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PROCUREMENT OF GENERAL CONSULTING SERVICES
LEGAL REVISIONS 10-30-18

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GC-1.0 DEFINITIONS.

For purposes of these general term and conditions, the following words and expressions when initially capitalized shall have the meanings hereby assigned to them. These definitions are intended to supplement and not replace any definitions contained in any of the other documents forming a part of the Contract, but in case of any conflict or inconsistencies, the definitions set forth below shall prevail under these general term and conditions:

"Agent" means the project architect, project engineer, or other agency or person acting on behalf of OUC and is identified as the individual required to review invoices or payment requests.

"Change Order" shall have the meaning set forth in GC – 4.0, Changes.

"Contract" shall mean the general authorizing document (including Change Orders thereto) utilized by OUC to procure Services from Consultant, including these general term and conditions, authorizing specific Services and other attachments and appendices are attached.

"Contract Price" means the total amount to be paid to Consultant under the Contract as it may be adjusted or changed in accordance with the terms of the Contract.

"Day" means a Day, including Saturdays, Sundays, and holidays. In the event that an obligation to be performed under the Contract falls due on a Saturday, Sunday, or legal holiday in the state where the Services is performed, the obligation shall be deemed due on the next business Day thereafter.

"Event of Default" shall have the meaning set forth in Article 10.1.

"Facility" means the OUC designated facility or location set forth in the Contract Services are to be performed by Consultant.

"Final Acceptance" shall have the meaning assigned to such term in Article 5.3.

"Government Authority" means any public body established or to be established by law that exercise regulatory control over the performance of the Services, those agencies that issue licenses, permits, and authorizations for performance of the Services, and courts of competent jurisdiction.

"Hazardous Materials" shall mean any "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 USC Sections 9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 USC Sections 1801, et seq.), "hazardous wastes" as defined in the Resource Conservation and Recovery Act, as amended (42 USC Sections 9601, et seq.), "toxic substances" as defined in the Toxic Substance Control Act as amended (15 USC Section 2601 et seq.), "contaminants" as defined in the Environmental Protection Act, R.S.O. 1990, C.E. 19, "toxic substances" as defined in the Environmental Protection Act, S.C. 1991

c. 15.3, as amended and in the regulations adopted, published, and promulgated pursuant thereto, or in any other Laws and Regulations.

"Notice" means prompt written notice given by one Party to the other Party in compliance with Article 20.7, Notices.

"OUC" means Orlando Utilities Commission.

"Party" or "Parties" shall mean OUC and Consultant, individually or together, as applicable.

"Payment Dispute Process" Disputes between Consultant and OUC shall be referred to the Purchasing Manager who will initiate proceedings within forty-five (45) Days from OUC's receipt of the invoice and render a final decision no later than sixty (60) Days from the date of invoice receipt. If issues are unresolved after dispute proceedings, then either party can pursue and/all remedies available at law or equity.

"Payment Request" means a request for payment which conforms to all statutory requirements and provides all information necessary for a proper invoice.

"Proper Invoice" means an invoice in the proper form and containing all information required as outlined in the contract documents.

"Proposal" means the Consultant's proposal for the Services attached to this Contract.

"Remedy" means correction of warranty nonconformity or defect by Supplier in accordance with GC-6.0, Warranties, by repair, replacement or modification as OUC deems necessary to correct such nonconformity.

"Services" shall mean work, direction of work, technical information, technical consulting, or other technical services (including but not limited to design services, analytical services, consulting services, quality assurance, and other specialized consulting services) furnished by Consultant as described in detail in the Contract.

"Specifications" means those technical specifications attached to the Contract or the RFP documents (if applicable) and to which the Services supplied by Consultant must conform.

"Work Product(s)" shall have the meaning set forth in Article 5.2.1.

GC 2.0 SCOPE.

Consultant shall provide those services and related materials set forth in the specifications attached to this Contract or those in the bid package, if applicable, (the "Services") on or before the agreed dates scheduled for the performance of the Services.

GC-3.0 PRICE, TERMS OF PAYMENT, AND TAXES.

3.1 Price and Terms of Payment.

The Contract Price and terms of payment for Services procured under the Contract shall be as set forth in the Proposal, as modified by the parties and attached to this Contract.

3.2 Payment of Invoices.

Payment of each invoice by OUC shall be made is to be made within thirty (30) Days after the date of receipt by OUC of proper invoice in accordance with the agreed payment schedule attached to this Contract and verification of compliance of the Services with the terms of the Contract.

3.3 Taxes.

The Contract Price is inclusive of any federal, state, or local property, license, privilege, sales, use, excise, gross receipts, value added, or other similar tax which may now or hereafter be applicable to, measured by, or imposed upon with respect to the Services.

GC-4.0 CHANGES.

4.1 OUC Initiated Changes.

OUC may require changes in the Services and the Contract Price and other pertinent provisions of the Contract will be modified by written amendment to the Contract (hereinafter "Change Order") to the extent materially affected by the change.

4.2 No Performance of Changed Services Absent A Change Order.

Each Change Order shall be in a form and substance acceptable to both Parties.

Consultant shall not proceed with any changed Services unless and until an agreed Change Order has been executed by both Parties.

GC-5.0 ACCEPTANCE OF SERVICES.

5.1 Acceptance of Services.

All Services shall be subject to OUC's review and approval. OUC may accept or reject Services within a reasonable time after completed if such Services do not comply with the requirements of the Contract. Unless otherwise agreed in writing by OUC, OUC's review and approval of Services provided by the Consultant shall in no way or manner relieve or lessen Consultant's responsibility under the Contract for the professional quality, technical accuracy, and completeness of such Services nor shall OUC's failure to so review the Services impair OUC's right to reject or revoke its acceptance of nonconforming Services, or to avail itself of any other remedies to which OUC may be entitled.

5.2 Title and Intellectual Property Rights.

5.2.1 Ownership of Completed Work. Consultant agrees that title to and ownership of all drawings, plans, specifications, calculations, reports, and other documents prepared by Consultant under the Contract ("Work Product"), including without limitation all copyrights or patent rights therein, shall be vested in OUC. Consultant hereby assigns and agrees to assign all right, title, and interest in the foregoing to OUC, and further agrees to execute, at OUC's request and expense, all documentation necessary to perfect title therein in OUC. Consultant agrees to assist OUC, at OUC's request and expense, in every reasonable way, in obtaining, maintaining, and enforcing patent and other intellectual property protection on the subject matter covered by this clause. Consultant may retain a record copy of all such information, subject to the confidentiality provisions contained in GC-12.0. Consultant agrees to provide OUC notice thirty (30) Days prior to Consultant destroying any such record copies. If OUC so requests, Consultant shall forward such information to OUC.

5.2.2 Ownership of Work Product Upon Early Termination of Contract. In the event that the Contract with respect to any specific Work Order is terminated prior to completion of the Services and delivery of the Work Product thereunder, then OUC shall be entitled to title and possession of all work in progress relative to the Work Product.

5.3 Final Acceptance.

Final acceptance of the Services and Work Product for purposes of the Contract shall be the date upon which OUC confirms that all Services and Work Product have been completed in accordance with the terms of the Contract ("Final Acceptance").

GC-6.0 FACILITY ACCESS.

6.1 Site Access Conditions.

OUC shall provide Consultant access to the Facility as necessary to perform the Services. Access shall be subject to Consultant's obligation to comply with the following conditions:

- 6.1.1 Consultant shall confine its activities to only those portions of the Facility necessary for performance of the Services.
- 6.1.2 Consultant shall take all safety measures reasonably necessary to protect OUC, its permitted and licensees and the property of each, from injury or damage caused by or resulting from the performance of Services. Consultant shall follow any and all safety and security procedures established by OUC for the Facility or Facilities where Services are being performed. To the extent applicable, Consultant shall be provided a copy of applicable safety and security rules and Consultant shall read and follow such rules. In the event of a security emergency, OUC may deny Consultant access to a Facility or request that Consultant leave the Facility.
- 6.1.3 Consultant shall maintain all required insurance coverage's set forth in Article 6.2 at all times during the term of the Contract.
- 6.1.4 Consultant's performance of Services shall not interfere with the use, occupancy or enjoyment of the Facility by OUC.
- 6.1.5 No work or activity performed as part of the Services shall cause OUC to be in violation of any requirement of law nor shall Consultant or any agent, employee or representative violate any federal, state or local laws while performing Services.
- 6.1.6 All Services shall be performed in a manner that will not damage the Facility, other than minor inadvertent damage of which Consultant shall promptly notify OUC and shall be responsible for the cost of repairing any such damage.
- 6.1.7 The Consultant's and subcontractor's personnel who perform the work in connection with this contract shall conform to the Orlando Utilities Commission (OUC) Alcohol and Controlled Substance Abuse Policy. This policy may be found on the Orlando Utilities Commission's website, www.ouc.com under "Supplier Information".

6.2 Insurance.

Except as otherwise specified in this Contract, the Consultant and his subcontractors of any tier will be required at their own expense to

maintain in effect at all times during the performance of the work insurance coverage with limits not less than those set forth below with insurers and under forms of policies satisfactory to OUC. It shall be the responsibility of the Consultant to maintain adequate insurance coverage and to assure that subcontractors are adequately insured at all times. Failure of the Consultant to maintain adequate coverage shall not relieve him of any contractual responsibility or obligation.

The requirements specified herein as to types, limits, and OUC's approval of insurance coverage to be maintained by the Consultant and his subcontractors are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Consultant and his subcontractors under this Contract.

Any insurance carried by OUC that may be applicable shall be deemed to be excess insurance and the Consultant's insurance primary for all purposes despite any conflicting provision in the Consultant's policies to the contrary.

- 6.3 Certificates of Insurance. At the time of execution of this Contract and each subcontract, but in any event prior to commencing work at the jobsite, and as a condition precedent to the Consultant's and his subcontractors' initiation of performance, the Consultant and his subcontractors shall furnish OUC with certificates of insurance as evidence that policies providing the required coverage and limits of insurance are in full force and effect. The certificates shall provide that any company issuing an insurance policy for the work under this Contract shall provide not less than 30 Days advance notice in writing to OUC prior to cancellation, termination, or material change of any policy of insurance. In addition, the Consultant shall immediately provide written notice to OUC upon receipt of notice of cancellation of an insurance policy or a decision to terminate or alter an insurance policy. All certificates of insurance shall clearly state that all applicable requirements have been satisfied, including certification that the policies are of the "occurrence" type. Certificates of insurance for Consultant-furnished and subcontractor-furnished insurance and notices of any cancellations, terminations, or alterations of such policies shall be mailed to OUC, at the address listed in the Contract.
- 6.4 Additional Insured. All insurance coverage furnished under this Contract except Workers' Compensation and Employers' Liability shall include OUC and its partners, commissioners, directors, officers, agents, and employees as additional insured with respect to the activities of the Consultant and his subcontractors.

Notwithstanding any other provision of these policies, the insurance afforded shall apply separately to each insured, named insured, or additional insured with respect to any claim, suit, or judgment made or brought by or for any

other insured, named insured, or additional insured as though a separate policy had been issued to each.

OUC shall not by reason of its inclusion under these policies incur liability to the insurance carrier for payment of premium for these policies.

6.5 Waiver of Subrogation.

The Consultant and his subcontractors shall require their insurance carriers, with respect to all insurance policies, to waive all rights of subrogation against OUC and its partners, commissioners, directors, officers, agents, and employees and against other contractors and subcontractors.

6.6 Workers' Compensation and Employer's Liability.

This insurance shall protect the Consultant against all claims under applicable state workmen's compensation laws. The Consultant shall also be protected against claims for injury, disease, or death of employees that, for any reason, may not fall within the provisions of a workmen's compensation law. This policy shall include an "all states" or "other states" endorsement.

Exemption certificates shall be accepted if valid during the term of the contract, but only for those eligible corporate officers pursuant to Chapter 440 Florida Statutes. Proof of workers' compensation coverage must still be provided for all employees, sub-contractors not eligible for exemption.

The liability limits shall not be less than:

| | |
|-----------------------|-----------------------------|
| Workers' compensation | Statutory |
| Employer's liability | \$1,000,000 each occurrence |

6.7 Comprehensive Automobile Liability.

This insurance shall be written in comprehensive form and shall protect the Consultant and the additional insured against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on or off the site of all motor vehicles licensed for highway use, whether they are owned, non-owned, or hired.

The liability limits shall not be less than:

| | |
|-----------------------------------|-----------------------------------|
| Bodily injury and property damage | \$1,000,000 limit each occurrence |
|-----------------------------------|-----------------------------------|

6.8 Commercial General Liability.

This insurance shall be an "occurrence" type policy (excluding automobile liability) written in comprehensive form and shall protect the Consultant and the additional insured against all claims arising from bodily injury, sickness, disease, or death of any person or damage to property of OUC or others arising out of any act or omission of the Consultant or his agents, employees, or subcontractors. This policy shall also include protection against claims insured by usual bodily injury liability coverage, a "contractual liability" endorsement to insure the contractual liability assumed by the Consultant under the article entitled INDEMNIFICATION, and "Completed Operations and Products Liability" coverage (to remain in force for two (2) years after final payment and subsequent to project completion).

OUC may allow in its sole discretion, a combination of General Liability coverage and Umbrella coverage to satisfy required liability limits

If the Consultant's work, or work under his direction, requires blasting, explosive conditions, or underground operations, the comprehensive general liability coverage shall contain no exclusion relative to blasting, explosion, collapse of structures, or damage to underground property.

The liability limits shall not be less than:

| | |
|-----------------------------------|-----------------------------------|
| Bodily injury and property damage | \$2,000,000 limit each occurrence |
|-----------------------------------|-----------------------------------|

GC-7.0 SERVICES WARRANTIES.

7.1 Warranty of Services.

Consultant warrants that all Services shall be performed with care, skill, and diligence, in accordance with applicable professional standards, and all Work Products shall be of professional quality, technically accurate and complete.

7.2 Remedy.

If Consultant breaches the warranty of care set forth in Article 7.1 above, Consultant shall upon Notice from OUC and without additional compensation, correct or revise any errors or deficiencies in the Work Products, and other Services.

GC-8.0 GENERAL INDEMNIFICATION.

In return for payment by OUC of the Contract Price, one (1%) percent which is acknowledged by the Consultant as specific consideration for the indemnities set forth in this GC-8.0, the Consultant shall defend, indemnify, and hold harmless OUC, its commissioners, officers, directors, and employees from and against all claims, damages, losses, and expenses, (including but not limited to fees and charges of attorneys or other professionals and court and arbitration

or other dispute resolution costs) arising out of or resulting from (i) the performance of Services by Consultant or any person or organization directly or indirectly employed by the Consultant to perform or furnish any of the Services or anyone for whose acts any of them may be liable, (ii) breach of the terms of the Contract by Consultant or any person or organization; directly or indirectly employed by Consultant to perform or furnish any of the Services or anyone for whose acts any of them may be liable, (iii) violations of applicable law by Consultant or any person or organization directly or indirectly employed by the Consultant to perform or furnish any of the Services or anyone for whose acts any of them may be liable, (iv) injury, disease or death of third parties (including OUC employees and agents and those of Consultant), or damage to property due to the negligence or willful misconduct of the Consultant or any person or organization directly or indirectly employed by the Consultant to perform or furnish any of the Services or anyone for whose acts any of them may be liable. Notwithstanding anything in this GC 8 to the contrary, the liability of Consultant under this GC 8 for the indemnification of OUC, its commissioners, officers, directors and employees shall not exceed the greater of (i) the price paid by OUC under the Contract for the Services or (ii) Two Million (\$2,000,000.00) Dollars.

GC-9.0 EXTENSION OR SUSPENSION.

OUC may, by Notice to Consultant, require an extension or suspension of the scheduled performance of any portion or all of the Services to be performed under any or all Work Orders issued under this Contract.

GC-10.0 DEFAULT AND TERMINATION.

10.1 Consultant Default.

The following events or conditions shall constitute an "Event of Default" by Consultant:

10.1.1 Institution of any proceeding in bankruptcy, receivership or insolvency against Consultant, or appointment of a trustee or receiver for Consultant or for any substantial part of its assets, unless such proceedings are dismissed within ninety (90) Days after their date of filing, or any assignment by Consultant for the benefit of its creditors or a voluntary commencement by Consultant of any proceeding in bankruptcy, receivership or insolvency;

10.1.2 Any failure by Consultant to perform or comply with the terms and conditions of the Contract, including breach of covenant contained herein, provided that such failure continues for thirty (30) calendar Days after written notice to Consultant demanding that such failure to perform be cured;

10.1.3 Failure of Consultant to follow or violation by Consultant of any OUC Facility safety or security rules; or

10.1.4 The Consultant' who performs the work in connection with this contract shall conform to the OUC's Alcohol and Controlled Substance Abuse Policy. This policy may be found on the Orlando Utilities Commission's website, www.ouc.com under "Supplier Information".

10.2 Termination for Default.

10.2.1 Termination for Default. Upon the occurrence of an Event of Default, OUC may terminate the Contract and pursue any remedies available to it in law or in equity.

10.2.2 Cease Services; Delivery of Work Product. Upon receipt of the Notice of termination, Consultant shall immediately discontinue all Services unless the Notice directs otherwise and deliver to OUC all Work Products, whether completed or in process, accumulated by Consultant in performance of Services.

10.3 Termination for OUC's Convenience.

OUC shall have the right in its sole discretion to cancel or suspend, by written Notice, in whole or in part, the Contract. OUC shall pay Consultant for the normal and reasonable expenses incurred by the Consultant in the performance of Services prior to receipt of Notice of termination, but OUC shall not be liable for any changes or expenses incurred by the Consultant subsequent to the Notice of termination. No amount shall be allowed for anticipated profit on unperformed Services.

GC-11.0 INFRINGEMENT OF PATENTS, COPYRIGHTS AND TRADE SECRETS.

Consultant warrants that it holds all right, title and interest to, or has sufficient license rights in, any patents, copyrights, trade secrets or other proprietary right necessary to perform the Services and produce the Work Products and any licensing fees or royalties required to allow OUC to utilize the Services and Work Products are included as part of the Contract Price. Consultant further warrants that OUC's use of the Services and Work Products shall not infringe upon the patents, copyright, trade secrets or other intellectual property of third parties. Consultant will, at its own expense, defend or at its option settle any suit or proceeding brought against OUC so far as based on an allegation that any Services or Work Products (or any part thereof), or use thereof for its intended purpose, constitutes an infringement of any patent, copyright, trade secret or other proprietary right of a third party. Consultant will pay the damages and costs awarded in any suit or proceeding so defended. In case

any suit or proceeding so defended is held to constitute infringement or its use by OUC is enjoined, Consultant will, at its option and its own expense, either: (a) procure for OUC the right to continue using said Services or Work Products; (b) replace them with substantially equivalent non-infringing Services or Work Products; or (c) modify them so they become non-infringing.

GC-12.0 OUC PROPRIETARY DATA.

Any documentation and data that is considered exempt from disclosure under Chapter 119, Florida Statutes which OUC furnishes to Consultant and wants Consultant to maintain confidential will be marked as proprietary (hereinafter "Proprietary Data"). OUC documentation and data not so marked need not be considered by Consultant to be proprietary to OUC. OUC hereby grants to Consultant authority to use OUC Proprietary Data only for the purposes of the Contract. Consultant agrees to use any Proprietary Data only as necessary for performance of work under the Contract, and not to sell, transfer, sublicense, disclose, or otherwise make available any of such Proprietary Data to others. Notwithstanding the preceding, this Article and the restrictions on Consultant contained therein shall not apply to any data and documentation:

- 12.1 which is in the public domain at the time it was disclosed by OUC to Consultant or at any time thereafter; or
- 12.2 which was already known to Consultant at the time of disclosure to Consultant by OUC; or
- 12.3 which is independently developed by Consultant; or for which any exemption from disclosure under Chapter 119, Florida Statutes, is by statute or court order deemed inapplicable; or
- 12.4 which becomes known to Consultant from a source other than OUC without breach of Contract by Consultant.

GC-13.0 LICENSES AND PERMITS.

Consultant shall be responsible for obtaining and maintaining any licenses, permits, and/or other authorizations of any kind required for the performance of the Services. Consultant shall pay all costs of such licenses, permits and authorizations and all costs and expenses incurred in obtaining and maintaining them.

GC-14.0 COMPLIANCE WITH LAWS.

The Services and Work Products shall comply with all federal, state and local laws, and rules and regulations that are applicable to the Services. The Contract Price is based on Consultant's compliance with these laws, rules and regulations.

GC-15.0 CODES AND STANDARDS.

The Services and Work Products shall comply with all applicable, codes and standards of federal, state or local authorities, or any subdivision thereof. The Services and Work Products will also comply with applicable industry codes.

GC-16.0 INDEPENDENT CONTRACTOR.

The relation of the Consultant to the OUC shall be that of an independent contractor.

GC-17.0 CLAIMS FOR LABOR AND MATERIALS.

The Consultant shall indemnify and save harmless OUC from all claims by third parties for Services and materials furnished under the Contract. When requested by OUC, the Consultant shall submit satisfactory evidence that all persons, firms, or corporations who have performed Services or furnished Services and materials under the Contract, for which OUC may become liable for payment under the laws of the state, have been fully paid or satisfactorily secured. In case such evidence is not furnished or is not satisfactory, an amount will be retained from money due the Consultant which in addition to any other sums that may be retained will be sufficient, in the opinion of OUC to meet all claims of such persons, firms, and corporations. Such sum shall be retained until satisfactory evidence that all such persons, firms, or corporations who have done Services or furnished materials under the Contract have been fully paid or satisfactorily secured.

GC-18.0 RELEASE OF LIABILITY.

The acceptance by the Consultant of the last payment from OUC under the Contract shall be a release to OUC and every officer and agent thereof, from all claims and liability hereunder for anything done or furnished for, or relating to the Services, or for any act or neglect of OUC or of any person relating to or affecting the Services.

GC-19.0 HAZARDOUS MATERIALS.

19.1 Hazardous Materials of Consultant.

19.1.1 Handling of Hazardous Materials. Any Hazardous Materials used by Consultant in the performance of the Services shall be packaged, shipped, handled, labeled and disposed of by Consultant in a manner that complies with all federal, state and local laws or regulations applicable to Hazardous Materials. No Hazardous Materials shall be stored by Consultant at the Facility before, during or after the performance of Services hereunder.

19.1.2 Responsibility for Hazardous Disposal. Consultant shall, at its expense, remove, transport and dispose of all Hazardous Materials (i) brought by Consultant to the Facility or (ii) created

during Consultant's use or handling or combination of Non-Hazardous Materials brought by Consultant to the Facility during the performance of Services.

19.2 Hazardous Materials Discovered at Facility.

If Consultant encounters at the Facility any matter which it reasonably believes is a Hazardous Substance, Consultant shall immediately suspend the Services in the Facility area affected and immediately report the condition to OUC.

GC-20.0 MISCELLANEOUS.

20.1 Waivers.

The failure of either Party to enforce at any time any of the provisions of the Contract or to require at any time performance by the other Party of any of such provisions, shall in no way be construed to be a waiver of such provision, nor in any way to affect the validity of the Contract, or any parts thereof, or the right of either Party thereafter to enforce each and every provision.

20.2 No Third-Party Beneficiaries.

The provisions of the Contract are only for the benefit of the Parties hereto and not for any other legal entity or person.

20.3 Severability.

Should any of the provisions of the Contract, or parts thereof, be held invalid, such provisions, or parts thereof, shall be considered severable and such invalidity shall not affect the remainder of the Contract.

20.4 Survival.

GC-7.0, 8.0, 11.0, 12.0, 17.0, 18.0, 19.0, 23 and Articles 5.2, 6.8, 20.4 and 20.10 shall apply notwithstanding any other provision of the Contract and shall survive termination, cancellation or expiration of the Contract.

20.5 Assignment.

The Contract may not be assigned by Consultant without the prior written consent of OUC. Any purported assignment without such prior written consent shall be null and void.

20.6 Headings.

The headings used in the Contract and these general term and conditions are not to be construed as modifying, limiting or expanding in any way the scope or extent of the articles of the Contract or these general term and conditions.

20.7 Notices.

All Notices shall be in writing signed by a duly authorized representative of the Party giving such Notice and shall be transmitted in person, by registered mail, certified mail, express courier, telegram, telefax, telex or cable to the other Party at the designated address set forth in the Contract.

20.8 Binding Effect.

All of the provisions of the Contract shall be binding upon and inure to the benefit of and be enforceable by the legal representatives, successors and assignees of OUC and Consultant.

20.9 Time is of the Essence.

Time is hereby declared of the essence in the performance of each and every provision of the Contract.

20.10 Records and Audits.

To the extent that fees paid to Consultant under the Contract consist in whole or in part of cost reimbursement items paid by OUC, Consultant shall maintain accurate and complete records specifically relating to the Services provided under this Contract in accordance with generally accepted accounting principles and practices; including without limitation charges, disbursements, or expenses made or incurred by Consultant in the performance of Services. OUC shall have the right, upon reasonable Notice, to audit at any time up to three years after payment of its final invoice under the Contract, the direct costs, expenses and disbursements made or incurred in connection with the Services as well as for the validity of the representations made and in the compensation provisions of the Contract. OUC may audit Consultants books and records relating to these items. Should Contractor have Service Organization Control (SOC) audits, Contractor shall provide, upon OUC request, a copy of their SSAE-16 SOC1 or SOC2 audit reports.

20.11 Publicity.

Consultant shall not use OUC's name, data or logo or disseminate any information regarding the Services in any form of publicity or news release without the express consent of OUC.

20.12 Gratuity/Conflict of Interest.

OUC prohibits its employees from using their official position for personal financial gain, or from accepting any personal advantage from anyone under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their official duties. Consultant, its employees and agents shall not, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties, extend any gratuity or special favor to employees of OUC. Further, Consultant shall not make or receive any gifts, payments, favors, entertainment, secret commissions, or hidden gratuities for the purpose of securing preferential treatment or action from or to any party.

20.13 Governing Law; Contract Interpretation.

The validity, construction, and performance of the Contract, shall be governed exclusively by the laws of the State of Florida. Venue shall be any court of competent jurisdiction located in Orange County, Florida. The Parties agree that in no event shall the Uniform Law on the Formation of Contracts for the Sale of Goods, based upon the United Nations Convention on Contracts for the International Sale of Goods (CISG) be applicable to this Contract. If the Consultant's Services will gather or utilize OUC data that is subject to the European Union's General Data Protection Regulation ("GDPR"), Consultant shall comply with the requirements of the GDPR and shall indemnify and hold OUC harmless from any such usage.

20.14 These General Terms and Conditions and the Contract for which they are being provided (including attachments thereto) constitute the entire agreement between OUC and the Consultant.

GC-21.0 FORCE MAJEURE.

21.1 Consultant Force Majeure Delay.

Consultant will not be liable for failure to perform any obligation or delay in performance of Services resulting from any cause beyond the reasonable control of Consultant, or from any act of God; act of civil or military authority; act of war whether declared or undeclared; act (including delay, failure to act, or priority) of any governmental authority (federal, state or local); civil disturbance; insurrection or riot; sabotage; fire; inclement weather conditions; earthquake; or flood. Notwithstanding the above, Consultant shall not be excused from performance of any Services under this GC-21.0 for any cause resulting from the negligence of Consultant or failure to properly assess the

availability of laborers, skilled trades or other workers or the timing of its Services.

21.2 Extension of Work Schedule.

In the event of a delay or interruption in performance of work excusable under this GC-21.0, the time of performance of such Work by Consultant will be extended by a period of time the Parties agree is reasonably necessary to overcome the effects of the delay. An extension of time shall be the sole and exclusive remedy for any damages due to delay, including but not limited to loss of profits, loss of use, equipment rental or overhead expenses.

21.3 OUC Termination for Excessive Delay.

If due to the conditions specified above Article 21.1 the Consultant's Work is delayed for a period of more than ninety (90) Days, OUC may terminate the Contract and shall have no further liability to consultant except for payment for Work completed in accordance with the Contract up to the termination date.

GC-22.0 DISPUTE PROCESS.

The procedures specified herein shall be the sole and exclusive procedures for the resolution of general and billing disputes between the parties arising out of or relating to this Contract. The Parties will participate in good faith in the procedures specified herein.

22.1 General:

- 22.1.1 The procedures specified herein shall be the sole and exclusive procedures for the resolution of disputes between the Parties arising out of or relating to this Contract. The Parties will participate in good faith in the procedures specified in this Section.
- 22.1.2 All applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified in this Section are pending. The Parties will take such action, if any, required to effectuate such tolling.
- 22.1.3 In the event of any dispute under this Contract which cannot be readily resolved, it shall be referred to the appropriate executives of the respective Parties to this Contract for negotiation and resolution as described below.
- 22.1.4 If the dispute has not been resolved by negotiation or mediation as provided herein within sixty (60) Days of the initiation of such mediation procedure, either Party may initiate litigation upon ten (10) Days' written notice to the other Party; provided, however, that if one Party has requested the

other to participate in a nonbinding procedure, as provided for under this Section, and the other has failed to participate, the requesting Party may initiate litigation before expiration of the above period.

22.2 Disputes:

- 22.2.1 Disputes, as defined herein and under the Contract, include disagreements, claims, counterclaims, matters in question, and differences of opinion between OUC and Consultant, regarding the Work and modifications or changes to the Work. Disputes may involve interpretation of Contract Documents, acceptability of the Work, costs and/or time for performance.
- 22.2.2 Disputes may also involve other subjects mutually agreed by OUC and Consultant to be of concern to the Board.

22.3 Payment Disputes:

- 22.3.1 If a dispute arises between the Consultant and OUC, the dispute shall be submitted to an appropriate panel assembled by the Manager of Purchasing no later than forty-five (45) Days after receipt of the disputed payment. OUC shall render a final decision on the disputed payment within sixty (60) Days after receipt of the invoice.
- 22.3.2 If the dispute is decided in favor of OUC, interest shall begin to accrue fifteen (15) Days after the decision is announced.
- 22.3.3 If the dispute is decided in favor of Consultant, interest shall accrue as of the original date the payment became due.
- 22.3.4 The panel's final decision can be taken as a contract dispute through the process outlined below.

22.4 Step Negotiations:

- 22.4.1 Either Party may give the other Party written notice of any dispute not resolved in the normal course of business. Executives of both Parties at levels one step above the project personnel who have not previously been involved in the dispute shall meet at a mutually acceptable time and place within ten (10) Days after delivery of such notice and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the dispute. If the matter has not been resolved by these persons within thirty (30) Days of the disputing party's notice, or if the parties fail to meet within ten (10) Days, the dispute shall be referred to senior executives of both parties who have authority to settle the dispute and who shall likewise meet to

attempt to resolve the dispute. If the matter has not been resolved within thirty (30) Days from the referral of the dispute to senior executives, or if no meeting of senior executives has taken place within fifteen (15) Days after such referral, either Party may initiate mediation as provided hereinafter.

22.4.2 All negotiations pursuant to this Section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

22.5 Mediation:

22.5.1 If the dispute has not been resolved by negotiation as provided herein, the Parties shall endeavor to settle the dispute by mediation. Either Party may initiate a mediation proceeding by a request in writing to the other Party, Thereupon; both Parties will be obligated to engage in mediation. The proceeding will be conducted in accordance with the then current International Institute for Conflict Prevention & Resolution, Inc. ("CPR") Model Procedure for Mediation of Business Dispute

or other mutually agreed upon procedures, with the following exceptions:

22.5.1.1 If the Parties have not agreed within thirty (30) Days of the request for mediation on the selection of a mediator willing to serve, the CPR, upon the request of either Party, shall appoint a member of the CPR Panel of Neutrals as the mediator; and

22.5.1.2 Efforts to reach a settlement will continue until the conclusion of the proceeding, which is deemed to occur when: a) a written settlement is reached, or b) the mediator concludes and informs the Parties in writing that further efforts would not be useful, or c) the Parties agree in writing that an impasse has been reached. Neither Party may withdraw before the conclusion of the proceeding.

22.5.2 The Parties regard the aforesaid obligation to mediate as an essential provision of this Contract and one that is legally binding on them. In case of a violation of such obligation by either Party, the other may bring an action to seek enforcement of such obligation in any court of law having jurisdiction thereof.

22.6 Litigation:

22.6.1 If the dispute has not been resolved by negotiation or mediation as provided herein within sixty (60) Days of the initiation of such mediation procedure, either Party may initiate litigation

upon ten (10) Days' written notice to the other Party; provided, however, that if one Party has requested the other to participate in a nonbinding procedure, as provided for under this Section, and the other has failed to participate, the requesting Party may initiate litigation before expiration of the above period.

22.6.1.1 All applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified in this Section are pending. The Parties will take such action, if any, required to effectuate such tolling.

22.6.1.2 Claims, counterclaim, disputes, and other matters in question between OUC and Consultant that are not resolved will be decided in the Ninth Judicial Circuit, in and for Orange County, Florida, which shall have exclusive jurisdiction and venue over all matters in question between OUC and Consultant.

23.0 PUBLIC RECORDS NOTICE.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUPPLIER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS AND MAILING ADDRESS PROVIDE BELOW.

Consultant acknowledges that OUC is subject to Chapter 119, Florida Statutes ("Public Records Law") and that any record (regardless of form or format) created to memorialize OUC business or used to make OUC business decisions is considered a public record, unless exempted or deemed confidential by law or the Florida Constitution ("OUC Business Records"). Any OUC Business Records provided to or generated by Consultant coincident with performing Services under this Contract must be kept and maintained in accordance with the Public Records Law. Any such OUC Business Records held by Consultant must also be made available to the Public for inspection or copying, within a reasonable time if requested under the Public Records Law. Further, upon request of OUC's records custodian, Consultant shall provide OUC a copy of the requested OUC Business Records or allow such records to be inspected or copied, within a reasonable time, at a cost that does not exceed the rate provided by the Public Records Law.

Consultant shall ensure that OUC Business 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 Consultant does not transfer the records to OUC. Upon completion of the Contract, Consultant may transfer, at no cost to OUC, all OUC Business Records in possession of Consultant or keep and maintain OUC Business Records required by OUC to perform the services or work.

If the Consultant receives a public records request for any OUC Business Records, Consultant shall notify OUC's Records Custodian in writing by email or US Mail at the following email address and provide OUC a copy of the request:

Custodian of Records
c/o Orlando Utilities Commission
100 West Anderson Street
Orlando, FL 32801
Email: recordscustodian@ouc.com
Telephone (407) 434-2727

Consultant shall provide any OUC Business Records responsive to the public records request to OUC along with the above notice. Consultant shall respond to the requestor within on working Day from the date of receiving the public records request that all requests for such information shall be provided to the OUC Records Custodian at the above address and e-mail. Consultant shall keep all OUC Business Records stored in separate files (both hard copy and electronic) to minimize the chances of exposing Consultant files to a public records dispute.

Consultant shall routinely demonstrate that any electronic OUC public records can be transferred to OUC in a format that is compatible with OUC and industry standards (e.g. ASCII Text, Adobe PDF, EDIF, CSV, etc.). Encryption of files and data must be accompanied with the appropriate mechanisms to transfer the data successfully (e.g. passwords, cipher, PGP and SSL keys). Upon request from a member of the public, from OUC, or at the termination of services, Supplier shall provide any or all records in the OUC supported format.

If the Supplier transfers all OUC Business Records to OUC upon completion of the contract, Supplier shall destroy and duplicate OUC Business Records that are exempt or confidential and exempt from public records disclosure requirements. If the Supplier keeps and maintains OUC Business Records upon completion of the Contract, the supplier shall meet all applicable requirements for maintaining public records public records.