



CONTRACT FOR STAFFING SERVICES

On this ___ day of _____, 2019, _____ (“Client” or “GRU”), and NAES Corporation (“NAES” or “Contractor”) agree as follows:

ARTICLE 1. Description of Work. The Client owns the facility known as Deerhaven Renewable Energy Facility (“Facility”). NAES, as an independent contractor, shall employ and provide capable temporary staff (“NSS Employees”) at the Facility or other generating facility owned by Gainesville Regional Utilities to work under the direction and supervision of the Client from time to time during the term of this Contract for Staffing Services (“Contract”). Client will initiate services hereunder by advising NAES as to the work to be performed, the personnel to be supplied, specific hours of performance, performance period, and the location where the individuals will report. Client may terminate the services for any position upon giving NAES thirty days notice.

Client agrees that NAES’s obligations to Client are limited to assigning employees with certain skills and abilities and with regard to such employees, to maintain personnel and payroll records; calculate and pay wages, withhold and remit payroll taxes and other government-mandated charges; hire, assign, re-assign, counsel, discipline, remove and discharge; provide insurance as set forth in this agreement; and handle employee work-related complaints. At the reasonable request of Client, NAES shall promptly remove any employee to which Client has an objection and replace such employee with a qualified replacement within a reasonable period of time to not exceed 60 days, or such other time period as the parties mutually agree.

ARTICLE 2. Term of Contract. NAES and GRU entered into an O&M Services Agreement dated November 7, 2017, as amended on August 9, 2018 (“O&M Agreement”). Pursuant to the terms of the O&M Agreement, GRU may terminate the O&M Agreement for GRU’s convenience upon sixty (60) days written notice to NAES. The term of this Contract shall begin on the termination date of the O&M Agreement and will continue for an initial term of five (5) years, with renewal for up to two (2) additional 5-year terms by written agreement of the parties; provided, that either party may terminate this Contract upon thirty (30) days written notice to the other party.

ARTICLE 3. Pricing and Payment. The attached Exhibit A reflects the hourly rate to be charged to GRU for each NSS Employee, which rates are current as of May 1, 2019. For those NSS Employee’s utilized by Client, NAES shall invoice the Client biweekly, in accordance with the hourly billing rates set forth on Schedule 1 to Exhibit A (“Pricing Schedule”), with net due upon receipt of the invoice. Invoices with outstanding balances in excess of thirty (30) days shall be subject to late charges of one percent (1%) per month. In the event that invoices are referred to collection and/or suit is brought, the prevailing party shall be entitled to court costs and reasonable attorneys’ fees. All invoices submitted for work accomplished under this Contract shall include an appropriate reference to this Contract and shall contain supporting documents and proof of expenditures. Sales, use and value-added taxes, if applicable, are not included in the attached Pricing Schedule and will be added to the invoiced amount.

ARTICLE 4. Hiring. The Client will not directly solicit any NSS Employee or contract employee, unless that employee has been assigned to GRU for a period of 1,000 straight time hours. Should the Client desire to hire an NSS employee to work at a Gainesville Regional Utility Generating Facility prior to the time specified above, the Client shall pay NAES for such service in accordance with the Pricing Schedule. NAES will not bind any NSS employee or contract employee assigned to GRU to a non-compete or similar agreement that would hinder, limit or prevent such NSS employee from obtaining and maintaining employment with the Client.

ARTICLE 5. Insurance. NAES shall secure and maintain the following insurance coverage: (i) Employer’s Liability insurance with a limit of \$1,000,000; (ii) Workers’ Compensation insurance that meets statutory

requirements; (iii) Commercial General Liability insurance with a limit of \$1,000,000 per occurrence; and (iv) Business Automobile Liability insurance with limit of \$1,000,000 per accident. Deductibles and/or self-insured retention levels shall be provided upon Client's request.

All insurance shall name the City of Gainesville as an additional insured. NAES will provide the City thirty (30) days written notice prior to termination of coverage.

Waiver of Subrogation. All policies purchased in accordance with this Paragraph, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder. NAES and Client waive all rights against each other for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work.

ARTICLE 6. Compliance. Both parties shall, at all times, comply with all applicable laws, statutes, rules, regulations and ordinances including those governing wages, hours, desegregation, employment discrimination and safety.

ARTICLE 7. Indemnification.

Notwithstanding any other provision herein to the contrary, Client shall indemnify, defend and hold harmless NAES and all of its directors, officers, employees and agents (hereinafter collectively "Indemnified Parties") from any and all claims, demands, suits, loss, cost, and damages of every kind and description, including attorneys' fees ("Claims"), brought or made against or incurred by any Indemnified Parties resulting from, arising out of, or in any way connected with any act, omission, fault, or negligence of Client, its employees, agents, representatives, or subcontractors of any tier, their employees, agents, or representatives, or NAES employees working under the supervision of Client in the performance of this Contract or in any way related to this Contract including, but not limited to, workers' compensation claims asserted by NAES employees. The Client further agrees to indemnify, defend and hold harmless the Indemnified Parties from all Claims arising out of violations of federal, state or local laws, statutes, rules, regulations and ordinances or Client's site rules and regulations as they relate to premises owned or controlled by the Client to which NAES employees are assigned. Each party shall be responsible for its own negligence and for the negligence of its employees, or officers. This indemnification shall not be construed as a waiver of Client's sovereign immunity, and shall be interpreted as limited to only such traditional liabilities for which Client could be liable under the common law interpreting the limited waiver of sovereign immunity. An action may not be instituted on a claim against Client unless the claimant presents the claim in writing to Client's Risk Manager within 3 years after such claim accrues or the Risk Manager denies the claim in writing. For purposes of this paragraph, the requirements of notice to the Risk Manager and denial of the claim are conditions precedent to maintaining an action but shall not be deemed to be elements of the cause of action and shall not affect the date on which the cause of action accrues.

ARTICLE 8. Public Records.

Florida has a very broad public records law and certain records of a contractor may be considered public records. Accordingly, by entering into an agreement with the City, contractor must:

1. Keep and maintain public records required by the public agency to perform the service.
2. Upon request from the public agency'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.
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 the public agency.
4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency 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 the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (telephone number, e-mail address, and mailing address)

LIMITATION OF LIABILITY. NAES SHALL NOT BE LIABLE FOR ANY DAMAGE TO OR PHYSICAL LOSS OF ANY PROPERTY OWNED BY OR IN THE CARE, CUSTODY, OR CONTROL OF THE CLIENT. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR LOST PROFITS, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED OR COULD HAVE BEEN REASONABLY FORESEEN. UNDER NO CIRCUMSTANCES SHALL THE TOTAL AGGREGATE LIABILITY OF NAES UNDER THIS CONTRACT UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), IN WARRANTY, OR OTHERWISE, EXCEED THE TOTAL AMOUNT TO BE PAID BY CLIENT TO NAES HEREUNDER.

ARTICLE 9. Laws and Regulations. NAES shall, at all times, comply with all applicable laws, statutes, rules, regulations and ordinances including those governing wages, hours, desegregation, employment discrimination and safety. NAES shall comply with federal and state equal opportunity laws and regulations. The Client shall provide to NAES, in writing, confirmation that required safety, site-specific or job-related training has been provided to the NAES employee prior to commencement of any work activity. Upon notification by Client, NAES will immediately remove any NSS Employee that fails to comply with the required safety, site-specific or job-related requirements. The Client will allow a safety evaluation to be performed prior to placement by NAES of employees or at any time that NAES deems appropriate.

ARTICLE 10. Hazardous Materials Training. The Client shall be responsible for informing NAES and NSS Employees of any and all hazardous materials found on the job sites. The Client shall be responsible for the education and training of NSS Employees who might come in contact with or have occasion to handle hazardous materials. The Client shall also provide the appropriate protective equipment and training to those NSS Employees working with hazardous materials. The Client shall provide to NAES, upon request, confirmation in writing that required training has been provided to the NSS Employees. Upon notification by Client, NAES will immediately remove any NSS Employee that fails to comply with hazardous materials training.

ARTICLE 11. Warranty. NAES warrants that the services provided hereunder shall be performed in accordance with generally accepted professional practice at the time and place where the services are rendered. IN THE EVENT OF A BREACH OF THE FOREGOING WARRANTY, THE PARTIES EXPRESSLY AGREE THAT THE EXCLUSIVE OBLIGATION OF NAES AND THE EXCLUSIVE REMEDY OF CLIENT WILL BE THE OBLIGATION OF NAES TO RE-PERFORM THE SERVICES AT THE SOLE COST OF NAES. NAES makes no other warranty or guarantee, and specifically makes no warranty or guarantee with respect to any NAES employee assigned to Client under this Contract, and Client acknowledges Client's sole authority and responsibility for the decision to enter into a service relationship with any such employee.

ARTICLE 12. Complete Agreement. This Contract and any referenced attachments constitute the complete agreement between the parties with respect to the subject matter hereof and shall replace all previous agreements, if any, both oral and written. This Contract is subject to change only by a writing signed by both parties.

ARTICLE 13. Changes. If by mutual agreement, changes to the provisions of this Contract are deemed necessary, such changes shall be made by an amendment signed by both parties. If any change causes an increase or decrease in the cost of or time required for the performance of work hereunder, an equitable adjustment shall be made.

ARTICLE 14. Governing Law. This Contract shall be interpreted in accordance with the substantive and procedural laws of the State of Florida. The parties agree that venue in any action brought arising out of or related to this Contract shall be in the state or federal courts of the State of Florida.

ARTICLE 15. Non-Waiver. The failure of either party to insist upon or enforce strict performance by the other party of any of the terms of this Contract or to exercise any rights herein shall not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon such terms or rights on any future occasion.

ARTICLE 16. Severability. Any provisions of this Contract prohibited or rendered unenforceable by local, state, or federal law shall be ineffective only to the extent of such prohibition or enforceability without invalidating the remaining provisions of the Contract.

ARTICLE 17. 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 Statute.

NAES Corporation

GRU

By:
Title:

By:
Title:

GRU

By:
Title: City of Gainesville Attorney

EXHIBIT A

PRICING SCHEDULE

The consideration stated herein shall be the total compensation paid to NAES for performance of all NAES obligations under the Contract with the exception of those changes negotiated between Client and NAES on an individual basis and documented in a writing signed by both parties. It is noted that changes may be necessary to support the dynamic needs of the Client, and that NAES and Client shall negotiate changes as necessary and amend this Pricing Schedule in writing.

- 1. Hourly Billing Rates: Hourly wage rates for NSS Employees assigned to Client hereunder are set forth on Schedule 1 to this Exhibit A. Local sales and/or special taxes, as applicable, shall be additional. Billing rates shall be adjusted in accordance with changes in the federal, state and local statutory requirements on an annual basis. Client will pay NAES for all actual time that NAES employees are directly engaged in the performance of work for Client or as otherwise approved. Overtime application is based on federal guidelines.**
- 2. Mob/De-Mobilization:** Client will be invoiced to cover requested background security, drug testing, physicals and other compliance driven screenings. Client may arrange for travel mobilization/demobilization of NAES employees assigned to Client hereunder. However, when applicable to a work assignment, Client will reimburse NAES at actual cost for travel expenses to and from sites for those NAES employees whose permanent residence is greater than 50 miles from the work location. If travel is by automobile, it shall be reimbursed at the effective IRS Guideline at the time of the assignment.
- 3. Per Diem:** Client may arrange for lodging of NAES employees assigned to Client hereunder. However, when applicable to a work assignment, Client will reimburse NAES at an agreed rate not to exceed the federal per diem rates per week or per day basis for NAES employees whose permanent residence is greater than 50 miles from the work location. Per diem specifics shall be developed on a per site or work location basis. Per Diem will only apply for positions that are expected to be of short duration or not full time. Those positions filled as a full time equivalent will not require per diem nor travel.
- 4. Travel Pay:** NSS Employees shall be paid for travel time to the extent such employees are working for Client while traveling.
- 5. Ancillary Costs:** Ancillary costs shall be pre-approved by Client for reimbursement to NAES. Ancillary costs will include, but are not limited to: employee site interview travel/lodging expenses, background investigations, fitness for duty testing, special skills testing/evaluations, etc.
- 6. Holiday:** NAES employees assigned to Client hereunder who work during Client site recognized holidays shall be paid and invoiced eight (8) hours at the straight time rate.
- 7. Direct Hire:** Should the Client desire to hire an NSS Employee at the Facility prior to that employee being assigned to that Facility for a period of 1000 straight time hours, or during any of the immediate six (6) months following the end of the NSS Employee's assignment with Client at the Facility, Client shall pay NAES a one-time payment of twenty percent (20%) of the First Year's Compensation. "First Year's Compensation" shall be a reasonable estimate of the compensation (salary/wage) expected to be earned by the employee during the first year of employment with the Client. The estimate is to be determined as of the time when the employment with the Client begins, and shall not be increased or

decreased thereafter. "First Year's Compensation" shall not include draw fees, commissions, bonuses or incentives.

