



Gainesville Regional Utilities
City of Gainesville, Florida
Invitation to Negotiate No. 2018-066

CITY OF GAINESVILLE, FLORIDA

Solicitation No. 2018-066

Issue Date: TBD

Due Date @ 2:00 p.m. TBD

Meeting: A (mandatory) pre-response meeting will be held on (date) @ (time) . The location of the meeting is Eastside Operations Center (EOC) 4747 N. Main Street Gainesville, FL.

**Invitation to Negotiate (ITN)
For
Community Broadband Study**

**Purchasing Representative:
Name: Clint Lockhart
Title: Senior Buyer
Phone: (352) 393-1250
Email: LockhartCM@GRU.com**

***Gainesville Regional Utilities
301 S.E. 4th Avenue
Gainesville, FL 32601***

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**CITY OF GAINESVILLE
GAINESVILLE REGIONAL UTILITIES
INVITATION TO NEGOTIATE FOR
A GRUCOM BROADBAND SURVEY**

1.0 INTRODUCTION TO GRUCOM

1.1 GRU:

The System has been providing retail telecommunications services since 1995 under the brand "GRUCom." Services provided by GRUCom include data transport and Internet services to businesses, multi-tenant and student housing communities, government agencies, other telecommunications carriers, and to other Internet service providers. Additional services provided by GRUCom include tower space leases for wireless personal communications (cellular telephone) providers, and public safety radio services for all the major public safety agencies operating in the County. GRUCom is licensed by the Florida Public Service Commission (FPSC) as an Alternative Access Vendor and as an Alternative Local Exchange Carrier.

1.2 Service Area:

GRUCom provides telecommunications and related services to customers located primarily in the Gainesville urban area and holds telecommunications licenses that allow it to provide telecommunication services throughout the state. GRUCom operates network connections to interface with all major Interexchange Carriers (IXC) who maintain facilities in the County, as well as interconnections with both of the County's two Incumbent Local Exchange Carriers. The System, through interlocal agreements, also provides public safety radio services across the entire County.

1.3 Services Provided:

The current services provided by GRUCom fall primarily into the following three major product lines: Data & Internet Services; Tower Leasing Services; and Wireless Services.

The Data & Internet Services provided by GRUCom are primarily Private Line and Special Access transport circuits (both described below) delivered in whole, or in part, on the GRUCom fiber optic network. These high bandwidth circuits are capable of carrying voice, data or video communications. Private Line circuits are point-to-point, unswitched

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channels connecting two or more customer locations with a dedicated communication path. Special Access circuits are also un-switched and provide a dedicated communication path, but these circuits connect a customer location to the Point of Presence of another telecommunications company. GRUCom transport services are provided at various levels ranging from 1.5 megabits per second (Mbps) to 10 gigabit per second (Gbps). Part of GRUCom's business strategy is to use unbundled network elements from the incumbent local exchange carrier, AT&T, in anticipation of fiber extensions to specific service locations. GRUCom also uses the fiber optic network to provide multiple classes of Internet access services. Business Internet and Dedicated Internet Access (DIA) class service connections are offered at access speeds ranging from 10 Mbps up to 10 Gbps. High speed residential Internet access is offered in participating multi-dwelling communities at speeds up to 1 Gbps under the brand name GATOR NET. In 2017, GRUCom upgraded its GATOR NET services to deliver symmetrical bandwidth, a first in the Gainesville area. Additionally, GRUCom offers dial-up Internet access services under the brand name GRU.Net. The dial-up access speeds available are 56 kilobits per second (Kbps). Additionally, between now and September 30, 2018 GRUCom will be replacing legacy telecommunications equipment with the latest technology equipment to provide enhanced telecommunication services. GRUCom also offers multi-tenant data center collocation services within the System's central office.

GRUCom's Tower Leasing Services portfolio consists of eleven communications towers in the Gainesville area, plus space on two of the System's water towers, for a total of thirteen multi-tenant collocation leasing sites. GRUCom's tower leasing tenants include national wireless communications service providers, local radio broadcasting stations, and government service agencies. Tenants rent space upon the tower sites for placement of their own antennas and base station equipment which are used for various commercial and operational purposes. Additionally, two of the five transmitter sites for the GRUCom public safety radio system (see below) are also co-located on these communications towers.

GRUCom Wireless Services provides portable and mobile radio coverage to public safety agencies throughout Alachua County. The GRUCom public safety radio system began operation in 2000. These services are provided over Federal Communications Commission ("FCC")-licensed 800 MHz frequencies, utilizing a trunked radio system that is compliant with the current frequency allocations enacted by the FCC in 2010 to accommodate personal communication services ("PCS") providers. The trunked radio system meets current industry standards for interagency operability. The trunked radio system consists of 22 trunked voice frequencies. Antenna sites are linked to the network controller and various dispatch centers utilizing GRUCom's transport services.

1.4 Customers:

GRUCom's customer base is growing as the fiber optic network is expanded and new product offerings are introduced. Customer types vary for each GRUCom business activity. GRUCom's fiber transport customers include other land-line telecommunications companies, cellular telecommunications companies, private commercial and industrial businesses, federal, state and local governmental agencies, public and private schools,

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public libraries, Santa Fe College, the University of Florida, UF Health and the University of Florida Health Science Center. As of September 30, 2016, GRUCom had a total of 498 transport circuits in service. Internet access services are provided to other Internet service providers, local businesses and organizations, and participating GATOR NET multi-dwelling complexes. Dial-up Internet access services are provided to the general public in the local calling area. As of September 30, 2016, GRUCom had 6,472 Internet access customer connections, while dial-up customers totaled 152. GRUCom tower space leasing services are used primarily by wireless providers, which include cellular telephone and PCS companies. As of September 30, 2016, GRUCom executed 32 tower leases, for space on eleven of its thirteen antenna attachment sites with eight different lessees, including national and regional cellular service providers. Public safety radio system customers consist solely of government entities due to restrictions on the use of the frequencies allocated to the System under licenses issued by the FCC. The primary radio system users include: the System, the Gainesville Police Department, the Gainesville Fire Rescue Department, the Gainesville Regional Transit System, the City's Public Works Department, the University of Florida Police Department, the Santa Fe College Police Department, the City of Alachua Police Department, the City of High Springs Police Department, the Alachua County Sheriff's Office, the County's Fire Rescue Operations and the County's Public Works Departments. These users have entered into service agreements which are valid through 2020, with minimum commitments for the number of users and monthly fees per user established for voice and dispatch subscriber units. The public safety radio system is operated by GRUCom on an enterprise basis, and an interagency Radio Management Board has been established to govern user protocols, monitor system service levels, and review system changes that could increase rates. Negotiations are underway with the current Radio System Users to provide for upgrading and expanding the radio system with technology that will provide for user needs well into the next decade, ongoing negotiations for a system upgrade to the public safety radio system will lead to capital investment to the System in late 2017 and 2018. Projected revenue is driven primarily by growth in the Data & Internet Services segment, which includes GRUCom Business Services and GATOR NET product lines, along with the addition of new planned products and service offerings. Potential additional revenue from the ongoing negotiations with Public Safety Radio customers is not reflected in GRUCom's revenue projections.

1.5 Description of Facilities:

As of September 30, 2016, GRUCom had 512.5 miles of fiber optic cable installed throughout Gainesville and the County. The fiber strand count included in the cable depends on service requirements for the particular area and ranges from 12 to 144 strands. The fiber is installed in a ringed topology consisting of a backbone loop and several subtending rings. The maximum transport speed currently utilized in the fiber optic network is 10 Gbps, which is enough bandwidth to deliver more than 125,000 simultaneous phone calls (as an illustration). Bandwidth capacity on the fiber network is a function of the electronic equipment utilized and, with technologies such as dense wave division multiplexing, expansion of the transmission capability of the network is virtually unlimited. To exchange network traffic, GRUCom also is interconnected with other major telecommunications companies serving the Gainesville area.

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The public radio system currently employs a Motorola 800 MHz simulcast system configured with six transmit and receive tower sites including 22 simulcast voice and two additional mutual aid channels. GRUCom has begun the process of migrating to the P25 protocol.

GRUCom maintains a point-of-presence at the Digital Realty Trust, Inc. ATL1 collocation and interconnection facility located at 56 Marietta Street in Atlanta, Georgia. The ATL1 data center provides access to hundreds of leading domestic and international carriers as well as physical connection points to the world's telecommunications networks and Internet backbones.

GRUCom maintains an ultra-high bandwidth backbone transmission interconnection on diverse routes between Gainesville and the ATL1 data center to provide highly reliable Internet access to customers in Gainesville. GRUCom is also a member of the Telx Internet Exchange ("TIE"), a separate peering point in the ATL1 data center. The TIE allows GRUCom to quickly and easily exchange Internet protocol ("IP") traffic directly with over 60 of the world's largest Internet Service Providers ("ISPs"), Content Providers, Gaming Providers and Enterprises, including companies such as Google, Netflix, Apple, Amazon, Akami, Hurricane Electric (a major Internet service), Sprint and several other Internet service providers. TIE participants can route IP traffic efficiently, providing faster, more reliable and lower-latency Internet or voice over Internet protocol ("VoIP") access to their customers, by bypassing intermediate router points so that Internet traffic may have direct access to destination networks.

GRUCom maintains a second point-of-presence at the Network Access Point of the Americas ("NOTA") collocation and interconnection facility which is located in Miami, Florida. The Tier-IV facility was the first purpose-built, carrier-neutral Network Access Point and is the only facility of its kind specifically designed to link Latin America with the rest of the world. More than 160 global carriers exchange data at NOTA including seven Tier-1 world-wide Internet service providers. GRUCom maintains an ultra-high bandwidth backbone transmission interconnection between Gainesville and NOTA, separate from the ATL1 data center interconnection circuits, which allows GRUCom to maintain a second, fully diverse data gateway and exchange to further enhance the reliability of the Internet services provided to customers in Gainesville. In Miami, GRUCom is also connected to the Florida Internet Exchange ("FL-IX") peering facility to provide additional and duplicate peering points with various ISPs including Content Providers, Gaming Providers and enterprises similar to the TIE connection in Atlanta.

2.0 **INVITATION (needs work)**

The Gainesville City Commission established the Broadband Connectivity Subcommittee to explore broadband availability, affordability, performance and development opportunities in our community. Since then, the Subcommittee has reviewed a number of issues related to broadband delivery, with an emerging goal of "Expanding Affordable Internet in Gainesville".

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There was a time when having an electric or telephone line connected to a home or a business was a luxury. Both quickly became necessary tools of 20th century life, commerce and education. Here in the 21st century, a robust and affordable broadband internet connection is no longer a luxury, and success in work or education often depends on your ability to connect with the rest of the world from your desk at work or your kitchen table at home.

Through GRUCom, the people of Gainesville already own almost 600 miles of the area's only all-fiber-optic network across Alachua County. These assets serve our schools, governments and many major businesses' Internet, data transport and networking needs through connections to hundreds of locations around the world. In addition, the city and the utility are developing plans for smart city applications and advanced metering infrastructure and communications systems. With these assets and potential investments, Gainesville is in a unique position for a city our size to close the gap on broadband availability and affordability for residents. All options are on the table, and the city welcomes participation from the private sector.

Imagine Gainesville as a place where every family's connection to the world is as robust and complete as any other, no matter their neighborhood. That's the goal. That's what the most connected city in America looks like. Therefore, the City is focused on the goal of determining the best approach analyze the overall feasibility of providing universal broadband access and the lowest-priced gigabit internet for residents and businesses in America.

In accordance with that goal, the City of Gainesville is inviting qualified vendors to negotiate an agreement for services that can help us determine the best scope specific approach, execution and provision of an analysis to determine how we can make Gainesville the "Most Connected City in America" What we hope to learn through this process is how we might best connect every household and business in Gainesville. Answers we will seek include: How might this necessary infrastructure project be rolled out? How long might it take? How much will it cost, and how might it be paid for?

Specifically, the feasibility analysis should provide reliable data and modeling to achieve the following goals:

Primary Goals:

- Lower prices and increased speeds for residents
- Lower prices and increased speeds for businesses
- Everyone has access to municipal network in designated areas

Secondary Goals:

- Lowest priced gigabit internet for residential service in the United States
- Lowest priced internet for businesses in the United States

- Universal free service to all residents served

The sub-committee also recognizes there are other areas of the county that are underserved throughout Alachua County. Therefore, the City is interested in forming partnerships that may expand research to include; what it would mean to provide broadband service, not only within the

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city limits, but within the urban service area (which includes the Gainesville Regional Utilities service area) and in other municipalities in Alachua County.

Potential areas for expansion of the analysis include:

- GRU Service Area
- Urban Reserve with consideration for density
- Municipal areas within the county where GRUCom has infrastructure (Newberry, Hawthorne, Archer, High Springs, Waldo and Alachua)

Any feasibility study is expected to include engineering feasibility cost estimates for several coverage options, financial feasibility and forecasting models for various market-based levels of service, a competitive market analysis, a report of the study's findings, and recommendations for solutions to achieve the City Commission's goals.

3.0 TERM

The initial term of the contract will be three (3) years with two (2), one (1) year renewal options. The contract may be renewed in whole or in part for a period not to exceed the renewal years, at the renewal pricing specified in the resulting contract.

4.0 PROPOSED TIMELINE

ITN Issue Date	TBD
Discovery/Pre-Proposal Phase	TBD
Deadline to submit questions	TBD
Responses Due	TBD
Team to discuss replies	TBD
Negotiation Phase Begins	TBD
Team to discuss award recommendation	TBD
City Commission Approval Meeting	TBD
Anticipated contract start date	TBD

5.0 EXAMINATION OF SOLICITATION DOCUMENTS AND WORK SITE.

5.1 Prior to responding to the Solicitation, Respondents are responsible for the following: (a) examining the Solicitation thoroughly, (b) if applicable, visiting the work site to become familiar with local conditions that may affect the cost, progress, performance of furnishing the Work, (c) considering federal, state and local laws and regulations that may impact or affect cost, progress, performance or furnishing of the Work, (d) studying and carefully correlating Respondent's observations with the Solicitation, and (e) notifying the Purchasing Representative of all conflicts, errors or discrepancies in the Solicitation.

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- 5.2 Respondents are expected to become fully informed as to the requirements of the Specifications and failure to do so will be at their own risk. Respondents cannot expect to secure relief on the plea of error.
- 5.3 A Respondent who is aggrieved in connection with the specifications of this Solicitation may protest in writing to Utilities Purchasing at least seven (7) business days prior to the Response due date.

6.0 RESPONSE PREPARATION.

- 6.1 The Pricing Response Form is included in the Solicitation and should be used to submit pricing information, providing a price for all items listed on the form, unless noted otherwise.
- 6.2 All blanks on the Respondent's Certification Form must be legibly completed in ink (computer printed, typed or handwritten).
- 6.3 A Response submitted by a corporation must be executed in the corporate name by the president, a vice-president, or other corporate representative and accompanied by a document showing authorization of such person's authority. Include the physical address and state of incorporation. A Response submitted by a partnership must be executed in the partnership name and signed by a partner, whose title must appear under the signature, and the physical address of the partnership must be shown below the signature.
- 6.4 The names of individuals included on the Respondent's Certification Form must be legibly printed below signatures (computer printed, typed or handwritten).
- 6.5 Respondent must acknowledge receipt of all addenda using the space provided on the Respondent's Certification Form.
- 6.6 Costs for developing a response to the Solicitation are the sole obligation of the Respondent.
- 6.7 Respondent's pricing must include applicable taxes on items purchased or manufactured by Respondent 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.
- 6.8 Respondents are encouraged to use environmentally sustainable practices in response to the Solicitation when possible. This may include providing double-sided copies, minimal use of plastic covers, binders, tabs or dividers, etc.

7.0 INTERPRETATIONS AND ADDENDA.

- 7.1 All questions about the meaning or intent of the Solicitation are to be directed to the Purchasing Representative, unless stated otherwise in the Solicitation. Interpretations or clarifications considered necessary in response to such questions will be issued by Addenda sent to all parties recorded as having received the Solicitation. Questions received less than seven (7) business days prior to the Response due date/time may not be answered by the Purchasing Representative. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications that are not memorized by formal written Addenda will be without legal effect.

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- 7.2 Addenda may also be issued to modify the Solicitation as deemed advisable by the Purchasing Representative.
- 7.3 Addenda issued by GRU prior to the Solicitation due date/time are considered binding as if written into the original Solicitation. Respondents are responsible for ensuring that all addenda have been received prior to submitting their Response.

8.0 SOLICITATION RESPONSE.

- 8.1 **Response must be in the possession of Utilities Purchasing by 2:00 p.m. on the due date.** Possession is defined as being physically received in Utilities Purchasing at the GRU Administration Building, 301 S.E. 4th Avenue, 3rd Floor, Gainesville Florida 32601. **The time clock located in Utilities Purchasing will be the official time. Any Response received after 2:00 p.m. will not be considered.** Responses shall be sealed and plainly marked on the outside of the envelope with both the project number and the project name. Response must be completed and signed in ink in space(s) provided or will be subject to rejection. Responses **may not be** submitted by facsimile or e-mail.
- 8.2 Responses will be publicly opened at the time and place indicated in the Solicitation and will be available for inspection upon notice of award or intended Award, or within thirty (30) calendar days after the opening of Responses, whichever occurs first. Prices may be read at the public Solicitation opening at the sole discretion of Utilities Purchasing.
- 8.3 The Respondent's Certification Form must be submitted with the Response and enclosed in a nontransparent sealed envelope, marked with the project title and Respondent's name and address. **One original, nine (9) paper copy and one electronic copy** of the Response should be provided. If required, a Bid Bond and other documents must be provided with the Response. If a Bid Bond is required by the Solicitation and not included the response will be deemed non-responsive.
- 8.4 A "Non-Submittal" form has been provided for those who choose not to participate in the Solicitation.

9.0 MODIFICATION OR WITHDRAWAL OF A RESPONSE TO A SOLICITATION.

- 9.1 A Response may be modified or withdrawn if a written request is submitted and physically received by GRU Purchasing before the Response due date and time.
- 9.2 After Responses have been opened, corrections to the Response are permitted only to the extent that (1) Respondent can show by clear and convincing evidence that there was a material and substantial mistake in the preparation of its Response; (2) the nature of the mistake is evident; and (3) the intended pricing is evident.

10.0 COSTS IN DEVELOPMENT OF RESPONSE.

Costs for developing a response to this ITN are entirely the obligation of the Respondent and shall not be charged in any manner to GRU or the City of Gainesville.

11.0 CONTENTS OF RESPONSE

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Responses must, at a minimum, include the following information. Any response, which does not conform in all material respects to the ITN may be considered non-responsive.

11.1 Cover Letter

A one page cover letter, signed by an authorized representative of the Respondent, must be included and shall contain the name and address of the business submitting the proposal as well as the name, title, address, telephone number and email of the person authorized to represent the responding Contractor.

11.2 Qualification and Experience of Respondent

- A narrative which profiles the background, experience, business philosophy and qualifications of the Respondent.
- A listing of Respondent's contracts, 2013 to present
- Executive Summary of all current/anticipated projects for 2018
- Demonstrate sufficient financial capacity to execute the project
- Brief description of all lawsuits or threatened litigation for the last three years 2015-2018. Either filed or pending against Respondent.

11.3 Project Management and Development Team

Provide a brief description of how Respondent proposes to successfully manage this project. Include a description of how the project team will be structured, its roles and responsibilities, location within the company's organizational framework and chain of command. Brief resumes of staff/ consultants to be assigned to this project along with their responsibilities are to be included in this section. Indicate the specific individual who would serve as the day-to-day contact and be responsible for meeting the deliverables of this project and where they would be located.

Since Contractor staff experience and knowledge are a vital component of project success, GRU expects and requires that resumes submitted are for staff that will actually be assigned to the project. GRU reserves the right to request a substitution of personnel.

11.4 Project Solution (needs work)

Include a narrative that clearly demonstrates Respondent's approach toward meeting the goals and objectives outlined in the ITN. Address how each specific requirement of the ITN will be met by the proposed solution, including proposed use of any subcontractors or partnering firms. Address how the system could be built to provide flexibility in future capital cash flow.

Clarity of the proposed solution to meet GRU's need is the aim and, therefore, use of product boilerplate and marketing releases through this section is discouraged.

11.5 **Feasibility Analysis**

- Feasibility engineering cost estimate of each option
 - Universal service in City, other areas would be business case driven
 - GRU Service Area
 - Urban Reserve with consideration for density
 - Municipal areas within the county where GRUCom has infrastructure (Newberry, Hawthorne, Archer, High Springs, Waldo and Alachua)
 - Infrastructure assessment (Gap analysis from current to implementation)
 - Best available technology for the application
 - Leverage AMI and Smart City plans
 - Implementation Timeline
 -
- Financial feasibility models and forecasting models
 - Should study each alternative and provide sensitivity analysis of key variables
 - Goals are free, and/or lowest priced gig for residential and commercial customers, however each scenario would need to be compared to a market rate
 - Recognize change to GRU/GRUCom's business model and determine impact on current business
 - Analysis of funding options and mechanisms for community investment, including potential grants to close funding gaps
- Various market-based levels of service (content partners considered)
 - Broadband only
 - Content package included
 - Phone or other services
 - Triple play combination
- Market analysis (How many potential customers and at what cost?)
 - Description of methods
 - Residential and commercial surveys
 - Legal and regulatory assessment (primary with an option to move forward with additional or refined analysis)
 - SWOT Analysis
 - Competitive analysis (current and outlook)
 - Likely and required adoption rates and schedules
 - No MDU's

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- Report of findings. At a minimum should include:
 - Description of the work done
 - Description of the findings
 - Recommendations for moving forward
 - Executive summary

11.6 Distinguishing Characteristics

Respondents are also encouraged to identify any distinguishing characteristics of their firm that the evaluation committee should be made aware of including any unique features that set them apart from other competitors. These may include suggestions and alternatives that the Respondent believes will improve the quality of service and/or reduce the cost of services, warranties, guarantees, or other assurance of quality, service, and customer satisfaction. These characteristics may also be beyond the scope of this ITN if Respondent deems they would provide value to the long-term goals of GRU.

11.7 Local Preference

In accordance with Ordinance included in this ITN. If applicable, supporting documentation shall be submitted in this section.

11.8 Addenda

Respondents must sign each addenda issued and include each addenda with their responses.

12.0 ALTERNATE APPROACHES.

Respondent may submit alternative solutions within a single Response provided that each alternative solution must independently and completely satisfy the requirements of this ITN on its own merits. The intention of allowing alternative solutions is to consider all business solutions for evaluation and award based solely upon the best interest of GRU.

13.0 REDACTED SUBMISSIONS.

13.1 If Respondent considers any portion of the documents, data or records submitted in response to this solicitation to be confidential, proprietary, trade secret or otherwise not subject to disclosure pursuant to chapter 119, Florida Statutes, the Florida Constitution or other authority, Respondent must mark the document as "Confidential" and simultaneously provide GRU with a separate redacted copy of its response and briefly describe in writing the grounds for claiming exemption from the public records law, including the specific statutory citation for such exemption. This redacted copy shall contain GRU's solicitation name, number, and the name of the Respondent on the cover, and shall be clearly titled "Redacted Copy". The Redacted Copy should only redact those portions of material that the Contractor claims is confidential, proprietary, trade secret or otherwise not subject to disclosure.

13.2 In the event of a request for public records pursuant to chapter 119, Florida Statutes, the Florida Constitution or other authority, to which documents that are marked as

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confidential are responsive, GRU will provide the Redacted Copy to the requestor. If a requestor asserts a right to the Confidential Information, GRU will notify the Respondent such an assertion has been made. It is the Respondent's responsibility to assert that the information in question is exempt from disclosure under chapter 119 or other applicable law. If GRU becomes subject to a demand for discovery or disclosure of the Confidential Information of the Respondent in a legal proceeding, GRU shall give the Respondent prompt notice of the demand prior to releasing the information (unless otherwise prohibited by applicable law). The Respondent shall be responsible for defending its determination that the redacted portions of its response are confidential, proprietary, trade secret, or otherwise not subject to disclosure.

- 13.3 By submitting a response, the Respondent agrees to protect, defend, and indemnify GRU for any and all claims arising from or relating to the Respondent's determination that the redacted portions of its reply are confidential, proprietary, trade secret, or otherwise not subject to disclosure. If Respondent fails to submit a redacted copy of information it claims is confidential, GRU is authorized to produce the entire documents, data, or records submitted to GRU in answer to a public records request for these records.

14.0 ADDITIONAL INFORMATION.

By submitting a response, Respondent certifies that it agrees to and satisfies all criteria specified in the ITN. GRU may request, and Respondent shall provide, additional supporting information or documentation. Failure to supply such information or documentation as required and requested will result in disqualification of the reply.

15.0 EVALUATION PROCESS.

15.1 Response Evaluation.

An evaluation team will evaluate Responses using the criteria described in section 12.0 above. Each evaluation team member will complete the initial Response evaluations independently and rank the responsive and responsible Responses by comparing each Response to the other.

The evaluation team members will meet in a public meeting in order to establish a competitive range of Responses reasonably susceptible of award. GRU may select one or more vendors within the competitive range with which to commence negotiations or may reject all responses.

GRU will post a notice of negotiations identifying the Respondents with whom GRU will negotiate.

15.2 Negotiations.

Selected Respondent(s) will be invited to provide more detailed clarifications of their Response, to provide interactive presentations of the Response, and/or to enter into negotiations with GRU. Based on the clarifications, presentations and negotiations, GRU will either recommend award of the contract to the Respondent(s) who provides the best value for GRU or reject all responses. GRU reserves the right to negotiate concurrently or separately with competing Respondent(s). After negotiations are conducted, GRU shall

Gainesville Regional Utilities

City of Gainesville, Florida

Invitation to Negotiate No. 2018-066

recommend award of the contract to the responsible and responsive Respondent that GRU determines will provide the best value, based on the selection criteria.

Negotiation meetings will be conducted in Gainesville, Florida. GRU will distribute instructions and/or agendas in advance of each negotiation session. Representatives for each Respondent should plan to be available, without interruptions, for the entirety of the Respondent's scheduled negotiation meeting.

Negotiations will include discussions of the scope of work and related services to be provided by the Respondent until acceptable contract terms are agreed upon, or it is determined that an acceptable agreement cannot be reached. This process will continue until GRU receives best and final offers from the participating Respondent(s). GRU reserves the option to resume negotiations that were previously suspended.

Negotiations will not be open to the public, but will be recorded.

16.0 TERMS OF AWARD.

- 16.1 Award will be made to the best evaluated Respondent(s) for Response(s) priced greater than \$50, 000.00 based on **(Ex: price, delivery, warranty, local, SBE, etc.)** for each individual line item, or any combination of line items, as GRU determines to be in its best interest.
- 16.2 GRU reserves the right to reject any and all Responses, or any part thereof, to waive any and all informalities or irregularities, and the right to disregard all nonconforming, nonresponsive, unbalanced or conditional Responses. A responsible Respondent and any selected subcontractors, suppliers, other persons, and/or organizations proposed to perform or furnish the Work have the capacity in all respects to fully perform the Contract requirements and the experience, integrity, reliability, capacity, facilities, equipment, and credit to ensure good faith performance, such capacity and responsibility to be determined solely by GRU. GRU may conduct such investigation as GRU deems necessary to establish the responsibility, qualifications and financial ability of Respondent(s), proposed subcontractors, material suppliers, individuals, or entities to perform the Work in accordance with the Contract. Such information may include, but shall not be limited to, current financial statements, bank records, verifications of availability of equipment and personnel and past performance records.
- 16.3 Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
- 16.4 If the Contract is awarded, GRU will give the successful Respondent a Notice of Intent to Award within sixty (60) calendar days after the Solicitation due date. All Responses must remain valid for sixty (60) calendar days from the Solicitation due date.
- 16.5 When GRU gives a Notice of Award to the successful Respondent, it will be accompanied by the required number of unsigned counterparts of the Contract (or Purchase Order, as applicable) with all attachments. Within fifteen (15) calendar days thereafter, Respondent must sign and deliver the required number of counterparts of the Contract, attachments, and required Bonds, if applicable. GRU will ultimately provide a fully signed counterpart to the Respondent.

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- 16.6 Failure on the part of the successful Respondent to execute a Contract within fifteen (15) calendar days after the notice of acceptance may be just cause for annulment of award.
- 16.7 GRU may then accept the Response of the next lowest, responsive, responsible Respondent or re-advertise the Solicitation. If the next lowest, responsive, responsible Response is accepted, this acceptance will bind such Respondent as though it was the original successful Respondent.
- 16.8 Protests in respect to the intended award must be filed within three (3) calendar days of notice for purchases that do not require prior approval of the City Commission, and within seven (7) calendar days for purchases that require prior approval of the City Commission. It is the Respondent's duty to be informed of the intended award and GRU's protest procedures.

17.0 PUBLIC ENTITY CRIMES/DEBARMENT/SUSPENSION/TERMINATION.

- 17.1 Pursuant to Chapter 287.133(2)(a) of the Florida Statutes, "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in sec. 287.017, for Category Two for a period of 36 months following the date of being placed on the convicted vendor list."
- 17.2 Respondent is responsible for compliance with current policies regarding debarment / suspension / termination which have been issued by the Utilities Purchasing Division.
- 17.3 The Respondent certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Solicitation by any governmental department or agency.

18.0 DISCLOSURE, CONFIDENTIALITY AND PUBLIC RECORDS.

- 18.1 Florida has a very broad public records law. By entering into an agreement with GRU, the Respondent acknowledges that it will comply with the Florida Public Records Act (*Chapter 119, Florida Statutes*) Failure to comply with the Florida Public Records Act, including failure to provide a public record upon request, is a breach of the Contract between GRU and Respondent. GRU may pursue all remedies for breach of this agreement. Responses to this Solicitation upon receipt by GRU become public records subject to the provisions of *Chapter 119, Florida Statutes*. Should the Respondent believe that any portion or all of its response is exempt from the Florida Public Records Act; the Response should clearly assert such exemption and the specific legal authority for the asserted exemption. In complying with the Florida Public Records Act the Respondent must:
- 18.2 Responses to this Solicitation are public records and will be available for inspection after such time as an award is recommended or within thirty (30) calendar days after the Solicitation due date, whichever occurs first in time.

19.0 CONFIDENTIAL INFORMATION.

Gainesville Regional Utilities

City of Gainesville, Florida

Invitation to Negotiate No. 2018-066

Upon receipt by GRU, responses to this Solicitation become public records subject to the provisions of Chapter 119 of the Florida Statutes, Florida's Public Records Law. If Respondent believes that any portion of the Response constitutes a trade secret pursuant to the Florida Statutes or is otherwise exempt from Florida's Public Records Law, Respondent should clearly identify the specific sections of the response for which confidentiality is claimed, and provide specific legal authority of the asserted exemption. Any portion of the Response that Respondent asserts qualify for exemption from Chapter 119, must be submitted in a separate envelope and clearly identified as "trade secret" or otherwise "exempt from the Florida Public Records Law with Respondent's firm name and the Response number marked on the outside of the envelope. In the event that GRU determines that any portion of the Response (initially claimed by the Respondent to be exempt) do not qualify as such, the Respondent will be contacted and will have the opportunity to waive their claim to confidentiality. Please be aware that the designation of an item as "exempt" or a "trade secret" by Respondent, and the refusal to disclose any materials submitted to GRU, may be challenged in court. By your designation of material in your Response as "exempt" or a "trade secret", Respondent agrees to indemnify and hold harmless the City, GRU, its elected officials, and employees for any award to a plaintiff for damages, costs or attorneys' fees and for costs attorneys' fees incurred by GRU by reason of any legal action challenging Respondent's designation of "exempt" or "trade secret" and GRU's refusal to disclose.

20.0 LOBBYING.

To ensure fair consideration and consistent and accurate dissemination of information for all proposers, the City prohibits communication to or with any department, employee, or agent evaluating or considering the proposals during the submission process, except as authorized by the contact person. During the blackout period as defined herein, except as pursuant to an authorized appeal, no person may lobby, as defined herein, on behalf of a competing party in a particular procurement process, City officials or employees except the purchasing designated staff contact in the purchasing division. Violation of this provision shall result in disqualification of the party on whose behalf the lobbying occurred. The blackout period means the period between the time the solicitation response is received by GRU Purchasing and the time City officials and employees award the contract. Lobbying means when any natural person, for compensation, seeks to influence the governmental decision-making, to encourage the passage, defeat or modification of any proposal, recommendation or decision by City officials and employees, except as authorized by procurement documents.

21.0 COLLUSION.

- 21.1 Only one response from any individual, firm, corporation, organization or agency under the same or different name will be considered for this Solicitation. Submission of more than one response may result in the rejection of all responses from the Respondent.
- 21.2 Respondent, by signing the Respondent's Certification Form, declares that the Response is made without any previous understanding, agreement, or connections with any persons, firms, or corporations responding on the same items and that it is in all respects fair and in good faith without any outside control, collusion or fraud. A non-exclusive manufacturer/distributor relationship does not, in and of itself, constitute a prior understanding, agreement, connection or collusion between Responders.
- 21.3 By responding to the Solicitation, the Respondent acknowledges that it has not offered or given any gift or compensation to any GRU officer or employee to secure favorable treatment with respect to being awarded this Contract.

Gainesville Regional Utilities
City of Gainesville, Florida
Invitation to Negotiate No. 2018-066

22.0 SMALL BUSINESS ENTERPRISE (SBE).

- 22.1 Independently owned with a net worth of not more than five million dollars and employs 200 or fewer permanent full-time employees.
- 22.2 A small or service-disabled veteran business, as certified by the City of Gainesville equal opportunity department (EO) <http://www.cityofgainesville.org/OfficeofEqualOpportunity.aspx> , will be given a preference of 5% of the total price not to exceed \$25,000, when all of the following apply:
- (a) Purchase is anticipated to be greater than \$50,000;
 - (b) Award is based on evaluation criteria other than to the lowest responsive and responsible bidder;
 - (c) The certified small or service-disabled veteran business being evaluated did not receive a Local Preference; and
 - (d) The preference is not prohibited by law.

23.0 LOCAL PREFERENCE.

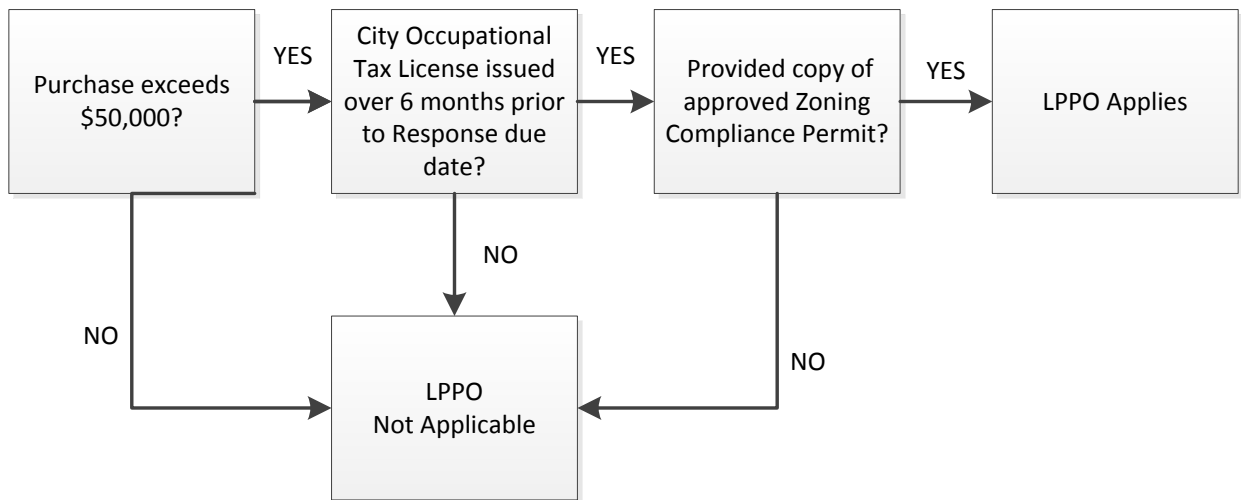
The Local Preference Ordinance applies to Solicitations for goods or services estimated to exceed \$50,000.

In solicitation of, or letting contracts for procurement of, supplies, materials, equipment and services, as described in the purchasing policies, the City Commission, or other purchasing authority, may give a preference to local businesses in making such purchase or awarding such contract in an amount not to exceed five percent of the local business' total price, and in any event the cost differential should not exceed \$25,000.

A "local business" means the Respondent has a valid business tax receipt, issued by the City of Gainesville at least six months prior to Response due date, to do business in said locality that authorizes the business to provide the goods, services, or construction services to be purchased, and a physical business address located within the limits of said locality, in an area zoned for the conduct of such business, from which the business operates or performs business on a day-to-day basis. Post office boxes are not verifiable and cannot be used for the purpose of establishing said physical address. In order to be eligible for local preference, the Respondent must provide a copy of the business tax receipt. The ordinance can be found at www.cityofgainesville.org. A Local Preference Decision Tree is attached.

LOCAL PREFERENCE POLICY ORDINANCE DECISION TREE

While not all encompassing, the following is provided as a guideline for determining whether the City of Gainesville Local Preference Policy Ordinance (LPPO) applies to solicitation responses submitted to the City. LPPO applies only to new solicitations. Respondents are advised to review the entire text of the Local Preference Policy Ordinance. CONTRACTOR is advised to review the entire text of the LPPO at www.cityofgainesville.org.



DEBARMENT/SUSPENSION/TERMINATION

Debarment/Suspension. The purchasing representative is authorized to suspend a vendor from consideration for award of contracts if there is probable cause to believe that the vendor has engaged in activity which might lead to debarment. The suspension shall be for a period not to exceed three months. After reasonable notice to the vendor involved and reasonable opportunity for that vendor to be heard, the purchasing representative, after consulting with the City Attorney, is authorized to debar a vendor for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. The causes for debarment include:

- (a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract, within five years of a proposed award;
- (b) Conviction under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a City contractor, within five years of a proposed award;
- (c) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals, within five years of a proposed award;
- (d) Violation of contract provisions, as set forth below, of a character which is regarded by the purchasing representative to be so serious as to justify debarment action, within five years of a proposed award:
 - (I) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (II) A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- (e) For any provision of, or offer, gift or agreement to provide, any gratuity, kickback or offer of employment to any current or former City employee in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase requisition, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal, within three years of a proposed award;
- (f) For any payment, gratuity, kickback or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order, within three years of a proposed award;
- (g) For retaining a person or soliciting or securing a GRU contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business, within three years of a proposed award;
- (h) During the period of a contract with GRU, employing, or offering employment to, any current City employee participating directly or indirectly in the procurement process, within three years of a proposed award;
- (i) Any other cause the purchasing representative determines to be so serious and compelling as to affect responsibility as a City contractor, including debarment by another governmental entity for any cause listed in this Section;
- (j) The foregoing is supplemental to any applicable provisions of F.S. 287.133, as amended. In the event of any conflict between this provision and the requirements of said statute, the statute shall prevail.



REJECTION OF BIDS/TERMINATION OF CONTRACT

Previously solicited and/or accepted bids may be rejected or acceptance revoked prior to beginning of performance upon discovery by GRU that the bidder or its affiliates have committed any act which would have been cause for debarment, or were on the convicted vendor list prepared under the provisions of F.S. 287.133, as amended, at or prior to the acceptance of the bid.

If GRU discovers, after a contract is awarded and performance has begun, that the bidder or its affiliates have committed any act subsequent to or prior to award or acceptance which would have been cause for debarment had it been discovered prior to award or acceptance, GRU may consider such to be a material breach of the contract and such shall constitute cause for termination of the contract.



SOLICITATION No.: _____ FOR: _____

RESPONDENT'S CERTIFICATION

NAME OF CORPORATION, PARTNERSHIP, OR INDIVIDUAL: _____

PHYSICAL ADDRESS: _____

FEDERAL IDENTIFICATION #: _____ STATE OF INCORPORATION: _____ (Seal)

I have carefully reviewed this Solicitation including the scope, submission requirements, general information, and the evaluation and award process.

I acknowledge receipt and incorporation of the following addenda, and the cost, if any, of such revisions has been included in the pricing provided. Addenda ____ through ____ acknowledged (if applicable).

I am a small business enterprise (SBE) or service disabled veteran enterprise (SDVE) certified with the City of Gainesville Equal Opportunity Department (<http://www.cityofgainesville.org/OfficeofEqualOpportunity.aspx>). YES NO

I am a local business requesting Local Preference (include Business Tax Receipt and Zoning Compliance Permit) YES NO

The Living Wage Ordinance applies YES NO If yes, additional costs in response price \$ _____

I further acknowledge that: Response is in full compliance with the specifications; or Response is in full compliance with the specifications except as specifically stated and explained in detail on sheets attached hereto and labeled "Clarifications and Exceptions".

I hereby propose to provide the goods/services requested in this Solicitation. I agree to hold pricing for at least 60 calendar days from the Solicitation due date. I agree that GRU's terms and conditions herein take precedence over any conflicting terms and conditions submitted for GRU's consideration, and agree to abide by all conditions of this Solicitation.

I certify that all information contained in this Response is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to execute and submit this Response on behalf of the organization as its agent and that the organization is ready, willing and able to perform if awarded.

I further certify that this Response is made without prior understanding, agreement, connection, discussion, or collusion with any other person, company or corporation submitting an offer for the same product or service; no officer, employee or agent of GRU owns or will benefit more than 5% from award of this Solicitation; and the undersigned executed this Respondent's Certification with full knowledge and understanding of the matters therein contained.

AUTHORIZED SIGNATURE DATE

RESPONDENT'S CONTACT (for additional information)

PRINT NAME TITLE

NAME

TELEPHONE NUMBER FAX NUMBER

TITLE

E-MAIL ADDRESS

PHONE

WEBSITE

E-MAIL ADDRESS



GAINESVILLE REGIONAL UTILITIES / PURCHASING

If Respondent is not an individual, include authorization for the above individual to sign on behalf of the organization.



Solicitation Number _____ For _____

DRUG-FREE WORKPLACE CERTIFICATION FORM

Preference may be given to a business that certifies that it has implemented a drug-free workplace program. Pursuant to Section 287.087, Florida Statutes, whenever two or more competitive solicitations that are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a response received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie responses will be followed if none of the tied providers has a drug free workplace program. In order to have a drug-free workplace program, a business shall:

- 1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under proposal a copy of the statement specified in Subsection (1).
4. In the statement specified in Subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on any employee who is so convicted or require the satisfactory participation in a drug abuse assistance or rehabilitation program as such is available in the employee's community.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of applicable laws, rules and regulations.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

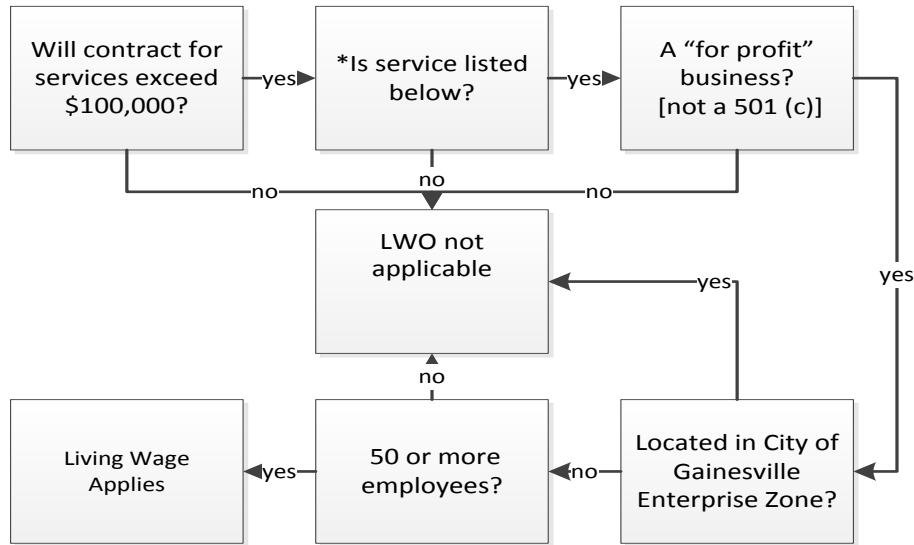
CORPORATION, PARTNERSHIP, OR INDIVIDUAL

DATE

AUTHORIZED SIGNATURE

LIVING WAGE ORDINANCE DECISION TREE

While not all encompassing, the following is provided as a guideline for CONTRACTORs 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. CONTRACTOR 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

NOTE: If CONTRACTOR has stated Living Wage Ordinance as amended does not apply and it is later determined that Living Wage Ordinance as amended does apply, CONTRACTOR 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.

Solicitation Number _____ For _____

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 _____ 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.

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

Signature: _____

Date: _____

Printed Name: _____

Title: _____

SUBCONTRACTOR INFORMATION FORM

SOLICITATION NUMBER _____ FOR _____

List any subcontractors that will be used for the Work along with the goods or services to be provided. If the subcontractor is a small or minority-owned business, check the boxes that apply. The selected prime CONTRACTOR will be asked to provide the actual subcontractor spend amount at a later date.

Small Business Enterprise (SBE): Independently owned with a net worth of not more than five million dollars and employs 200 or fewer permanent full-time employees.

Minority Business Enterprise (MBE): 51% owned and managed by a minority. African-American, Asian-American, Hispanic-American, Native-American, or American women owned.

Service-Disabled Veteran Enterprise (SDVE): At least 51% owned and managed by a veteran who has been certified as a service-disabled veteran by the Florida Department of Management Services or other agency.

Subcontractor Name	Goods or Service to be provided	Business Type		
		SBE	MBE	SDVE

BID BOND

NOW ALL MEN BY THESE PRESENTS, that we _____ (hereinafter referred to as "PRINCIPAL") and _____ (hereinafter referred to as "SURETY"), are held and firmly bound unto the City of Gainesville, Gainesville, Florida, a municipal corporation, d/b/a. Gainesville Regional Utilities, (hereinafter referred to as "GRU") in the sum of _____ for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents; and

WHEREAS, the PRINCIPAL contemplates submitting or has submitted a Bid to the City of Gainesville, d/b/a Gainesville Regional Utilities, for furnishing certain labor, materials, or equipment and performance of the Work covered in the Bid Form and in accordance with the Specifications; and

WHEREAS, it was a condition precedent to the submission of said Bid that a certified check or Bid Bond in an amount at least five (5%) percent of the Bid shall be submitted with said Bid as a guarantee that the Bidder would, if awarded the Contract, enter into a written Contract with GRU for the performance of said Contract, within fifteen (15) consecutive calendar days after written notice having been given of the award of the Contract;

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT, if the PRINCIPAL, within fifteen (15) consecutive calendar days after written notice of such acceptance, enters into a written contract with GRU and furnishes a Performance Bond in required form for the full amount of the Contract, if such Performance Bond is required, then this obligation shall be void; otherwise, the sum herein stated shall be due and payable to GRU and the SURETY herein agrees to pay the said sum immediately upon demand of GRU in good and lawful money of the United State of America as liquidated damages for the failure thereof of said PRINCIPAL.

IN WITNESS WHEREOF, the said _____ as PRINCIPAL herein, has caused these presents to be signed in its name by its _____ and attested by its _____ under its corporate seal, and the said _____ as SURETY herein, has caused these presents to be signed in its name by its _____ and attested by its _____ under its corporate seal, this _____ day of _____, 20_____.

ATTEST:

AS TO PRINCIPAL:

By _____

Title: _____

Title: _____

ATTEST:

AS TO SURETY:

By _____

Title: _____

Title: _____

**Engineers Joint Documents Committee
Design and Construction Related Documents
Instructions and License Agreement**

Instructions

Before you use any EJCDC document:

1. Read the License Agreement. You agree to it and are bound by its terms when you use the EJCDC document.
2. Make sure that you have the correct version for your word processing software.

How to Use:

1. While EJCDC has expended considerable effort to make the software translations exact, it can be that a few document controls (e.g., bold, underline) did not carry over.
2. Similarly, your software may change the font specification if the font is not available in your system. It will choose a font that is close in appearance. In this event, the pagination may not match the control set.
3. If you modify the document, you must follow the instructions in the License Agreement about notification.
4. Also note the instruction in the License Agreement about the EJCDC copyright.

License Agreement

You should carefully read the following terms and conditions before using this document. Commencement of use of this document indicates your acceptance of these terms and conditions. If you do not agree to them, you should promptly return the materials to the vendor, and your money will be refunded.

The Engineers Joint Contract Documents Committee ("EJCDC") provides **EJCDC Design and Construction Related Documents** and licenses their use worldwide. You assume sole responsibility for the selection of specific documents or portions thereof to achieve your intended results, and for the installation, use, and results obtained from **EJCDC Design and Construction Related Documents**.

You acknowledge that you understand that the text of the contract documents of **EJCDC Design and Construction Related Documents** has important legal consequences and that consultation with an attorney is recommended with respect to use or modification of the text. You further acknowledge that EJCDC documents are protected by the copyright laws of the United States.

License:

You have a limited nonexclusive license to:

1. Use **EJCDC Design and Construction Related Documents** on any number of machines owned, leased or rented by your company or organization.
2. Use **EJCDC Design and Construction Related Documents** in printed form for bona fide contract documents.
3. Copy **EJCDC Design and Construction Related Documents** into any machine readable or printed form for backup or modification purposes in support of your use of **EJCDC Design and Construction Related Documents**.

You agree that you will:

1. Reproduce and include EJCDC's copyright notice on any printed or machine-readable copy, modification, or portion merged into another document or program. All proprietary rights in **EJCDC Design and Construction Related Documents** are and shall remain the property of EJCDC.
2. Not represent that any of the contract documents you generate from **EJCDC Design and Construction Related Documents** are EJCDC documents unless (i) the document text is used without alteration or (ii) all additions and changes to, and deletions from, the text are clearly shown.

You may not use, copy, modify, or transfer EJCDC Design and Construction Related Documents, or any copy, modification or merged portion, in whole or in part, except as expressly provided for in this license. Reproduction of EJCDC Design and Construction Related Documents in printed or machine-readable format for resale or educational purposes is expressly prohibited.

If you transfer possession of any copy, modification or merged portion of EJCDC Design and Construction Related Documents to another party, your license is automatically terminated.

Term:

The license is effective until terminated. You may terminate it at any time by destroying **EJCDC Design and Construction Related Documents** altogether with all copies, modifications and merged portions in any form. It will also terminate upon conditions set forth elsewhere in this Agreement or if you fail to comply with any term or condition of this Agreement. You agree upon such termination to destroy **EJCDC Design and Construction Related Documents** along with all copies, modifications and merged portions in any form.

Limited Warranty:

EJCDC warrants the CDs and diskettes on which **EJCDC Design and Construction Related Documents**

is furnished to be free from defects in materials and workmanship under normal use for a period of ninety (90) days from the date of delivery to you as evidenced by a copy of your receipt.

There is no other warranty of any kind, either expressed or implied, including, but not limited to the implied warranties of merchantability and fitness for a particular purpose. Some states do not allow the exclusion of implied warranties, so the above exclusion may not apply to you. This warranty gives you specific legal rights and you may also have other rights which vary from state to state.

EJCDC does not warrant that the functions contained in **EJCDC Design and Construction Related Documents** will meet your requirements or that the operation of **EJCDC Design and Construction Related Documents** will be uninterrupted or error free.

Limitations of Remedies:

EJCDC's entire liability and your exclusive remedy shall be:

1. the replacement of any document not meeting EJCDC's "Limited Warranty" which is returned to EJCDC's selling agent with a copy of your receipt, or
2. if EJCDC's selling agent is unable to deliver a replacement CD or diskette which is free of defects in materials and workmanship, you may terminate this Agreement by returning EJCDC Document and your money will be refunded.

In no event will EJCDC be liable to you for any damages, including any lost profits, lost savings or other incidental or consequential damages arising out of the use or inability to use **EJCDC Design and Construction Related Documents** even if EJCDC has been advised of the possibility of such damages, or for any claim by any other party.

Some states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to you.

General:

You may not sublicense, assign, or transfer this license except as expressly provided in this Agreement. Any attempt otherwise to sublicense, assign, or transfer any of the rights, duties, or obligations hereunder is void.

This Agreement shall be governed by the laws of the State of Virginia. Should you have any questions concerning this Agreement, you may contact EJCDC by writing to:

Arthur Schwartz, Esq.
General Counsel
National Society of Professional Engineers
1420 King Street

Alexandria, VA 22314

Phone: (703) 684-2845

Fax: (703) 836-4875

e-mail: aschwartz@nspe.org

You acknowledge that you have read this agreement, understand it and agree to be bound by its terms and conditions. You further agree that it is the complete and exclusive statement of the agreement between us which supersedes any proposal or prior agreement, oral or written, and any other communications between us relating to the subject matter of this agreement.

NON SUBMITTAL FORM

SOLICITATION NUMBER _____ FOR _____

TO: **Gainesville Regional Utilities Purchasing Department**
301 S.E. 4th Avenue, Gainesville, Florida 32601

Fax: (352) 334-2989 **Email:** purchasing@gru.com

BUSINESS: _____

ADDRESS: _____

CONTACT: _____

PHONE: _____

EMAIL: _____

DATE: _____

Business declines to respond to the referenced Solicitation for the following reason(s):

- _____ Do not offer product or service or product specified.
- _____ Schedule conflict or unavailability.
- _____ Insufficient time to respond to the Solicitation.
- _____ Unable to meet specifications.
- _____ Unable to meet the insurance requirements.
- _____ Unable to meet bond requirements.
- _____ Not interested at this time.
- _____ Other _____

Please consider business for future solicitations: yes ___ no ___

Please consider business on solicitations for these products/services:

Comments: _____

ATTACHMENT 1
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 CONTRACTOR 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 CONTRACTOR for the Work at the price[s] stated in this Contract. No additional payment will be made to CONTRACTOR 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 CONTRACTOR. 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 CONTRACTOR shall be deemed to have been properly sent when electronically or physically delivered to CONTRACTOR. 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.

CONTRACTOR is responsible for invoicing GRU for Work performed pursuant to this Contract. 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. 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 Receipting Report for Services.

An itemized receipting report for services must be provided to the GRU Project Representative prior to invoicing which includes the number of hours and labor rates by job title, overhead, authorized per diem or travel expenses, and other charges. Receipting reports shall be used by the Project Representative to verify the services rendered.

5.3 Payment Terms.

Unless otherwise agreed upon in writing, GRU's payment terms are net thirty (30) days from receipt of correct invoice. CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR under this Contract until the liability has been discharged.

5.5 Final Payment/Acceptance.

The acceptance by CONTRACTOR 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 CONTRACTOR, 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. CONTRACTOR 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 CONTRACTOR agrees to indemnify GRU as described below in **Section __ 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 CONTRACTOR 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.

CONTRACTOR 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.

CONTRACTOR 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 CONTRACTOR'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 CONTRACTOR. No alteration or modification of this Contract, including substitution of product, shall be valid or binding unless authorized by GRU. CONTRACTOR 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 CONTRACTOR's order or fiscal forms or any other documents forwarded by CONTRACTOR for payment. An acceptance of product or processing of documentation on forms furnished by CONTRACTOR 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, CONTRACTOR, or any of GRU's or CONTRACTOR'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 public records, as defined in Section 119.011(12) of the *Florida Statutes*, required by GRU to perform the service.

17.2. Upon request from GRU's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

- 17.3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to GRU.
- 17.4. Upon completion of the contract, transfer, at no cost, to GRU all public records in possession of the contractor or keep and maintain public records required by GRU to perform the service. If the contractor transfers all public records to GRU upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to GRU, upon request from GRU's custodian of public records, in a format that is compatible with the information technology systems of GRU.
- 17.5. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE GRU CUSTODIAN OF PUBLIC RECORDS AT (352) 393-1240, PURCHASING@GRU.COM, OR 301 SE 4TH AVENUE, GAINESVILLE FL 32601.**

18.0 SALES TAX.

Respondent's pricing shall include applicable taxes on items purchased or manufactured by Respondent 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 2
SUPPLEMENTAL CONDITIONS

These Supplemental Conditions amend or supplement the Solicitation/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.

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

2.0 CONTRACTOR RESPONSIBILITIES.

2.1 Performance.

CONTRACTOR shall perform all Work promptly and diligently in a good, proper and workmanlike manner in accordance with the Specifications. In performing the Work, CONTRACTOR 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.

CONTRACTOR 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 CONTRACTOR and accessible to employees. These may include, but are not limited to, sanitation facilities, potable water, and office trailers.

3.0 COOPERATION/ COORDINATION. (SERVICES)

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 CONTRACTOR.

3.3 Work by Other CONTRACTORS.

GRU reserves the right to permit other CONTRACTORS to perform work within the same work area. CONTRACTOR 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.

CONTRACTOR shall, in the course of providing the Work, cooperate and communicate with GRU and all other persons or entities as required for satisfactory completion. CONTRACTOR will afford GRU and other CONTRACTORS' 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 CONTRACTOR 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 CONTRACTOR, its agents, employees, partners, or subcontractors.
- 4.2 Further, CONTRACTOR 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 CONTRACTOR's products or GRU's operation or use of CONTRACTOR'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 CONTRACTOR's opinion is likely to become the subject of such a suit, CONTRACTOR may at its sole expense procure for GRU the right to continue using the product or to modify it to become non-infringing. If CONTRACTOR is not reasonably able to modify or otherwise secure GRU the right to continue using the product, CONTRACTOR 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 CONTRACTOR's obligations under the preceding two paragraphs with respect to any legal action are contingent upon GRU giving CONTRACTOR (1) written notice of any action or threatened action, (2) defending the action at CONTRACTOR's sole expense. CONTRACTOR shall not be liable for any costs or expenses incurred or made by GRU in any legal action without CONTRACTOR'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 CONTRACTOR who must take every necessary precaution against damage to the Work by the elements or from any other cause whatsoever. CONTRACTOR 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 CONTRACTOR's own risk. CONTRACTOR 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 Agreement, 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 20 business days after giving of notice. If the dispute is not resolved within 30 business days after giving notice, or such later date

as may be mutually agreed, the Parties will submit the dispute to a mediator. The Parties shall mutually agree to the mediator and the costs of the mediator will be born equally by both parties. The venue for mediation and any subsequent litigation shall be in Alachua County, Florida.

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 CONTRACTOR'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 CONTRACTOR 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 CONTRACTOR'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. CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR, or if there is persistent or repeated refusal or failure to supply sufficient properly skilled workforce or proper materials, or if CONTRACTOR 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 CONTRACTOR of its intent to terminate and such default should continue unremedied 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. CONTRACTOR 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 CONTRACTOR, terminate this Contract, or any part thereof, for any or no reason, for GRU's convenience and without cause. After the termination date, CONTRACTOR 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 CONTRACTOR for goods and services accepted as of the date of termination, and for CONTRACTOR'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 CONTRACTOR 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 CONTRACTOR.

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 CONTRACTOR with thirty (30) calendar days written notice to CONTRACTOR.

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 CONTRACTOR 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 CONTRACTOR REQUIREMENTS.

(List minimum CONTRACTOR requirement)

13.0 PERMITS.

(List permit requirements)

14.0 AUTHORIZED REPRESENTATIVES.

14.1 The Purchasing Representative for this Contract is Clint Lockhart. Questions regarding this Solicitation and the administration of the resulting Contract shall be directed to Clint Lockhart at (352) 393-1250 or via facsimile at (352) 334-2989.

14.2 The Project Representative for this Contract is J. Lewis Walton and may be contacted at (352) 393-1039

15.0 PERFORMANCE TIME.

CONTRACTOR shall complete the Work no later than the date set forth in the Contract. CONTRACTOR further understands and agrees that time is of the essence. If CONTRACTOR fails to complete the Work on or before the date established for Final Completion, then CONTRACTOR will be solely responsible for liquidated damages or other costs as set forth in the Solicitation or Contract.

16.0 LIQUIDATED DAMAGES.

Liquidated damages shall not be assessed.

17.0 COMPLETION OF WORK.

17.1 Substantial Completion: The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) 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 Work refer to Substantial Completion thereof.

17.2 Final Completion: The date that the Owner receives and agrees with written notice from the Contractor stating that the Work has been completed and is ready for final payment.

18.0 DELIVERY.

All materials and equipment shall be delivered F.O.B. Destination, freight included.

19.0 BONDS. (*SERVICES AND *GOODS)

If awarded, a Performance Bond and Payment Bond are required. CONTRACTOR shall provide such bonds, using the forms attached, for 100% of the price of the awarded contract as security for the full and complete performance of the Contract and for the payment of all persons performing labor, furnishing materials or furnishing equipment in connection with the Contract.

The surety or sureties shall be a company or companies satisfactory to GRU. In accordance with the Florida Statutes, a person entering into a contract with GRU for the construction of a public building or repairs to a public building or a public work is required, prior to commencing work, to execute and record in the public records of Alachua County, a payment and performance bond with a surety insurer authorized to do business in the state as surety.

OR

Bonds are not required for this Solicitation.

20.0 INSURANCE.

CONTRACTOR shall meet the minimum insurance requirements at all times as required by law and GRU. CONTRACTOR 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. CONTRACTOR shall procure and maintain insurance with coverage amounts as required. CONTRACTOR must furnish GRU a certificate of insurance in a form acceptable to GRU for the insurance required with endorsement naming GRU as additional insured.

21.0 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

22.0 WARRANTY/GUARANTEE.

- 22.1 CONTRACTOR warrants and guarantees to GRU that all materials will be new unless otherwise specified and that all Work will be of a quality free from defects and in accordance with the Specifications. CONTRACTOR 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 CONTRACTOR 's liability for defects.
- 22.2 No provision contained in the Specifications shall be interpreted to limit the terms and conditions of the manufacturer's warranty and CONTRACTOR will secure parts, materials and equipment to be installed with manufacturer's full warranty as to parts and service wherever possible. CONTRACTOR must indicate if any warranty is being provided by either CONTRACTOR 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, CONTRACTOR must provide such warranty to GRU or must state as a Clarification and Exception the reason CONTRACTOR is not able to provide such warranty.
- 22.3 All labor shall be warranted for a minimum of one year. For materials, the Manufacturer's warranty applies.

23.0 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.

23.1 Confinement to Work Area/Parking.

CONTRACTOR'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. CONTRACTOR and its employees shall park personal vehicles and equipment in areas designated by GRU.

23.2 Sanitation.

If sanitary facilities are available near the work site, CONTRACTOR 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, CONTRACTOR is responsible for the cost, provision and maintenance of sanitary facilities for persons employed by CONTRACTOR. If responsible for providing sanitary facilities, CONTRACTOR 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.

24.0 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.

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. Responders 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 Respondent meets the definition of Service CONTRACTOR/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 CONTRACTOR/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 CONTRACTOR agrees as follows:

- (1) The CONTRACTOR 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 CONTRACTOR will include the provision of (1) above in each subcontract for Covered Services with a Service CONTRACTOR/Subcontractor, as defined herein, so that the

provisions of (1) above will be binding upon each such Service CONTRACTOR/Subcontractor. The CONTRACTOR 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 CONTRACTOR and a subcontractor concerning compliance with living wage requirements.

25.0 WARRANTY OF TITLE.

CONTRACTOR warrants that it holds and shall transfer unencumbered title of the property to GRU and further warrants that it has the right and authority to transfer the title to the property.

26.0 NERC CIP COMPLIANCE REQUIREMENTS.

Pursuant to federally mandated security standards from the North American Electric Reliability Corporation (NERC) regarding Critical Infrastructure Protection (CIP), GRU has implemented specific requirements for any contract employee requiring access to protected systems and facilities. These requirements are outlined in NERC Standard “CIP-004-6 Table R3 – Personnel Risk Assessment Program”, and apply to anyone who shall have physical and/or electronic access to these designated locations. Compliance verification for an employee, including annual training as well as a qualified criminal history background screening, will be required prior to granting that employee authorized access to the designated protected systems and/or facilities.

27.0 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 Technical Specifications
- e. GRU Supplemental Conditions
- f. GRU General Conditions
- g. GRU Instructions
- h. CONTRACTOR Response