

**CONTRACT BETWEEN THE CITY OF GAINESVILLE, d/b/a
GAINESVILLE REGIONAL UTILITIES, AND ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC.
FOR
DEPOT PARK POST-ACTIVE REMEDIATION MONITORING**

THIS CONTRACT is made and entered into this ____ day of _____, 2017, by and between the CITY OF GAINESVILLE, a Florida municipal corporation d/b/a GAINESVILLE REGIONAL UTILITIES (“GRU”), with offices located at 301 S.E. 4th Avenue, Gainesville, Florida 32601 and **ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC.** (“CONSULTANT or ECT”), a Delaware corporation, with its principal place of business at 3701 NW 98th Street, Gainesville, Florida 32606, individually referred to as Party or collectively as Parties, respectively.

WHEREAS, the Parties entered into an Agreement dated January 15, 2009 for the remediation of the MGP/CSX/Poole Roofing parcel, hereafter referred to as GRU Agreement 2008-167; and

WHEREAS, upon completion of the planned excavation of contaminated soils, additional contaminated soils were discovered and the additional contamination was believed to be not cost-effective to remove and the decision was made to leave the additional contaminated soils in place; and

WHEREAS, because contaminated soils were left in place, the Florida Department of Environmental Protection (FDEP) required GRU to install wells on Depot Park property for one year of quarterly groundwater monitoring to evaluate the effects of the contaminated soils on groundwater quality; and

WHEREAS, ECT completed the year one quarterly groundwater monitoring which documented concentrations of several contaminants at elevated concentrations and prepared a report with recommendations to the FDEP for alternative actions; and

WHEREAS, FDEP agreed with ECT’s recommendation of continued quarterly groundwater monitoring and FDEP is requiring GRU to continue monitoring the groundwater quality until such time that sufficient data exists to make informed decisions regarding the potential need for remedial actions; and

WHEREAS, ECT prepared a Remedial Action Plan; and

WHEREAS, the FDEP has approved the strategy outlined in ECT’s Remedial Action Plan Modification and has requested a minimum of one additional monitoring well be installed; and

WHEREAS, the FDEP has contracted with ECT to manage the assessment and remediation of two contiguous parcels (Gas Depot and Poole Roofing); and

WHEREAS, due to ECT’s extensive knowledge of and involvement in the remediation of the MGP/CSXT/Poole Roofing and the Gas Depot site and is currently providing groundwater monitoring and reporting for the site, the Parties agree to continue to utilize ECT for continued post-active remediation monitoring and the installation of additional wells for the former CSXT Parcel/Depot Park; and

WHEREAS, GRU requested and received a proposal dated February 27, 2017 from ECT for two (2) years of groundwater monitoring and the installation of two wells; and

WHEREAS, the FDEP may require installation of additional wells and continued monitoring above that proposed in ECT’s February 27, 2017 proposal; and

WHEREAS, GRU desires to enter into a Contract for the services described herein.

NOW, THEREFORE, in consideration of the covenants contained herein, the Parties agree to the following:

1.0 DESCRIPTION OF WORK.

ECT shall provide continued post-active remediation monitoring, operation and maintenance of the wells and the installation of additional well(s) for the former CSXT Parcel/Depot Park as proposed in ECT's Proposal identified as Attachment "C", dated February 27, 2017 incorporated herein by reference.

2.0 COMPENSATION.

GRU shall pay ECT for the faithful performance of this Contract in accordance with ECT's Proposal identified as Attachment "C".

3.0 TERM OF AGREEMENT.

- 3.1 The term of this Contract shall begin upon the date of execution of this contract and end upon the completion of CONSULTANT's work scope as indicated in Attachment "C".
- 3.2 This Contract may be extended for up to eight (8) additional quarters upon mutual agreement of the Parties.

4.0 TERM AND CONDITIONS.

GRU and CONSULTANT have agreed to be bound by the Terms and Conditions contained within Attachments "A" and "B". Attachments "A" and "B" are fully incorporated herein.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties hereto have executed this Contract on the date 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.**

BY: _____
Philip W. Simpson
Vice President

**CITY OF GAINESVILLE d/b/a
GAINESVILLE REGIONAL UTILITIES**

BY: _____
Anthony L. Cunningham, P.E.
Water/WasteWater Officer

Approved as to form and legality:

Utilities Purchasing Representative:

Dana L. Gauthier, C.P.M.
Senior Buyer

ATTACHMENTS:

- Attachment "A" – General Terms and Conditions
- Attachment "B" – Supplemental Conditions
- Attachment "C" – ECT Proposal
- Attachment "D" – Living Wage Certification Form

ATTACHMENT "A"

GENERAL TERMS AND CONDITIONS

1.0 DEFINITIONS.

- Agreement: A written Contract between two or more Parties. "Contract" and "Agreement" are synonymous.
- Deliverable: The completion of a milestone or the accomplishment of a task associated with the Work.
- Free on Board (FOB) Destination: The CONSULTANT is responsible for delivery of materials to a specified delivery point. The risks of loss are borne by the seller or consignee. Title passes when delivery is received by the buyer at destination. Seller has total responsibility until shipment is delivered.
- Specification: A description of the physical or functional characteristics of goods or services as defined in the Solicitation.
- Work: Activity involving effort done in order to achieve a purpose or result requested in the scope.

2.0 COMPLIANCE WITH REFERENCED SPECIFICATIONS.

All Work, materials, systems, or operations specified by reference to standard trade or manufacturer's published specifications shall comply with the requirements, except as modified by this Contract. The specifications used must be the latest published edition that is in effect on the effective date of this Contract unless a particular edition is specified. In the event of a conflict, the specifications that contain the more stringent requirements will govern.

3.0 CHANGE ORDERS.

GRU shall pay CONSULTANT for the Work at the price[s] stated in this Contract. No additional payment will be made to CONSULTANT except for additional Work or materials stated on a valid change order, and issued by GRU prior to the performance of the added Work or delivery of additional materials. A change order may be issued without invalidating the Contract, if (1) made in writing, (2) signed by the authorized representative(s), and (3) accepted by CONSULTANT. Such change shall include the following: change orders that constitute changes (1) the general scope of Work, (2) the schedule, (3) administrative procedures not affecting the conditions of the Contract, or (4) the Contract price.

4.0 NOTICES.

Notices to CONSULTANT shall be deemed to have been properly sent when electronically or physically delivered to CONSULTANT. Notices to GRU are deemed to have been properly sent when delivered to Utilities Purchasing, 301 SE 4th Avenue, Gainesville, Florida 32601 or e-mailed to purchasing@gru.com and GRU acknowledges receipt of the email.

5.0 PAYMENT.

- 5.1 **Invoicing.**
CONSULTANT is responsible for invoicing GRU for Work performed pursuant to this Contract. Itemized invoice(s) must be mailed to Gainesville Regional Utilities, Accounts Payable, P.O. Box 147118, Station A-27, Gainesville, FL 32164-7118 or faxed to 352-334-2964 or e-mailed to accountspayable@gru.com.
- 5.2 **Required Information.**
CONSULTANT's itemized invoices shall include the following information (if applicable): Contract number, Purchase Order number, item number, job number, description of supplies or services, quantities, unit prices, Work location, GRU Project Representative, job start date, job completion date or other pertinent information.
- 5.3 **Payment Terms.**
Unless otherwise agreed upon in writing, GRU's payment terms are net thirty (30) days from receipt of correct invoice. CONSULTANT shall not submit more than one invoice per thirty-day period. Any delay in receiving invoices, or error and omissions, will be considered just cause for delaying or withholding

payment. Invoices for partially completed Work may be allowed with GRU's prior approval. All partial invoices must be clearly identified as such on the invoice. Any charges or fees will be governed by current Florida Statutes.

5.4 Lien Release.

Before the final acceptance of the Work and payment by GRU, CONSULTANT shall furnish to GRU an affidavit and final waiver that all claims for labor and materials employed or used in the construction of said Work have been settled and no legal claim can be filed against GRU for such labor and materials. If such evidence is not furnished to GRU, such amounts as may be necessary to meet the unsatisfied claims may be retained from monies due to CONSULTANT under this Contract until the liability has been discharged.

5.5 Final Payment/Acceptance.

The acceptance by CONSULTANT of final payment due on termination of the Contract shall constitute a full and complete release of GRU from any and all claims, demands and causes of action whatsoever which CONSULTANT, its successors or assigns have or may have against GRU under the provisions of this Contract.

6.0 COMPLIANCE WITH LAWS AND REGULATIONS.

All City, County, State and Federal laws, regulations and/or ordinances shall be strictly observed. CONSULTANT is responsible for taking all precautions necessary to protect life and property.

7.0 GOVERNING LAW, VENUE, ATTORNEY'S FEES, AND WAIVER OF RIGHT TO JURY TRIAL.

This Contract shall be construed pursuant to the laws of Florida and may not be construed more strictly against one party than against the other. In the event of any legal proceedings arising from or related to this Contract: (1) venue for any state or federal legal proceedings shall be in Alachua County Florida; (2) each Party shall bear its own attorneys' fees except to the extent that CONSULTANT agrees to indemnify GRU as described above in Section 4.0 Supplemental Conditions, including any appeals; and (3) for civil proceedings, the Parties hereby waive the right to jury trial.

8.0 SOVEREIGN IMMUNITY.

Nothing in this Contract shall be interpreted as a waiver of GRU's sovereign immunity as granted pursuant to *Section 768.28 Florida Statutes*.

9.0 SEVERABILITY.

If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the Parties shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

10.0 ASSIGNMENT.

GRU or CONSULTANT shall not assign, in whole or in part, any right or obligation pursuant to this Contract, without the prior written consent of the other Party.

11.0 AUDIT OF RECORDS.

CONSULTANT shall maintain records sufficient to document completion of the scope of services pursuant to this contract. At all reasonable times, these records shall be made available to review, inspect, copy and audit by persons duly authorized by GRU. These records shall be kept for a minimum of three (3) years after termination of this Contract. Records that relate to any litigation, appeals or settlement of claim arising pursuant to the performance of this Contract shall be made available until a final disposition has been made of such litigation, appeal, or claim.

12.0 NONEXCLUSIVE REMEDIES.

Except as expressly set forth in this Contract, the exercise by either Party of any of its remedies under this Contract shall be without prejudice to its other remedies under this Contract or otherwise.

13.0 ADVERTISING.

CONSULTANT shall not publicly disseminate any information concerning the Contract without prior written approval from GRU, including but not limited to, mentioning the Contract in a press release or other promotional material, identifying GRU or the City as a reference, or otherwise linking CONSULTANT's name and either a description of the Contract or the name of the City or GRU in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

14.0 MODIFICATION OF TERMS.

This Contract constitutes the entire agreement between the Parties. No oral agreements or representations shall be valid or binding upon GRU or CONSULTANT. No alteration or modification of this Contract, including substitution of product, shall be valid or binding unless authorized by GRU. CONSULTANT may not unilaterally modify the terms of this Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto CONSULTANT's order or fiscal forms or any other documents forwarded by CONSULTANT for payment. An acceptance of product or processing of documentation on forms furnished by CONSULTANT for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

15.0 WAIVER.

Any delay or failure by GRU to exercise or enforce any of its rights pursuant to this Contract shall not constitute or be deemed a waiver of GRU's right thereafter to enforce those rights, nor will any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

16.0 DISCLOSURE AND CONFIDENTIALITY.

16.1 "Confidential Information" includes, to the extent such information is defined pursuant to Sections 119.07 and 812.081, *Florida Statutes*, as trade secrets, confidential, or otherwise exempt from the Florida Public Records Law. "Confidential Information" that is marked as "confidential" upon receipt, may include, but not limited to, certain information about GRU's operations, specifications, formulas, codes, software, hardware, intellectual properties, and other confidential and proprietary information belonging to GRU, Work Product (as defined below) or technical documentation, prepared, developed, or obtained by GRU, CONSULTANT, or any of GRU's or CONSULTANT's agents, representatives, or employees.

16.2 "Work Product" may include creative work which may lead to programs, intellectual properties, computer software, computer programs, codes, text, hypertext, designs, and/or any other work products associated with or arising directly out of the performance of the Work.

17.0 PUBLIC RECORDS.

If Contractor is either a "contractor" as defined in Section 119.0701(1)(a), *Florida Statutes*, or an "agency" as defined in Section 119.011(2), *Florida Statutes*, Contractor shall:

17.1 Keep and maintain all public records, as defined in Section 119.011(12), *Florida Statutes* that ordinarily and necessarily would be required by GRU.

17.2 Provide the public with access to public records on the same terms and conditions that GRU would provide the records and at a cost that does not exceed the cost provided by law;

- 17.3 Ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
- 17.4 Meet all requirements for retaining public records and transfer to GRU, at no cost, all public records in possession of Contractor upon termination of this Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to GRU in a format that is compatible with the information technology systems of GRU.
- 17.5 **IN THE EVENT THAT CONTRACTOR HAS QUESTIONS REGARDING FLORIDA'S PUBLIC RECORDS LAW, CHAPTER 119 OF THE FLORIDA STATUTES, OR IF CONTRACTOR HAS QUESTIONS RELATED TO CONTRACTOR'S OBLIGATION TO PROVIDE PUBLIC RECORDS, CONTRACTOR SHOULD CONTACT THE GRU PURCHASING REPRESENTATIVE USING THE CONTACT INFORMATION PROVIDED IN THIS CONTRACT, CONTACT THE PURCHASING DEPARTMENT AT (352) 393-1240, OR EMAIL PURCHASING@GRU.COM.**

18.0 SALES TAX.

CONSULTANT's pricing shall include applicable taxes on items purchased or manufactured by CONSULTANT for the project. GRU is exempt from Florida sales taxes for certain purchases. A "Consumer's Certificate of Exemption" is available at www.gru.com.

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ATTACHMENT "B"
SUPPLEMENTAL CONDITIONS

These Supplemental Conditions amend or supplement the Contract as indicated below. All provisions which are not so amended or supplemented remain in full force and effect, except that the Technical Specifications, if any, shall govern if any conflict arises between such sections and these Special Conditions.

1.0 CONDUCT OF THE WORK.

CONSULTANT shall be considered an independent CONSULTANT and as such shall not be entitled to any right or benefit to which GRU employees are or may be entitled to by reason of employment. Except as specifically noted in this Contract, CONSULTANT shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized by CONSULTANT in the performance of this Contract. CONSULTANT will assign only competent and skilled workers to perform the Work. All of CONSULTANT's personnel or subcontractors engaged in any of the Work performed pursuant to this Contract are under CONSULTANT's sole direction, supervision and control at all times and in all places. CONSULTANT's employees must be as clean and in good appearance as the job conditions permit, conducting themselves in an industrious and professional manner. CONSULTANT and its employees cannot represent, act, or be deemed to be an agent or employee of GRU.

2.0 CONSULTANT RESPONSIBILITIES.

2.1 Performance.

CONSULTANT shall perform all Work promptly and diligently in a good, proper and workmanlike manner in accordance with the Specifications. In performing the Work, CONSULTANT has the freedom to perform Work in the manner which is most beneficial to the project provided that it is within the limits of these Specifications.

2.2 Project Related Requirements.

CONSULTANT is responsible for providing and paying expenses for all labor, tools, equipment, and materials. All project related requirements must be of high quality, in good working condition, and conducive for the particular task. Adequate first aid supplies must be provided by CONSULTANT and accessible to employees. These may include, but are not limited to, sanitation facilities, potable water, and office trailers.

3.0 COOPERATION/ COORDINATION.

3.1 Access to Work Site.

GRU and its authorized representatives are permitted free access to the work site, and reasonable opportunity for the inspection of all Work and materials.

3.2 Work by GRU.

GRU reserves the right to perform activities in the area where the Work is being performed by CONSULTANT.

3.3 Work by Other CONSULTANT's.

GRU reserves the right to permit other CONSULTANT's to perform work within the same work area. CONSULTANT shall not damage, endanger, compromise or destroy any part of the site, including by way of example and not limitation, work being performed by others on the site.

3.4 Coordination.

CONSULTANT shall, in the course of providing the Work, cooperate and communicate with GRU and all other persons or entities as required for satisfactory completion. CONSULTANT will afford GRU and other Consultants' reasonable opportunity for the introduction and storage of their equipment and materials and the execution of their Work concurrently and coordinating its Work in the best interest of GRU.

4.0 INDEMNIFICATION.

- 4.1 CONSULTANT shall be fully liable for the actions of its agents, employees, partners, or subcontractors and fully indemnifies, defends, and holds harmless the City of Gainesville, GRU, its elected officials, its officers, agents, and employees, from any such suits, actions, damages, and/or costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by CONSULTANT, its agents, employees, partners, or subcontractors.
- 4.2 Further, CONSULTANT shall fully indemnify, defend, and hold the harmless the City of Gainesville and/or GRU from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation will not apply to GRU's misuse or modification or CONSULTANT's products or GRU's operation or use of CONSULTANT's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit or in CONSULTANT's opinion is likely to become the subject of such a suit, CONSULTANT may at its sole expense procure for GRU the right to continue using the product or to modify it to become non-infringing. If CONSULTANT is not reasonably able to modify or otherwise secure GRU the right to continue using the product, CONSULTANT shall remove the product and refund GRU the amounts paid in excess of a reasonable rental for past use. GRU shall not be liable for any royalties if applicable.
- 4.3 CONSULTANT's obligations under the preceding two paragraphs with respect to any legal action are contingent upon GRU giving CONSULTANT (1) written notice of any action or threatened action, (2) defending the action at CONSULTANT's sole expense. CONSULTANT shall not be liable for any costs or expenses incurred or made by GRU in any legal action without CONSULTANT's prior written consent, which will not be unreasonably withheld.
- 4.4 The provisions of this section shall survive the termination or expiration of this Contract.

5.0 DAMAGE TO WORK.

Until final acceptance of the Work by GRU, Work will be under the charge and care of CONSULTANT who must take every necessary precaution against damage to the Work by the elements or from any other cause whatsoever. CONSULTANT will rebuild, repair, restore, or make good at their expense, damages to any portion of the Work before its completion and acceptance. Failure to do so will be at CONSULTANT's own risk. CONSULTANT is not relieved of a requirement of the specifications on the plea of error.

6.0 DISPUTES.

If a dispute arises out of or relates to this Contract, or the breach thereof, and if the dispute cannot be settled through negotiation, either party may, by giving written notice, refer the dispute to a meeting of appropriate higher management, to be held within twenty 20 business days after giving of notice. If the dispute is not resolved within thirty 30 business days after giving notice, or such later date as may be mutually agreed, the Parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Rules before resorting to arbitration, litigation, or some other dispute resolution procedure.

If the dispute requires arbitration, the dispute will be submitted to and finally resolved by arbitration under the Rules of the AAA. The location of the arbitration will be Alachua County, Florida. The decision of the arbitrator will be final and binding upon both Parties, and neither Party will seek recourse to a law court or other authority to appeal for revisions of the decision.

7.0 DELAY.

Notwithstanding the completion schedule, GRU has the right to delay performance for up to three (3) consecutive months as necessary or desirable and such delay will not be deemed a breach of Contract, but the performance schedule will be extended for a period equivalent to the time lost by reason of GRU's delay. Such extension of time will be CONSULTANT's sole and exclusive remedy for such delay.

If the project is stopped or delayed for more than three (3) consecutive months and GRU or CONSULTANT elects to terminate the Contract because of such delay, or if such stoppage or delay is due to actions taken by GRU within its control, then CONSULTANT's sole and exclusive remedy under the Contract will be reimbursement for costs reasonably expended in preparation for or in performance of the Contract. None of the aforementioned costs will be interpreted to include home office overhead expenses or other expenses not directly attributable to performance of the Contract. CONSULTANT is not entitled to make any other claim, whether in breach of Contract or in tort for damages resulting in such delay.

8.0 DEFAULT.

If CONSULTANT should be adjudged as bankrupt, or make a general assignment for the benefit of its creditor(s), or if a receiver should be appointed for CONSULTANT, or if there is persistent or repeated refusal or failure to supply sufficient properly skilled workforce or proper materials, or if CONSULTANT should refuse or fail to make payment to persons supplying labor or materials for the Work pursuant to this Contract, or persistently disregards instructions of GRU, or fails to observe or perform or is guilty of a substantial violation of any provision of the Contract documents, then GRU, after serving at least ten (10) calendar days prior written notice to CONSULTANT of its intent to terminate and such default should continue not remedied for a period of ten (10) calendar days, may terminate the Contract without prejudice to any other rights or remedies and take possession of the Work; and GRU may take possession of and utilize in completing the Work such materials, appliances, equipment as may be on the site of the Work and necessary therefore. CONSULTANT will be liable to GRU for any damages resulting from such default.

9.0 TERMINATION.

9.1 Termination for Convenience.

GRU may, by providing thirty 30 calendar days written notice to CONSULTANT, terminate this Contract, or any part thereof, for any or no reason, for GRU's convenience and without cause. After the termination date, CONSULTANT shall stop all Work and cause its suppliers and/or subcontractors to stop all Work in connection with this Contract. If GRU terminates for convenience, GRU shall pay CONSULTANT for goods and services accepted as of the date of termination, and for CONSULTANT's actual and reasonable, out of pocket costs incurred directly as a result of such termination. GRU is not responsible for Work performed after the effective termination date of this contract.

9.2 Termination for Cause (Cancellation).

GRU may terminate this Contract for cause if CONSULTANT materially breaches this Contract by:

- (a) refusing, failing or being unable to properly manage or perform;
- (b) refusing, failing or being unable to perform the Work pursuant to this Contract with sufficient numbers of workers, properly skilled workers, proper materials to maintain applicable schedules;
- (c) refusing, failing or being unable to make prompt payment to subcontractors or suppliers;
- (d) disregarding laws, ordinances, rules, regulations or orders of any public authority or quasi-public authority having jurisdiction over the Project;
- (e) refusing, failing or being unable to substantially perform pursuant to the terms of this Contract as determined by GRU, or as otherwise defined elsewhere herein; and/or
- (f) refusing, failing or being unable to substantially perform in accordance with the terms of any other agreement between GRU and CONSULTANT.

9.3 Funding out Clause.

If funds for this Contract are no longer available, GRU reserves the right to terminate this Contract without cause by providing CONSULTANT with thirty (30) calendar days written notice to CONSULTANT.

10.0 FORCE MAJEURE.

No Party to this Contract shall be liable for any default or delay in the performance of its obligations under this Contract due to an act of God or other event to the extent that: (a) the non-performing Party is without fault in causing such default or delay; and (b) such default or delay could not have been prevented by reasonable precautions. Such causes include, but are not limited to: acts of civil or military authority (including but not limited to courts of administrative agencies); acts of God; war; terrorist attacks; riot; insurrection; inability of GRU to secure approval; validation or sale of bonds; inability of GRU or Supplier to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes.

In the event of any delay resulting from such causes, the time for performance of each of the Parties hereunder (including the payment of invoices if such event actually prevents payment) shall be extended for a period of time reasonably necessary to overcome the effect of such delay. Any negotiated delivery dates established during or after a Force Majeure event will always be discussed and negotiated if additional delays are expected.

In the event of any delay or nonperformance resulting from such cause, the Party affected will promptly notify the other Party in writing of the nature, cause, date of commencement, and the anticipated impact of such delay or nonperformance. Such written notice, including change orders, will indicate the extent, if any, to which is anticipated that any delivery or completion date will be affected.

11.0 LIMITATION OF GRU'S LIABILITY.

To the fullest extent permitted by law, GRU shall not be liable to CONSULTANT for any incidental, consequential, punitive, exemplary or indirect damages, lost profits, revenue or other business interruption damages, including but not limited to, loss of use of equipment or facility.

12.0 AUTHORIZED REPRESENTATIVES.

12.1 The Purchasing Representative for this Contract is Ms. Dana Gauthier. Questions regarding the administration and this Contract shall be directed to Ms. Dana Gauthier at (352) 393-1240 or via e-mail at gauthierdl@gru.com.

12.2 The Project Representative for this Contract is Ms. Regina Embry and may be contacted at (352) 393-1299 or via e-mail at embryrg@gru.com.

13.0 INSURANCE.

CONSULTANT shall meet the minimum insurance requirements at all times as required by law and GRU. CONSULTANT shall notify GRU of any changes in coverage within seven (7) business days of knowledge of such change taking effect. Failure to maintain minimum coverage may result in breach of Contract. CONSULTANT shall procure and maintain insurance with coverage amounts as required. CONSULTANT must furnish GRU a certificate of insurance in a form acceptable to GRU for the insurance required with endorsement naming GRU as additional insured.

14.0 MINIMUM INSURANCE AMOUNTS REQUIRED.

Insurance is required in the amounts set forth below:

Commercial General Liability	\$1,000,000 combined single limit for bodily injury and property damage
Automobile Liability	\$1,000,000 combined single limit for bodily injury and property damage
Worker's Compensation:	
(a) State	Statutory
(b) Applicable Federal	Statutory
(c) Employer's Liability	\$500,000 per Accident \$500,000 Disease, Policy Limit \$500,000 Disease, Each Employee
Excess Liability	\$1,000,000

15.0 WARRANTY/GUARANTEE.

- 15.1 CONSULTANT warrants and guarantees to GRU that all materials will be new unless otherwise specified and that all Work will be quality free from defects and in accordance with the Specifications. CONSULTANT agrees to remedy promptly, and without cost to GRU, any defective materials or workmanship which appear within the stated warranty period. No provision contained in the Specifications shall be interpreted to limit CONSULTANT's liability for defects.
- 15.2 No provision contained in the Specifications shall be interpreted to limit the terms and conditions of the manufacturer's warranty and CONSULTANT will secure parts, materials and equipment to be installed with manufacturer's full warranty as to parts and service wherever possible. CONSULTANT must indicate if any warranty is being provided by either CONSULTANT or a manufacturer and if any such warranty is being provided, such warranty will be stated. When the manufacturer warrants the equipment or materials being supplied, CONSULTANT must provide such warranty to GRU or must state as a Clarification and Exception the reason CONSULTANT is not able to provide such warranty.
- 15.3 All labor shall be warranted for a minimum of one year. For materials, the Manufacturer's warranty applies.

15.0 SAFETY AND SECURITY.

Each location has unique safety and security procedures and guidelines that must be followed. Acceptance of a project or work assignment in a particular location will be an acceptance of the safety and security requirements for that location. GRU will provide the safety and security requirements along with the scope of work requested.

- 15.1 Confinement to Work Area/Parking.
CONSULTANT's employees shall stay in the designated work area to the maximum extent possible and shall not traverse other areas of GRU's site except for travel to and from sanitary facilities or designated parking areas. CONSULTANT and its employees shall park personal vehicles and equipment in areas designated by GRU.
- 15.2 Sanitation.
If sanitary facilities are available near the work site, CONSULTANT may request GRU's permission to use such facilities by its employees, obtaining written permission from GRU prior to the use of such facilities. Unless such permission has been obtained, CONSULTANT is responsible for the cost, provision and maintenance of sanitary facilities for persons employed by CONSULTANT. If responsible for providing sanitary facilities, CONSULTANT is also responsible for all labor and

supplies necessary to maintain such facilities and must comply with the State Board of Health requirements. Upon completion of the Work, facilities must be removed from the site.

16.0 LIVING WAGE ORDINANCE.

The Living Wage Ordinance as amended applies to this Solicitation. The ordinance can be found at www.cityofgainesville.org. The Living Wage Decision Tree is attached as Attachment "D".

The Living Wage ordinance, Ordinance 020663, as amended, as shown on the City of Gainesville's web page, applies to certain contracts for specific "Covered Services," and may include services purchased under this Contract, depending upon the cost/price of the contract awarded. A copy of the ordinance, as amended, will be attached to and made a part of the executed contract. CONSULTANT's should consider the effect/cost of compliance, if any, with the requirements of the Living Wage Ordinance if the contract amount exceeds the threshold amount, the CONSULTANT meets the definition of Service CONSULTANT/Subcontractor (and is not otherwise excluded from the application of the ordinance) and the ordinance provisions, which are incorporated herein, apply to any Covered Employees.

If applicable, the adjusted Living Wage for this contract will be \$11.8269 per hour (Living Wage with Health Benefits) or \$13.08 per hour if Health Benefits are not offered.

If applicable, a successful Service CONSULTANT/Subcontractor shall be required to execute the certification, attached hereto, prior to GRU executing the Contract. Once executed, such certification will become a part of this Contract; however, failure to sign such certification will prevent execution of the Contract, may result in forfeiture of any applicable solicitation or proposal bond, and could result in other adverse action.

During the performance of this Contract, the CONSULTANT agrees as follows:

- (1) The CONSULTANT shall comply with the provisions of the City of Gainesville's living wage requirements, as applicable. Failure to do so shall be deemed a breach of contract and shall authorize GRU to withhold payment of funds until the living wage requirements have been met.
- (2) The CONSULTANT will include the provision of (1) above in each subcontract for Covered Services with a Service CONSULTANT/Subcontractor, as defined herein, so that the provisions of (1) above will be binding upon each such Service CONSULTANT/Subcontractor. The CONSULTANT will take such action with respect to any such subcontract as may be directed by the contract administrator as a means of enforcing such provisions; provided, however, GRU shall not be deemed a necessary or indispensable party in any litigation between the CONSULTANT and a subcontractor concerning compliance with living wage requirements.

17.0 ORDER OF PRECEDENCE.

In the event that there is any conflict between the terms and conditions, the order of precedence shall be as follows:

- a. Any modification to this Contract
- b. Contract
- c. GRU Supplemental Conditions
- d. GRU General Conditions
- e. CONSULTANT's Proposal

ATTACHMENT "C"
STATEMENT OF WORK

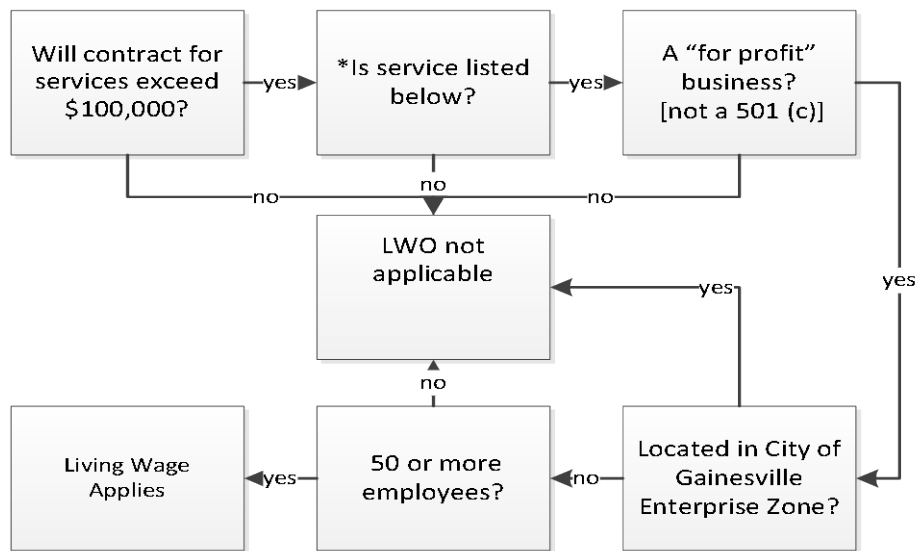
ATTACHMENT "D"

LIVING WAGE ORDINANCE DECISION TREE

Contract Number 2017-058 for DEPOT PARK POST-ACTIVE REMEDIATION MONITORING

CONSULTANT Name: ENVIRONMENTAL CONSULTING & TECHNOLOGY, INC.

While not all encompassing, the following is provided as a guideline for CONSULTANT's in determining whether the City of Gainesville Living Wage Ordinance (LWO) applies to their firm in the performance of specified service contracts for covered services* with GRU. CONSULTANT is advised to review the entire text of the LWO at www.cityofgainesville.org.



***Covered Services:** food preparation and/or distribution; custodial/cleaning; refuse removal; maintenance and repair; recycling; parking services; painting/refinishing; printing and reproduction services; landscaping/grounds maintenance; agricultural/forestry services; and construction services

(Use the flow chart and information above to help complete the remainder of the form below)

_____ Living Wage Ordinance as amended does not apply

Reason for Exemption:

_____ Service will not exceed \$100,000

_____ Not a covered service

_____ Company is not for profit

_____ Company is located in Enterprise Zone

_____ Company employs less than 50 persons

_____ Living Wage Ordinance as amended applies

If the Living Wage Ordinance applies, indicate additional costs included in the Response price \$_____.

NOTE: If CONSULTANT has stated Living Wage Ordinance as amended does not apply and it is later determined that Living Wage Ordinance as amended does apply, CONSULTANT will be required to comply with the provision of the City of Gainesville's living wage requirements, as applicable, without any adjustment to the Response price.

ATTACHMENT "D"

Contract Number 2017-058 for DEPOT PARK POST-ACTIVE REMEDIATION MONITORING

**CITY OF GAINESVILLE
GAINESVILLE REGIONAL UTILITIES
CERTIFICATION OF COMPLIANCE WITH LIVING WAGE**

The undersigned hereby agrees to comply with the terms of the Living Wage Ordinance and to pay all covered employees, as defined by City of Gainesville Ordinance 020663 as amended, during the time they are directly involved in providing covered services under the contract with the City of Gainesville for **DEPOT PARK POST-ACTIVE REMEDIATION MONITORING** a living wage of **\$11.8269** per hour to covered employees who receive Health Benefits from the undersigned employer and **\$13.08** per hour to covered employees not offered health care benefits by the undersigned employer.

CONSULTANT Name: _____	
Physical Address: _____	
Phone Number: _____	
Name of Local Contact Person: _____	
Physical Address: _____	
Phone Number: _____	
\$ _____	_____
(Amount of Contract)	(Buyer)

Signature: _____

Date: _____

Printed Name: _____

Title: _____