

**STATE OF GEORGIA,  
COUNTY OF SPALDING.**

**CONTRACT  
Between  
ANDERSON ENVIRONMENTAL, INC.  
and the  
CITY OF GRIFFIN, GEORGIA**

THIS AGREEMENT FOR SERVICES (hereinafter the "Contract" or "Agreement") made and entered into as of the \_\_\_\_ day of January, 2017, by and between **ANDERSON ENVIRONMENTAL, INC.**, (hereinafter "Anderson"), a corporation formed under the laws of the State of Georgia, and the **CITY OF GRIFFIN** (hereinafter "City"), a Georgia municipal corporation, (both of which are collectively referred to as the "Parties") provides as follows:

**RECITALS**

**WHEREAS**, Anderson conducts asbestos testing and assessment in homes, commercial, and industrial properties and

**WHEREAS**, Anderson has responded to the request for proposals and represented to the City that it has the requisite skill, expertise, staff, and resources to complete the services specified therein in a timely manner and to the reasonable satisfaction of the City; and

**WHEREAS**, the City wishes to engage Anderson for the purpose of conducting asbestos testing and remediation for the City; and

**WHEREAS**, Anderson and the City desire to contract for the consummation of the work set out herein;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **PRELIMINARY REPRESENTATIONS, WARRANTIES AND COVENANTS.** The Parties warrant each to the other that the performance of their respective obligations under this Agreement have been duly authorized by all necessary approvals and authorizations, acknowledge and agree that each has received sufficient, good, and valuable consideration for entering into this Agreement and the undertakings contemplated hereby, and agree to fully perform and discharge the respective obligations and conditions imposed on them by this Agreement, all in a diligent and timely manner.
2. **SCOPE OF WORK.** The Parties agree that Anderson shall provide the professional services outlined in the scope of work as follows:

1. Field inspection and testing to identify and collect samples of suspected asbestos materials at a cost of \$25.00 per structure, as more particularly described in the Request for Proposal, RFP 17-004 (hereinafter "Bid Documents"), which is incorporated herein by reference;
  2. Lab analysis by skilled technicians fully trained with the testing equipment and procedures required for the necessary tests at a cost of \$200.00 per structure, as more particularly described in the Bid Documents;
  3. An AHERA style report submitted to the City's project manager for each building surveyed at a cost of \$25.00 per structure, as more particularly described in the Bid Documents;
  4. Anderson must provide responsive service within two (2) business days from the issuance of the related work order. Responsive service means acknowledgement of work order via email or phone call to confirm date and time of services;
  5. Anderson agrees, within ten (10) calendar days after notification by the City, to commence the contract work in the field, at such points as the City may designate, and to continue diligently in its performance; and
  6. Any and all other services as defined in the Bid Documents.
3. **COST AND PAYMENTS.** The lump sum cost of all asbestos inspection services defined in Section 2 is \$250.00 per structure. The cost is inclusive of taxes, labor, supervision, disposal, materials, equipment tools, transportation, lab cost, and written reports. In consideration of the complete, proper, and timely performance of specified contract work, the City shall, subject to the conditions herein, pay to Anderson the applicable amounts as stated in this Section and Section 2. Payments shall be made once every month within thirty (30) days after Anderson has billed for work done for the previous month, unless Anderson is in default. By the 5<sup>th</sup> day of each month, Anderson shall submit to the City a written request for payment showing the value of the work performed and completed to date to the extent approved by the City. The number of houses inspected during the month as established by the Parties times \$250.00 shall constitute the basis for computation of the payment to Anderson.
4. **TERM.** The term of this Agreement shall commence on the date hereof and shall expire December 31, 2017, unless sooner terminated by a Party "for cause" as hereinafter defined, or by voluntary termination of this Agreement for any reason pursuant to the mutual agreement of the Parties evidenced in writing, whichever shall occur first. For all purposes hereof, "for cause" shall mean the failure of a Party to perform any material obligation under this Agreement, after giving effect to the thirty (30) day cure period set forth in Section 5, the commission of an act of fraud, bad faith, or other illegal conduct relating to this Agreement or the scope of work, or the failure of the Parties to resolve a conflict or a potential conflict as set forth in Section 6. The City considers late delivery of contract items as reasonable cause to terminate the contract.
5. **TERMINATION.** If this Agreement is terminated in a means described in Section 4, Anderson will have the right to payment for all work completed to the reasonable satisfaction of the Parties.
6. **DEFAULT.** If Anderson fails to perform any of the services hereunder in a timely manner, or if Anderson breaches any of the terms, conditions or provisions of this Agreement, and if such

failure continues for a period of thirty (30) days after Anderson's receipt of written notice specifying the default in reasonable detail, then the City shall have the right to terminate this Agreement. If the City fails to perform any of its obligations hereunder or if it breaches any of the terms, conditions or provisions of this Agreement, and if such failure continues for a period of thirty (30) days after the City's receipt of written notice specifying the default in reasonable detail, then Anderson shall have the right to terminate this Agreement. In addition to the right to terminate this Agreement as hereinabove provided, the Parties shall, in addition, have any right or remedy available at law or in equity.

7. **CONFLICTS.** The Parties recognize that given the business of Anderson and the City and the scope of services that each Party engages in, there may be other opportunities, clients, or potential clients available to, represented by, or potentially represented by a Party. The Parties agree that the intent is to avoid any direct conflicts and limit any potential conflicts, and, in that regard, the Parties shall fully disclose and on an ongoing basis disclose to each other any of their existing projects, potential projects, clients, or potential clients, or any related issues which may arise to the extent such could reasonably be expected to have an impact on this Contract. Upon being advised of any conflict or potential conflict, each Party agrees to work in good faith with the other Party to resolve the conflict, if possible.
8. **INTELLECTUAL PROPERTY AND CONFIDENTIALITY.** Certain documents, reports, systems, processes, software, or other materials prepared or used by Anderson or its affiliates, are proprietary to Anderson, provided the same is marked "Intellectual Property" or "Confidential Information", and otherwise complies with the non-disclosure requirements of Georgia law in connection with this Agreement. Such property shall remain the sole property of Anderson and not the City. The Parties acknowledge that the City is an "agency", as defined by the Georgia Open Records Law, O.C.G.A. §50-18-1, *et seq.*, and from time to time receives requests to make public records available for inspection and copying. To the extent such records may have been classified as "Confidential" or "Proprietary" by Anderson, but not exempted from disclosure under said law, such records shall be deemed subject to disclosure without notice or warning to Anderson or its affiliates.
9. **PUBLIC RECORDS AND ACCESS TO DOCUMENTS.** Subject to the foregoing paragraph, the final deliverables and support information that Anderson delivers to the City in connection with the scope of work provided in this Agreement are a matter of public record subject to public access under the Georgia Open Records Act. Anderson acknowledges that the Georgia Open Records Act is extremely broad and that the Information supplied by Anderson is likely to fall within the definition of a "public record". By disclosing the information pursuant to an Open Records request, the Parties have no control over any use of the information requested by third parties under the Georgia Open Records Act.
10. **NOTICES.** All notices required herein shall be given in writing by email and sent by certified mail, return receipt requested, or by statutory overnight delivery and addressed as follows:

To Anderson: Anderson Environmental, Inc.  
Attn: Arthur Anderson, CEO  
Post Office Box 1264  
Hampton, Georgia 30228

Email: [andersopnenv4@aol.com](mailto:andersopnenv4@aol.com)  
Phone: (770) 707-1255

To City: City of Griffin  
c/o Kenny Smith  
Post Office Box T  
Griffin, Georgia 30224  
Email: [ksmith@cityofgriffin.com](mailto:ksmith@cityofgriffin.com)  
Phone: (770) 229-6408

Copy to: The Whalen Law Firm  
Andrew J. Whalen, III  
100 South Hill Street, Suite 524  
Griffin, Georgia 30223  
Email: [ajwhalen3@whalenlaw.net](mailto:ajwhalen3@whalenlaw.net)  
Phone: (770) 227-9456

Any notice shall be deemed received upon the date of receipt shown on the return receipt card, if sent by certified mail, or two (2) business days after deposit with an overnight courier service. Any general correspondence not intended to have a binding legal effect on the other Party may be sent by first class mail or by electronic mail as shown above. Any Party may change its address for the giving of notice by providing to the other Parties a written notice of such change at least ten (10) days prior to the effective date of such change.

11. **INSURANCE.** Prior to commencing work, Anderson shall procure and maintain at its own cost and expense for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work or services hereunder by Anderson, its agents, representatives, employees, or subcontractors. In addition to the stipulations provided in the Bid Documents, which is incorporated herein by reference, Anderson shall maintain insurance as follows:

- a. Commercial General Liability Insurance. \$1,000,000.00 limit per person, \$2,000,000.00 per occurrence for property damage and bodily injury with the City named as additional insured. The insurance shall include coverage for premise/operations; explosion, collapse, and underground property damage hazard; products/completed operations; contractual; independent suppliers; broad form property damage; and personal injury.
- b. Automobile Insurance. \$1,000,000.00 limit per person or \$2,000,000.00 combined single limit for property damage and personal injury on owned/leased automobiles, non-owned automobiles, and hired automobiles.
- c. Workers' Compensation and Employers' Insurance. Anderson shall supply the City with proof of compliance with the Workers' Compensation Act by way of a Certificate of Insurance with benefits and monetary limits as set forth in Title 34, Chapter 9 of the Official Code of Georgia Annotated.

- d. Professional Liability Insurance. \$2,000,000.00 or as per project (ultimate loss value per occurrence).

## 12. MISCELLANEOUS PROVISIONS.

- a. Independent Contractor. Neither this Agreement nor any other agreements instruments, documents, or transactions contemplated hereby or thereby shall in any respect be interpreted, deemed, or construed as making the Parties hereto partners or joint ventures with each other, or as creating or constituting any partnership, joint venture, association, or employer-employee relationship between the Parties, except as expressly provided herein. The Parties agree not to make any contrary assertion, contention, claim, or counterclaim in any action, suit, or other legal proceeding involving the Parties or the subject matter of this Agreement or otherwise. The Parties agree that this Agreement creates an independent contractor relationship and no Party has, or shall be deemed to have, the authority to bind any other Party.
- b. Governing Law. This Agreement and the obligations of the Parties hereunder shall be interpreted, construed, and enforced in accordance with the laws of the State of Georgia, and any action related to this Agreement shall be venued in the Superior Court of Spalding County, Georgia.
- c. Waiver. No express or implied consent to or waiver of any breach or default by a Party in the performance by such Party of its obligations under this Agreement shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such Party of the same or any other obligations of such Party under this Agreement. Failure on the part of any Party to complain of any act or failure to act of any other Party or to declare such other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such performing Party of its rights to enforce performance by the failing Party as to such breaches, defaults, or other events or to future breaches, defaults, or other events under this Agreement.
- d. Entire Agreement; Amendment. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof. This Agreement may not be changed, modified, or amended orally, but only by an instrument in writing signed by the Party against which enforcement of the change, modification, or amendment is sought.
- e. Terminology. All personal pronouns used in this Agreement, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural, and the plural shall include the singular. Titles of Articles, Sections, and Subsections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement, and all references in this Agreement to Articles, Sections, and Subsections shall refer to the corresponding Article, Section, or Subsection of this Agreement, unless specific reference is made to the Articles, Sections, or Subsections of another document or instrument.
- f. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall comprise but a single instrument.

- g. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns. Anderson may assign its rights and obligations hereunder to one or more entities under common ownership and control with Anderson, but only with the prior written consent of the City, which shall not be unreasonably withheld, conditioned, or delayed. The City shall not assign any of its rights or obligations under this Agreement without the prior written consent of Anderson, which consent shall not be unreasonably withheld, conditioned, or delayed. Any attempted assignment without the consent required herein shall be void.
- h. Remedies. The Parties confirm that damages at law may be an inadequate remedy for a breach or threatened breach of this Agreement and agree that, in the event of a breach or threatened breach of any provision hereof, the respective rights and obligations hereunder shall be enforceable by specific performance, injunction, or equitable remedy, but nothing herein contained is entitled to nor shall it limit or affect any right or rights at law or otherwise of any Party to this Agreement aggrieved as against any other Party for breach of threatened breach of any provisions of this Agreement, it being the intention of this Section to make clear the Agreement of the Parties that the respective rights and obligations of all Parties under this Agreement shall be enforceable in equity as well as at law or otherwise.
- i. Georgia Security and Immigration Compliance Act. Pursuant to the Georgia Security and Immigration Compliance Act of 2006, Anderson understands and agrees that compliance with the requirements of O.C.G.A. § 13-10-91 and Georgia Department of Labor Rule 300-10-1-.02 are conditions of this Agreement. Anderson further agrees that such compliance shall be attested by Anderson through execution of the Affidavit required by Georgia Department of Labor Rule 300-10-1-.07, or a substantially similar contractor affidavit. Anderson further understands and agrees that, in the event it employs or contracts with any subcontractor or subcontractors in connection with this Agreement, Anderson shall:
1. Secure from each such subcontractor an indication of the employee number category as identified in O.C.G.A. § 13-10-91 that is applicable to the subcontractor;
  2. Secure from each such subcontractor an attestation of the subcontractor's compliance with O.C.G.A. § 13-10-91 and Georgia Department of Labor Rule 300-10-1-.02 by causing each such subcontractor to execute the subcontractor affidavit required by Georgia Department of Labor Rule 300-10-1-.08, or a substantially similar subcontractor affidavit. Anderson further understands and agrees that it shall require the executed subcontractor affidavit to become a part of the agreement between Anderson and each such subcontractor. The Contractor agrees to maintain records of each subcontractor attestation required hereunder for inspection by the Parties at any time.
- j. Nondiscrimination. Anderson, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Anderson shall not participate either directly or indirectly in discriminatory practices, including employment practices. In all solicitations either by competitive bidding or negotiation made by Anderson for work to be performed under a subcontract, including

procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Anderson of its obligations under this contract and the regulations relative to nondiscrimination on the grounds of race, color, or national origin. Anderson shall provide all information and reports required by the City and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City to be pertinent to ascertain compliance with pertinent laws and regulations. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information Anderson shall so certify to the City, and shall set forth what efforts it has made to obtain the information.

IN WITNESS WHEREOF, the Parties have executed this Agreement under seal as of the date first written above.

**ANDERSON ENVIRONMENTAL, INC.**

By: \_\_\_\_\_  
Arthur Anderson, Chief Executive Officer

**CITY OF GRIFFIN, GEORGIA**

By: \_\_\_\_\_  
Dick Morrow, Chairperson

Attest: \_\_\_\_\_  
Kenny L. Smith, Secretary

Approved as to form:

By:  \_\_\_\_\_  
Andrew J. Whalen, III, City Attorney