

Memorandum of Understanding (MOU)

Multi-Use Path in Utility Right-of-Way

Parties: This Memorandum of Understanding (MOU) is entered into between Gainesville Regional Utilities ("GRU") and the City of Gainesville ("City"), collectively referred to as the "Parties."

Purpose: The purpose of this MOU is to establish agreed upon standards for the construction, use and maintenance of a multi-use path ("MUP") within GRU's utility right-of-way.

GRU is the holder of an easement under the provisions of that certain Easement Grant via Final Judgment dated 05/02/1973, and recorded in Official Records Book 839, Page 904, located within Alachua County Tax Parcel Nos. 15672-002-000 and 15672-002-001; and GRU is the owner of fee simple title under the provisions of that certain Final Judgment dated 06/19/1973, and recorded in Official Records Book 839, Page 901, also identified as Alachua County Tax Parcel No. 16246-003-002; all in the Public Records of Alachua County, Florida covering lands located in the D.L. Clinch Grant and Section 16, Township 10 South, Range 20 East, (the "Property").

Pursuant to the authority contained in the aforementioned documents, GRU has constructed and currently operates and maintains Electric Transmission and Distribution, Natural Gas and Potable Water utility facilities (collectively, the "Facilities").

The City seeks consent for the installation, operation and maintenance of a MUP within and along the aforementioned GRU utility right-of-way located adjacent to SE 11th Street between SE 16th Avenue and the Sweetwater Wetlands parking area, within the Property as depicted on the attached Exhibit "A". This MOU serves as written consent from GRU to the City to install, operate, maintain, use, and enjoy the MUP within the Property. GRU is willing to grant such consent upon the terms and conditions hereafter set forth. The Parties acknowledge that the City, its successors, agents and contractors will all adhere to such terms for as long as the MUP remains in existence.

1. General:

- This MOU is for the specified use outlined above. The City shall not construct, plant, or create additional improvements of any kind within the confines of the Property without the prior express written consent of GRU.
- The City, in the exercise of the rights herein, shall not unreasonably interfere with the right of GRU, or any person having a prior right to use GRU's Property, from their continued and future use.
- No work can be done in GRU's Property unless GRU has reviewed and approved the plans for such work and an agreement in writing has been entered into between GRU and the City.
- Any improvement, or use, consented to by GRU shall not interfere with GRU's operation, maintenance and access of its Facilities, or with the future installation of additional Facilities. Should GRU need to remove any portion of the MUP in order to construct, maintain, operate, repair, remove, replace or resize Facilities, the City shall

- pay the cost of removing and replacing or reinstalling the MUP and GRU shall not be responsible for any cost associated therewith.
- The City shall provide a minimum four (4) days' notice to GRU prior to any installation, construction, excavation or demolition work within the Property.
 - Permanent buildings or above ground structures, including dumpsters, signs, retaining walls or masonry structures, are not permitted on the Property, unless expressly approved in writing beforehand by GRU management from each operating area of the affected utility. (Water, Wastewater, Electric, Gas, etc.).
 - The City will be solely responsible for the removal of abandoned items and trash due to public use of the MUP.
 - GRU reserves the right to close, without notice, all or a portion of the MUP located within the Property, for any length of time, for construction, maintenance or emergency line operations or under any emergency conditions.
 - The City's construction of the MUP is exempt from Section 30-8 of the Land Development Code as it pertains to landscaping and/or stormwater requirements. If the MUP prompts stormwater improvements due to a reduction in permeable land area, the City is solely responsible for the remediation and said remediation should not cause further impacts to the Property.
 - Three feet (3') of vertical clearance must be maintained between all existing GRU owned underground Facilities.
 - Parties acknowledge that the Wild Spaces and Public Places Program will be responsible for the design and construction of the MUP and that the Parks, Recreation and Cultural Affairs Department will be responsible for the maintenance of the MUP.
 - The City agrees to, at no cost to GRU, redesign and/or relocate the MUP if GRU finds, at GRU's sole discretion, that the MUP interferes with any installation, maintenance or repair of Facilities on the Property.

2. Design:

- Prior to commencement of work within the Property, the City shall submit plans to GRU and obtain written approval of the improvements by GRU. Cost for any relocation, modification or other expense incurred by GRU associated with the MUP shall be paid by the City.
- The City agrees that the MUP and all work within the Property shall meet GRU design standards and be constructed in accordance with the Energy Delivery Service Guide, W/WW Design, Construction and Material Standards Guide and the Property Utilization Guide.
- The City shall not alter the grade or permit such alteration anywhere on the Property without the prior express written consent of GRU.
- A level, thirty foot (30') wide access road must be maintained at all times along the length of the Property and to each above ground or electric transmission/distribution structure for GRU routine maintenance and/or emergency repairs. This maintenance road must be clear for vehicle access with no planted shrubs, vegetation, or other obstacles. The City will be responsible for any restoration required to the Property's driveway and/or access road as a result of the City's use of the Property.

- Underground utilities and structures requiring less than a four foot (4') foot depth ditch are required to maintain a fifteen foot (15') horizontal clearance from GRU structures, ten feet (10') from existing water mains, wastewater force mains, reclaimed water mains, underground electric, natural gas and telecommunications utility facilities, and fifteen feet (15') from existing gravity mains. The greater the depth and pipe diameter of GRU's existing Facilities the further the horizontal distance required. Exceptions may be granted on a case by case basis with prior GRU written approval.
- Access to lift stations shall remain clear during construction and at all other times. No obstructions, whether full or partial, are allowed in front of gates to the lift stations. Additionally, all above-ground appurtenances for all utilities must remain visible and accessible, i.e. gas regulators, meters, valves, etc.
- Changes to ground elevations shall not result in less than the minimum cover as required by GRU's construction and design standards. Changes in ground elevations shall not adversely alter the existing drainage characteristics of the Property. Also, changes to ground elevations shall not impact the transmission line-to-ground clearance required to meet NESC (National Electrical Safety Code) and require a clearance check by GRU. Approved changes to grading in the right-of-way shall be no steeper than 4:1.
- No culverts within ten feet (10') of the base of any transmission structure or support structure will be allowed. Any culvert within fifty feet (50') of the base of the structure shall originate and terminate outside of a fifty foot (50') radius from the pole base. Culvert installations located within the utility right-of-way shall be designed and rated to allow vehicles weighing in excess of 86,000 pounds to safely traverse across and be a minimum of twenty-five feet (25') in width. No culvert shall discharge within the fifty foot (50') radius from the base of any structure.
- Installation of poles and lighting fixtures is customarily not permitted on GRU Property. Exceptions may be granted in writing on a case by case basis.

3. Construction:

- The City shall take all steps necessary to protect the Facilities at all times during the performance of any work associated with the MUP.
- Any excavation is prohibited within thirty feet (30') feet of any single wood pole or guying structure, within fifty feet (50') of any steel or concrete tower or pole, and within ten feet (10') of any other existing or proposed Facility. This clearance is required for emergency repair and/or routine maintenance of these structures. Improvements must not block access to poles, support structures, manholes, valves or other Facilities.
- The City will be responsible for the installation and maintenance of erosion and sediment control facilities as required under any jurisdictional agency regulations including but not limited to the Florida Department of Environmental Protection.
- The City will be responsible for obtaining utility line locations prior to any construction activity on the Property.
- Mounding or stockpiling any material, such as dirt, construction materials or equipment is not allowed on the Property.

- The City will be required to restore the Property to as close to the original condition as possible, by grading, removal of trash, debris and rocks, re-sodding or seeding and mulching in accordance with FDOT standards, within seventy-two (72) hours of the completion of its operations.
- No spill, deposit, emission, leakage or other release of Hazardous Substances on the property or the soil, surface water or groundwater thereof is allowed for the period of construction. The City shall be responsible to promptly and completely clean up any such release caused by the City, its officers and employees, agents, contractors and invitees as shall occur on the Property during construction and shall surrender the Property free of any contamination or other damage caused by such occurrences during construction.
- The City agrees that the Property will not be used to park vehicles or store equipment and/or materials. GRU shall not be liable for any damages to the City employee or contractor vehicles or equipment parked or stored on Property. A separate Temporary Use Permit can be requested for those types of activities, but no assurances can be made that it will be granted.
- The City's operations and activities within the Property beneath or in proximity to any of GRU's electric facilities MUST, at all times, be in strict compliance with applicable provisions of the National Electrical Safety Code (NESC) and the Occupational Safety and Health Act of 1971 (OSHA) and best practices for prevention of static charge accumulation. The City is further notified and hereby agrees to so notify any of the City's employees, agents, contractors, representatives or other person engaging in the City's permitted activities upon said Property with the City's knowledge and the City's supervision or control, that extreme caution is necessary around all GRU's electrical facilities, supporting structures, anchor guys or related appurtenances, and in the event of any damages or injuries, the City shall immediately report the nature and extent thereof to GRU's nearest local office and be responsible for any costs associated with such damages or injuries.
- The City shall supply and install high visibility orange safety construction fencing around the various poles, guy wires, concrete structures, meters, valves, regulators and any other above-ground Facilities located on Property within the construction area.
- Any damages or cuts made to GRU Facilities or Property will be repaired at the City's expense.
- All work shall be performed under the supervision of GRU T&D Department and other departments with Facilities in proximity to the MUP location.
- All materials and equipment shall be subject to inspection by GRU.
- An onsite preconstruction conference will be held prior to starting any work and will be coordinated by a member of the City.
- GRU may inspect any work or utilities as it finds necessary to ensure compliance with this MOU, the approved site plans and/or any applicable law or regulation.

4. Vegetation:

- The City shall not plant any trees, shrubs, bushes or other woody species within the Property and shall be solely responsible for any other landscaping, facilities and appurtenances approved by GRU.
- Vegetation deemed a risk to GRU overhead and underground Facilities or to be in conflict with GRU's operation, maintenance or construction of Facilities shall be removed.
- Any vegetation planted on the Property must not prevent GRU vehicle access for repair, maintenance or construction. Generally, no vegetation other than grasses will be permitted within ten feet (10') of any existing or proposed overhead or underground Facilities.
- The City will be responsible for ensuring that any plantings and/or landscaping materials approved by GRU are kept watered and maintained so that they are healthy and vigorous and that all planting areas and beds are kept free of weeds and undesirable plant growth. The City will also be responsible for the replacement of any landscape materials not maintained as stated above.

Special Conditions (*as applicable*)

- Installation of storm water retention ponds are customarily not permitted on the Property. Installations of storm water pipes, drains, inlets and/or swales which cross the Property may be permitted provided that such improvements do not adversely impact operation, maintenance, repair or future construction of utility Facilities. Approval by all affected GRU departments must be obtained in writing prior to any installation.
- The City understands and agrees that GRU may not have the authority to grant the City permission to construct the MUP within the Property. This MOU merely defines the terms by which GRU may, at its discretion, approve plans for a MUP, and that the City will obtain permission for the MUP from the underlying fee owner of the Property or third parties having an interest in the Owner Premises. The consent granted by this agreement shall not constitute or be construed as a subordination, merger, assignment, conveyance or relinquishment of any of the right, title and interest of GRU under the provisions of the aforementioned Easement Grant.
- The City understands that GRU requires a thirty (30) day notification period for T&D to de-energize and add line covers to overhead electric transmission lines during construction. This is dependent on system demands and there is no guarantee a transmission line can be switched out on a given date. It is recommended that a ninety (90) day minimum notification be given for any transmission line outage request.
- The City understands and agrees that during storm season and during any GRU system emergency, any and all work on or for GRU Facilities will take precedence over work the City desires to perform on the Property. GRU will close the MUP, without notification and for the length of time needed, over any and all sections of the MUP where GRU access is required. This will include entrances to lift stations.

THIS AGREEMENT BECOMES EFFECTIVE ON THE DATE IT IS SIGNED BY BOTH PARTIES. IT REMAINS IN FORCE UNLESS EXPLICITLY TERMINATED IN WRITING AND AGREED TO BY BOTH PARTIES.

AGREED TO AND ACCEPTED on _____, 20__, by the **CITY OF GAINESVILLE**

By: _____

Cynthia W. Curry, City Manager City of Gainesville

AGREED TO AND ACCEPTED on _____, 20__, by **GAINESVILLE REGIONAL UTILITIES**

By: _____

Edward J. Bielarski, Jr., CEO Gainesville Regional Utilities

EXHIBIT "A" Location Map

Project: WSPP – SWEETWATER TRAIL PHASE 2

