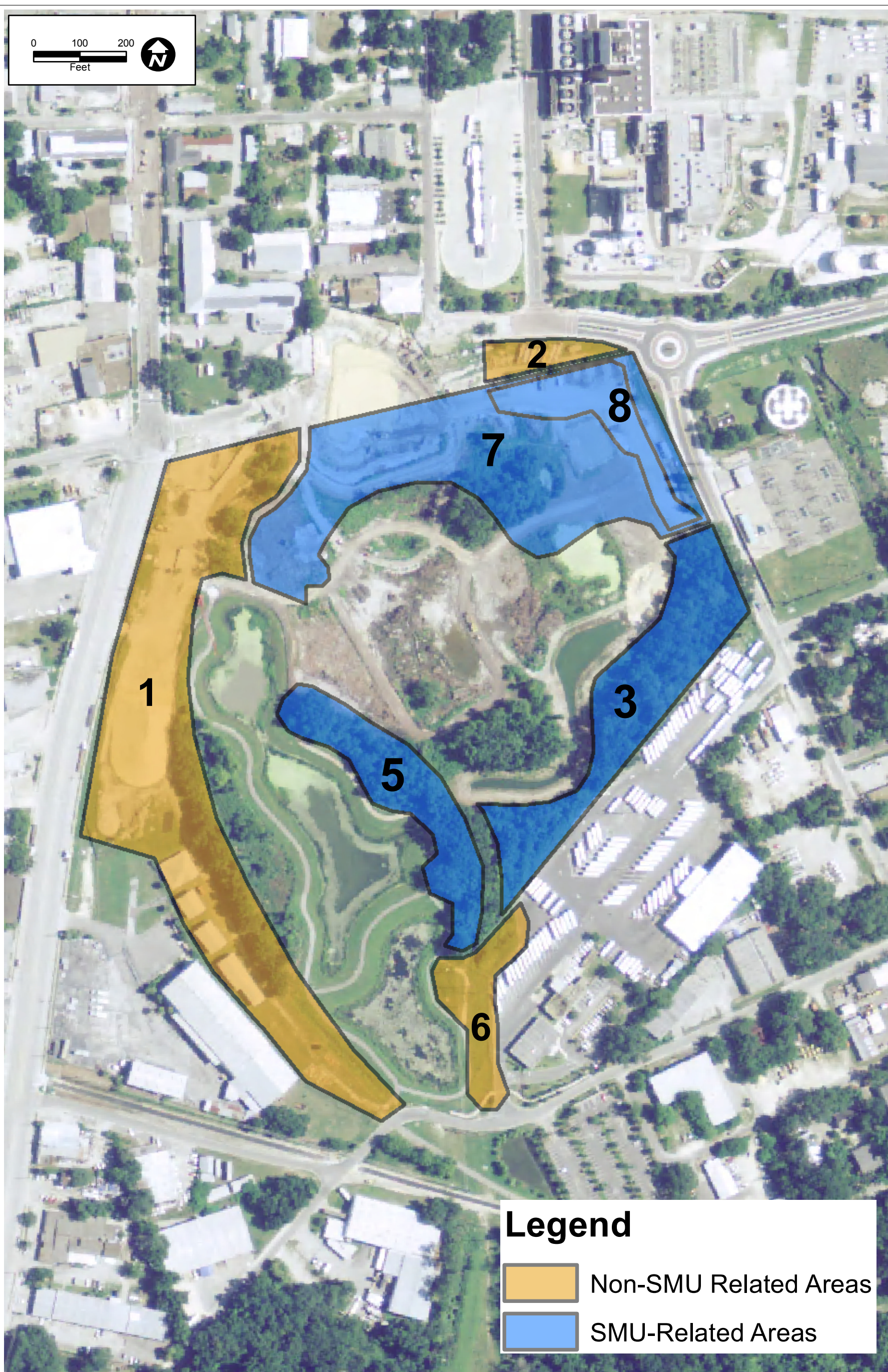
ATTACHMENT

Table 1. Phase 1 (Areas 3, 5, 7, & 8)

Bid Item	Pay Item Description	Unit	Unit Price	Bid Qty	Bid Amount	Bid Amount w/ECT Markup
	EnviroTek Costs					
	Project Requirements					
2.1a (new)	Mobilization	LS	\$ 5,000.00	1	\$ 5,000.00	\$ 5,500.00
	Surveying					
2.8	3-person crew	HR	\$ 200.00	25	\$ 5,000.00	\$ 5,500.00
3.1 (new)	Project Coordination	LS	\$ 1,500.00	1	\$ 1,500.00	\$ 1,650.00
4.2 (new)	Health and Safety	LS	\$ 3,500.00	1	\$ 3,500.00	\$ 3,850.00
7.1	Applications for Payment	EA	\$ 750.00	3	\$ 2,100.00	\$ 2,310.00
	Temporary Facilities					
11.11	Portable toilets	WK	\$ 50.00	8	\$ 420.00	\$ 462.00
11.12	Wash facilities	WK	\$ 50.00	8	\$ 420.00	\$ 462.00
11.13	Drinking water facilities	WK	\$ 50.00	8	\$ 420.00	\$ 462.00
12.6	Manpower for ingress and egress of trucks	Wk	\$ 600.00	8	\$ 5,040.00	\$ 5,544.00
	Erosion and Sedimentation Control					
13.1	Labor, material, and equipment for maintenance	WK	\$ 600.00	8	\$ 5,040.00	\$ 5,544.00
13.2	Gravel construction entrance (repair)	EA	\$ 850.00	1	\$ 850.00	\$ 935.00
13.6	Silt fence	LF	\$ 2.00	2,000	\$ 4,000.00	\$ 4,400.00
13.18	Tracking with dozer	SY	\$ 0.50	0	\$ -	\$ -
13.20	Hydroseeding	SY	\$ 0.35	0	\$ -	\$ -
	Site Demolition					
19.16 (new)	Concrete slab (demo trans and dispose)	Sq Ft	\$ 1.10	31,650	\$ 34,815.00	\$ 38,296.50
	Site Clearing					
20.2	Tree barricades	EA	\$ 400.00	8	\$ 3,200.00	\$ 3,520.00
20.5	Clear and grub contaminated areas	SY	\$ 3.00	19,020	\$ 57,060.00	\$ 62,766.00
20.9 (new)	On-site tub grinding	Day	\$ 12,500.00	2	\$ 25,000.00	\$ 27,500.00
	Earthwork					
22.11	Contaminated soil excavation	BCY	\$ 3.00	12,953	\$ 38,860.00	\$ 42,746.00
22.13	Loading and hauling soil for placement of existing stockpiles	BCY	\$ 4.00	20,000	\$ 80,000.00	\$ 88,000.00
22.14	Backfill and compaction	CCY	\$ 4.00	20,000	\$ 80,000.00	\$ 88,000.00
22.15	Imported fill	CCY	\$ 9.00	0	\$ -	\$ -
22.18	Haul road prep and maintenance	SY	\$ 1.50	5,000	\$ 7,500.00	\$ 8,250.00
	Transportation					
29.2	Contaminated soil (to Chesser Island)	TON	\$ 15.50	19,430	\$ 301,165.00	\$ 331,281.50
29.6	Contaminated stumps, roots, and trash	TON	\$ 30.00	750	\$ 22,500.00	\$ 24,750.00
	Landfill Disposal					
30.2	Contaminated soil and Debris	TON	\$ 19.00	20,180	\$ 383,420.00	\$ 421,762.00
					EnviroTek Subtotal=	\$ 1,066,810.00
						\$ 1,173,491.00
17.1a (new)	Bond (EnviroTek)	%	0.91%	1,066,810	\$ 9,755.44	\$ 10,730.99
					EnviroTek Total (w/ markup)=	\$ 1,184,221.99
	ECT Labor and ODCs for Field Oversight					
42.1	2-person mobilization (labor, vehicles, misc. field supplies)	WK	\$ 810.76	8	\$ 6,810.38	\$ 6,810.38
42.3	Upper Level Professional (Kevin Cubinski)	HR	\$ 126.76	67	\$ 8,518.27	\$ 8,518.27
42.4	Technician 1 (ULT)	HR	\$ 81.67	269	\$ 21,952.90	\$ 21,952.90
42.5	Mid Level Professional (Gary Dalbec)	HR	\$ 97.19	336	\$ 32,655.84	\$ 32,655.84
41.23	Survey Equipment (GPS)	WK	\$ 124.71	8	\$ 1,047.56	\$ 1,047.56
44.4	Staff Scientist II (M. Dale)	HR	\$ 131.00	84	\$ 11,004.00	\$ 11,004.00
					ECT Field Oversight Subtotal=	\$ 81,988.96
43.1 a (new)	ECT Bond	%	0.80%	\$1,266,211		\$ 10,129.69
	ECT Labor and ODCs for RAPMod and Report					
45.2	Upper Level Professional (Kevin Cubinski)	HR	\$ 139.00	80	\$ 11,120.00	\$ 11,120.00
44.4	Staff Scientist II (M. Dale)	HR	\$ 131.00	40	\$ 5,240.00	\$ 5,240.00
45.4	Document Production Specialist	HR	\$ 69.00	24	\$ 1,656.00	\$ 1,656.00
45.5	AutoCAD/Graphics Support	HR	\$ 69.00	16	\$ 1,104.00	\$ 1,104.00
					RAPMod and Report Subtotal=	\$ 19,120.00
					Total=	\$ 1,295,460.63

Table 2. Phase 2 (Areas 1, 2, & 6)

Bid Item	Pay Item Description	Unit	Unit Price	Bid Qty	Bid Amount	Bid Amount w/ECT Markup	
EnviroTek Costs							
Project Requirements							
2.1a (new)	Mobilization	LS	\$ 5,000.00	0	\$ -	\$ -	
	Surveying						
2.8	3-person crew	HR	\$ 200.00	0	\$ -	\$ -	
3.1 (new)	Project Coordination	LS	\$ 1,500.00	0	\$ -	\$ -	
4.2 (new)	Health and Safety	LS	\$ 3,500.00	0	\$ -	\$ -	
7.1	Applications for Payment	EA	\$ 750.00	1	\$ 750.00	\$ 825.00	
Temporary Facilities							
11.11	Portable toilets	WK	\$ 50.00	4	\$ 200.00	\$ 220.00	
11.12	Wash facilities	WK	\$ 50.00	4	\$ 200.00	\$ 220.00	
11.13	Drinking water facilities	WK	\$ 50.00	4	\$ 200.00	\$ 220.00	
12.6	Manpower for ingress and egress of trucks	Wk	\$ 600.00	4	\$ 2,400.00	\$ 2,640.00	
Erosion and Sedimentation Control							
13.1	Labor, material, and equipment for maintenance	WK	\$ 600.00	4	\$ 2,400.00	\$ 2,640.00	
13.2	Gravel construction entrance (repair)	EA	\$ 850.00	0	\$ -	\$ -	
13.6	Silt fence	LF	\$ 2.00	0	\$ -	\$ -	
13.18	Tracking with dozer	SY	\$ 0.50	0	\$ -	\$ -	
13.20	Hydroseeding	SY	\$ 0.35	0	\$ -	\$ -	
Site Demolition							
19.16 (new)	Concrete slab (demo trans and dispose)	Sq Ft	\$ 1.10	0	\$ -	\$ -	
Site Clearing							
20.2	Tree barricades	EA	\$ 400.00	0	\$ -	\$ -	
20.5	Clear and grub contaminated areas	SY	\$ 3.00	0	\$ -	\$ -	
20.9 (new)	On-site tub grinding	Day	\$ 12,500.00	0	\$ -	\$ -	
Earthwork							
22.11	Contaminated soil excavation	BCY	\$ 3.00	22,047	\$ 66,141.00	\$ 72,755.10	
22.13	Loading and hauling soil for placement of existing stockpiles	BCY	\$ 4.00	0	\$ -	\$ -	
22.14	Backfill and compaction	CCY	\$ 4.00	0	\$ -	\$ -	
22.15	Imported fill	CCY	\$ 9.00	0	\$ -	\$ -	
22.18	Haul road prep and maintenance	SY	\$ 1.50	0	\$ -	\$ -	
Transportation							
29.2	Contaminated soil (to Chesser Island)	TON	\$ 15.50	33,071	\$ 512,592.75	\$ 563,852.03	
29.6	Contaminated stumps, roots, and trash	TON	\$ 30.00	0	\$ -	\$ -	
Landfill Disposal							
30.2	Contaminated soil and Debris	TON	\$ 19.00	33,071	\$ 628,339.50	\$ 691,173.45	
					EnviroTek Subtotal=	\$ 1,213,223.25	\$ 1,334,545.58
17.1a (new)	Warranties and Bonds (EnviroTek)	%	0.91%	1,213,223	\$ 11,094.32	\$ 12,203.75	
					EnviroTek Total (w/ markup)=	\$ 1,346,749.33	
ECT Labor and ODCs for Field Oversight							
42.1	2-person mobilization (labor, vehicles, misc. field supplies)	WK	\$ 810.76	4	\$ 3,243.04	\$ 3,243.04	
42.3	Upper Level Professional (Kevin Cubinski)	HR	\$ 126.76	32	\$ 4,056.32	\$ 4,056.32	
42.4	Mid Level Professional (Gary Dalbec)	HR	\$ 97.19	160	\$ 15,550.40	\$ 15,550.40	
42.5	Technician 1 (ULT)	HR	\$ 81.67	128	\$ 10,453.76	\$ 10,453.76	
41.23	Survey Equipment (GPS)	WK	\$ 124.71	4	\$ 498.84	\$ 498.84	
44.4	Staff Scientist II (M. Dale)	HR	\$ 126.76	40	\$ 5,070.40	\$ 5,070.40	
					ECT Field Oversight Subtotal=	\$ 38,872.76	
43.1 a (new)	ECT Bond	%	0.80%	\$1,385,622	\$ 11,084.98	\$ 11,084.98	
ECT Labor and ODCs for RAPMod and Report							
45.2	Upper Level Professional (Kevin Cubinski)	HR	\$ 139.00	0	\$ -	\$ -	
44.4	Staff Scientist II (M. Dale)	HR	\$ 131.00	0	\$ -	\$ -	
45.4	Document Production Specialist	HR	\$ 69.00	0	\$ -	\$ -	
45.5	AutoCAD/Graphics Support	HR	\$ 69.00	0	\$ -	\$ -	
					RAPMod and Report Subtotal=	\$ -	
					Total=	\$ 1,396,707.06	



Legend


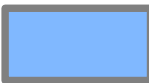
-  Non-SMU Related Areas
-  SMU-Related Areas

FIGURE 1.
REMAINING NON-MGP REMEDIATION AREAS

Sources: NRCS, 2010; ECT, 2011.

