

BILL NO. 2109

SPECIAL ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF CUBA, MISSOURI, ON BEHALF OF SAID CITY, TO ENTER INTO A CONTRACT WITH ENVIRONMENTAL WORKS, INC FOR CLOSURE TANK CLEANING AND REGULATORY CLOSURE OF FUEL TANKS AT THE CUBA MUNICIPAL AIRPORT.

WHEREAS, the Board of Aldermen of the City of Cuba, Missouri (City), has determined that it is in the best interests of the City to enter into an agreement with Environmental Works, Inc for closure tank cleaning and regulatory closure of fuel tanks at the Cuba Municipal airport.

BE IT ORDAINED, by the Board of Aldermen of the City of Cuba, Missouri, as follows:

Section 1: The City of Cuba, Missouri, shall enter into an agreement with Environmental Works, Inc for closure tank cleaning and regulatory closure of fuel tanks at the Cuba Municipal airport. A copy of said Agreement is attached hereto as Exhibit "A".

Section 2: The Mayor of the City of Cuba, Missouri, is authorized to execute the Agreement on behalf of the City.

Section 3: This ordinance shall be in full force and effect from and after its passage and approval.

READ TWO TIMES AND PASSED BY THE BOARD OF ALDERMEN OF THE CITY OF CUBA, MISSOURI, THIS ____ DAY OF _____, 2023.

CODY LEATHERS, MAYOR

Attest:

LAINIE GARBO, CITY CLERK

(City Seal)

Approved this _____ day of _____, 2023.

CODY LEATHERS, MAYOR

Attest:

LAINIE GARBO, CITY CLERK

(City Seal)

Approved as to the form.
WILLIAMS, ROBINSON, RIGLER & BUSCHJOST, P.C.

By: _____
Lance B. Thurman, #51214
901 North Pine Street, Fourth Floor
Post Office Box 47
Rolla, Missouri 65402
(573) 341-2266

ATTORNEYS FOR THE CITY OF CUBA, MISSOURI

Alderman	Vote on First Reading On _____, 2023	Vote on Second Reading On _____, 2023
Kevin Copling		
Debbie Martin		
Dave Honea		
Warren Graddy		
Curtis Holt		
Jeff Bouse		



Environmental Works, Inc.

January 31, 2023

Mr. Travis Pritchett
Cuba MO Airport
1312 State Hwy DD
Cuba, Missouri 65453
Via e-mail: cubamoairport@gmail.com

**RE: UST Closure Tank Cleaning and Regulatory Closure
Cuba Municipal Airport UBX (ST0007635)
1312 State Hwy DD, Cuba, Missouri 65453**

Dear Mr. Pritchett:

Thank you for considering Environmental Works (EWI) to assist you and your client with their tank closure needs. We are pleased to offer this proposal for underground storage tank (UST) closure activities at the above referenced site. The project includes closure of one 12,000-gallon steel jet fuel tank. Based on correspondence with you, we understand that the scope of work to be provided by EWI will include the following services:

- UST removal documentation including MoDNR-required soil sampling, photographs, and disposal documentation;
- Venting and cleaning the interior of the USTs to meet MoDNR requirements;
- Disposal of waste tank contents (residual fuel and tank sludge); and,
- Preparation of the UST Closure Report for submittal to the MDNR.

EWI will conduct the UST closure in accordance with the applicable regulatory requirements. Line-item costs for the proposed work listed above are summarized on the fee schedule on the following page. Total estimated costs for the proposed scope of work are approximately \$17,500 to \$20,000. These costs assume 2 days of on-site work for the tank removal and a three-man crew to vent and clean the USTs. These costs also assume 2 or 3 drums of residual tank contents waste will be generated from cleaning the USTs that will require disposal. Costs are **not** provided for management and disposal of petroleum contaminated soil/water. If contaminated media requiring disposal are encountered, you will be notified and costs can be provided at that time based on estimated quantities.

Should you wish to accept this proposal, please sign the acceptance page and return one copy to my attention. Thank you for the opportunity to provide this proposal. Should you have any questions, please do not hesitate to call the undersigned at 417-890-9500.

Sincerely,
ENVIRONMENTAL WORKS, INC.

Matt Markum
Senior Project Manager

LOCATIONS ACROSS THE CENTRAL US

1455 E. Chestnut Expressway, Springfield, MO 65802 | 417-890-9500 | www.environmentalworks.com

SCOPE OF WORK FOR UST REMOVAL

Environmental Works, Inc., (EWI) proposes to provide technical services, equipment and labor necessary to assist with the closure of one steel UST which was installed in 1991. Cost are not provided for any excavation, backfill, or heavy equipment and assume these activities will be provided by the owner. Costs assume EWI will be awarded the project with time to provide the required regulatory notices and work plans, estimated 35-45 days including the required 30-day MDNR notice.

The following activities will be performed to provide closure in accordance with the Missouri Department of Natural Resources (MDNR) Missouri Risk-based Corrective Action (MRBCA) guidance document and the American Petroleum Institute (API) 1604:

- The MDNR will be notified 30 days prior to the start of closure activities.
- The tank will be devaporized using a pneumatic blower.
- Any residual sludge or product remaining in the tanks will be pumped out by EWI, containerized and disposed.
- The tank will be decommissioned and cleaned on-site.
- Soil samples will be collected as outlined in the MRBCA Guidance Document. EWI anticipates 6 soil samples will be collected (3 from the UST excavation, 1 from along product piping, 1 from the dispenser location and 1 stockpile sample).
- Soil sampling & analyses to include BTEXN, TPH-DRO, and TPH-ORO. In addition, up to 2 samples will be analyzed for PAHs if DRO/ORO is detected.
- Photographic documentation of excavation activities will be collected as required by MDNR.
- A closure report will be prepared and submitted to the MDNR.

Industry standards will be followed during on-site activities including American Petroleum Institute Recommended Practice 1604, Occupational Safety and Health Act (OSHA) Standards, National Fire Protection Association requirements, Federal Environmental Protection Agency (EPA) regulations, and MDNR requirements. Workers will be OSHA trained per 29 CFR 1910.120.

Clarifications & Assumptions

1. Costs are valid for 90 days from the date of proposal.
2. EWI will be awarded the project with time to provide MoDNR the required 30-day notice prior to closure activities.
3. EWI will have uninterrupted access to the site during normal working hours.
4. Costs are **not** included for management or disposal of contaminated soil or water. Should this project be awarded to EWI costs can be provided and submitted to PSTIF for preapproval upon request.
5. Costs assume all soil samples can be collected from open excavations without additional equipment and costs are **not** provide for geoprobe sample collection.
6. EWI is not responsible for site security or site safety plans.
7. EWI must be provided with documentation of proper tank disposal documentation, a notarized deed notice documenting the in-place closure and photographs of the site prior to and after site work is completed if EWI is not present on-site at these phases of the project.
8. Industry standards will be followed during on-site activities including American Petroleum Institute Recommended Practice 1604, Occupational Safety and Health Act (OSHA) Standards, National Fire Protection Association requirements, Federal EPA regulations, and Missouri Department of Natural Resources requirements. Workers will be OSHA trained per 29 CFR 1910.120.

FEE-SCHEDULE - UST CLOSURE

I. Tank Closure Items:

Regulatory Notifications & Coordination:	\$ 950
Tank Removal Documentation (\$1,750/day; estimated 2 days):	\$ 3,500
Tank Venting & Cleaning:	<u>\$ 5,500</u>
Sub Total:	\$ 9,950

II. Sampling & Reporting:

Soil Sample Collection & Laboratory Analysis:	\$ 4,000
Closure Report Preparation & Submittal:	<u>\$ 2,800</u>
Sub Total:	\$ 6,800

III. Tank Contents Disposal:

Waste transportation and disposal (liquids), per drum:	\$ 600
Waste transportation and disposal (sludge/solids), per drum:	\$ 850
State hazardous waste disposal permitting and reporting:	\$ 975

Costs associated with soil or water management and disposal are not included in the provided costs.


Environmental Services Agreement

Project: UST Closure

Location: Cuba Municipal Airport UBX (ST0007635)
1312 State Hwy DD, Cuba, Missouri 65453

Client: Mr. Travis Pritchett
Cuba MO Airport

Cost:	Tank Closure Notifications, Documentation & Cleaning:	\$9,950
	Closure Sampling & Reporting:	\$6,800
	Waste transportation and disposal (liquids), per drum:	\$ 600
	Waste transportation and disposal (sludge/solids), per drum:	\$ 850
	State hazardous waste disposal permitting and reporting:	\$ 975
	Costs for contaminated soil/water management or disposal not included.	

<p style="text-align: center;">Offered By:</p> <div style="text-align: center;"> Senior Project Manager</div> <p>ENVIRONMENTAL WORKS, INC.</p> <p>Date: 1-31-2023</p>	<p style="text-align: center;">Accepted By Client:</p> <p>Name: _____</p> <p>Title: _____</p> <p>Organization: _____</p> <p>Date: _____</p>
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Work under this contract will be performed in accordance with the terms and conditions for environmental services. Payment terms are due upon receipt of invoices. Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. Time and expenses incurred including legal fees in connection with collection of any delinquent amount will be paid by Client. A 1 ½% per month service charge (18% per annum) will be added to all accounts over 30 days past due.

Collection Charges: As a part of the consideration hereof, the customer agrees to pay all costs of collection, including but not limited to all court costs and reasonable attorney's fees, if this account is placed for collection.

NOTICE TO OWNER: FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANICS LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429 RSMo. TO AVOID THIS RESULT YOU MAY ASK THIS CONTRACTOR FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIAL OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.

TERMS AND CONDITIONS FOR ENVIRONMENTAL SERVICES AGREEMENT

These terms and conditions are a part of and are incorporated into the Environmental Services Agreement dated January 31, 2023, between Environmental Works, Inc., ("EWI") and Cuba MO Airport (CLIENT").

1. PAYMENT TERMS: EWI will submit invoices to CLIENT monthly and/or upon completion of services rendered. Payment is due upon receipt, regardless of whether CLIENT has been, or is to be, reimbursed by any other party. CLIENT shall notify EWI in writing of any disputed amount within fifteen (15) days after date of invoice; otherwise all invoice charges are agreed to be acceptable. CLIENT agrees to pay a service charge of one and one half percent (1.5 %) per month on accounts thirty (30) days past due. Any collection costs will be assessed to CLIENT, which CLIENT agrees to pay, including but not limited to court costs and reasonable attorney's fees.

2. INSURANCE: EWI maintains Worker's Compensation Insurance, General Liability Insurance, and Professional Liability Insurance in conformance with all applicable state law. Certificates of insurance evidencing such coverage will be provided, if requested. In the event CLIENT requests EWI to name CLIENT as an additional insured on EWI's General Liability or other insurance policies, CLIENT agrees to pay any increased premium charged to EWI for such endorsement.

3. STANDARD OF CARE AND WARRANTIES: The Services will be performed for the benefit of CLIENT. The Services conducted by EWI will be performed in a reasonable and prudent manner in accordance with generally accepted industry standards in effect at the time and place of the Work.

EWI makes no representations or warranties to CLIENT concerning the accuracy of estimated quantities of materials or Wastes or costs made in connection with the Work, or concerning soil or underground conditions at the Site. CLIENT acknowledges these shall be estimates only which are subject to revision as the Work proceeds and conditions on Site are encountered, and that such revisions may affect the cost of the Work and EWI's fee hereunder.

EXCEPT AS SET FORTH HEREIN, EWI MAKES NO OTHER REPRESENTATION, GUARANTEE, OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, WHETHER OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR OTHERWISE, CONCERNING ANY OF THE SERVICES OR DOCUMENTS WHICH MAY BE FURNISHED BY EWI TO CLIENT.

4. LIMITATION ON THE SCOPE OF SERVICES: CLIENT acknowledges that EWI has not arranged for or participated in generating, treating, storing, or disposing of hazardous or toxic substances, pollutants and contaminants or other waste materials ("Waste Materials") which may be present at the Site of EWI's work. Any waste Materials generated by or connected with EWI's Services shall at no time become the property of EWI. Nothing herein shall require EWI to assume the status of a generator, transporter or a storage, treatment or disposal facility as those terms are defined by the Resource Conservation and Recovery Act, or any federal, state or local statute or regulation governing the generation, treatment, storage or disposal of hazardous waste or solid waste. If EWI's Services include the transportation of Waste Materials from the Site, EWI may evaluate and recommend possible disposal sites for CLIENT's use. CLIENT acknowledges that EWI does not accept ownership, title, or responsibility for CLIENT's waste or responsibility for the disposal of any Waste Materials. CLIENT agrees that it shall evaluate and "select" the transporter and the site for treatment or disposal of its Waste Materials and shall be solely responsible therefor. Arrangements made by EWI for treatment, storage, transport or disposal of any Waste Materials shall be construed as being made solely for CLIENT's benefit and CLIENT shall indemnify, defend and hold harmless EWI against all claims, damages, losses, liability, civil penalties, fines and expenses, including but not limited to attorney's fees, which arise therefrom.

5. LIMITATION OF EWI'S LIABILITY TO CLIENT: Except for circumstances caused by the willful misconduct of EWI, all claims for damages asserted against EWI by CLIENT, including claims asserted against EWI's directors, officers, shareholder, employees and agents, are limited to the lesser of (I) \$25,000; or (II) the total sum to be paid to EWI under this Contract. EWI is not responsible for any special, incidental, indirect, or consequential damages (including loss of profits or business interruption) incurred by CLIENT as a result of EWI's performance or nonperformance of Services. Any claim shall be deemed waived unless made by CLIENT in writing and received by EWI within one (1) year after completion of the Services.

6. CLIENT'S INDEMNIFICATION: CLIENT shall indemnify and hold harmless EWI, and its shareholder, directors, officers, employees and agents against all losses, damages, claims or causes of action, and all costs incidental thereto (including but not limited to costs of defense, settlement and attorney's fees) which any or all of them may incur, resulting from bodily injuries (or death) to any person, damage (including loss of use) to any property, or contamination of or adverse effects on the environment, arising out of or which are in any way caused or contributed to be caused by (I) any release or threatened release of Waste Materials, or any other activity relating to the Waste Materials, (II) the negligent acts or omissions of CLIENT, CLIENT's employees, agents and subcontractors, or (III) CLIENT's breach of this Agreement.

7. NOTICE TO OWNER: FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANICS LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO CHAPTER 429 RSMo. TO AVOID THIS RESULT YOU MAY ASK THIS CONTRACTOR FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIAL OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.

8. RIGHT-OF-ENTRY: CLIENT will furnish right-of-entry onto the property for EWI, its employees, agents, and subcontractors to perform the Services called for under this Agreement and CLIENT represents that it has obtained the needed permits and licenses for the work, subject to Paragraph 13 of this Agreement. If CLIENT does not own the Site, CLIENT warrants that it has the permission of the owner of the Site to grant this right of entry to EWI, and CLIENT shall defend, indemnify and hold EWI harmless from any and all liabilities arising from or incurred by EWI from any breach of such warranty.

9. CONDITION OF PROPERTY: EWI will take reasonable precautions to minimize damage to the CLIENT'S property caused by its operations, but have not included in the fee the cost of restoration of damage, which may result. If CLIENT desires EWI to restore the property to its approximate former condition, CLIENT shall so notify EWI in writing, EWI will perform the restoration work, and CLIENT agrees to pay to EWI the costs incurred for such work, plus 15%, in addition to the fees provided in the Agreement.

10. SAFETY: Work will be performed only under safe conditions. EWI has the right to discontinue or terminate operations if, in its sole discretion, such discontinuation or termination is necessary for safety and/or health reasons. EWI shall be entitled to payment for all actual costs incurred as a result of work stoppage for safety reasons.

11. FORCE MAJEURE: Neither party shall be responsible for damages caused by Force Majeure or other events beyond the control of the other party and which could not reasonably have been anticipated or prevented. For purposes of this Agreement, Force Majeure includes, but is not limited to, adverse weather conditions, floods, epidemics, war, riot, strikes, lockouts and other industrial disturbances; unknown site conditions, accidents, sabotage, fire, loss or failure to obtain permits, unavailability of labor, materials, fuel or services; court orders, acts of God, acts, orders, laws or regulations of the Government of the United States or the several states, or any foreign country, or any governmental agency. Should a Force Majeure event occur, the parties shall mutually agree on the terms and conditions upon which the Services may be continued, and any deadlines for performance by EWI shall be reasonably extended.

12. UTILITIES: CLIENT agrees to disclose and locate all utilities serving the Project Site(s) and the presence and accurate location of hidden or obscure objects, including tanks and piping, relative to the Services. CLIENT agrees to indemnify, defend and hold harmless EWI from all claims, suits, losses, personal injuries, death or property damage resulting from damage or injury to subsurface structures or objects (pipes, tanks, telephone cables, etc.) arising from the performance of EWI's Services when the existence of such are not called to EWI's attention or the locations are not correctly shown on any plans furnished to EWI or marked at the Site.

13. GEOPHYSICAL SERVICES: EWI does not guarantee any specific results from sampling or analytical activity. CLIENT is liable for loss and/or damage to the surface or subsurface due to subsurface sampling. EWI is not liable for damage to wells caused by subsurface trespass or from operation services, unless caused by EWI's gross negligence or willful misconduct. Recovery of any lost equipment shall be CLIENT'S responsibility and solely under CLIENT'S control, regardless of any assistance or advice that EWI may provide for the recovery. EWI shall not be responsible for obtaining permits or permission to log a well on a Site owned or leased by a third party.

14. PERMIT ASSISTANCE: CLIENT shall be responsible for obtaining all needed licenses and permits for the work. EWI shall assist CLIENT in obtaining all necessary governmental permits and/or approvals required for the

performance of the Services at the request of CLIENT. EWI's obligations hereunder are specifically subject to the issuance of all such permits and/or approvals, and any deadlines on EWI'S work shall be extended for any delays in the issuance of permits necessary for the Work.

15. REQUIRED DISCLOSURES BY CLIENT: CLIENT shall provide EWI all information, which is known or readily accessible to CLIENT, which may be reasonably necessary for completion of the Services by EWI.

In the event changes are made by CLIENT, any governmental agency or others in the Scope of Work or the plans and specifications furnished to EWI which affect the scope, nature, cost or time required for EWI's Services, CLIENT shall submit a written Change Order to EWI. Such Change Order shall set for the changes to the original Scope of Work, plans, or specifications. EWI shall, within fifteen (15) days of receipt of Change Order provide client with an updated Environmental Services Contact which shall be appended to the original Agreement and become a part thereof. CLIENT agrees to defend, indemnify, and hold harmless EWI from all liabilities arising or resulting from such changes unless EWI has consented in writing thereto, and CLIENT agrees to pay for all additional Work or Services required of EWI due to such changes as extra work.

16. TERMINATION AND SUSPENSION OF WORK: This Agreement may be terminated by either party, with or without cause, upon thirty (30) days written notice to the other party. Irrespective of which party terminates or the cause (or lack of cause) therefor, CLIENT shall, within thirty (30) days of termination, compensate EWI for all fees earned and costs incurred up to the time of termination, as well as those associated with termination and post-termination activities, such as demobilization, modifying schedules, reassigning personnel, decontaminating and/or disposing of equipment, or disposal and replacement of contaminated consumables. At any time after the total compensation payable to EWI under this Agreement exceeds \$25,000.00; EWI shall have the right to suspend further performance of the Services until CLIENT and EWI have executed a more comprehensive contract.

Either party may suspend performance immediately upon becoming aware of a breach of the terms of this Agreement by the other party, and shall thereupon, on the same day of suspension of performance, provide written notice of its intention to terminate. In the event EWI determines there may be a reasonable risk that EWI's invoices may not be paid on a timely basis, EWI may suspend performance of its Services and/or retain any reports, or other information until CLIENT provides EWI with adequate assurances of payment, in EWI's sole discretion. The filing of a voluntary or involuntary bankruptcy petition, appointment of a receiver, assignment for the benefit of creditors or other similar act of insolvency by either party shall constitute a breach of the Agreement. Termination will become effective fourteen (14) calendar days after receipt of notice by the breaching party unless the event(s) giving rise to the breach are remedied within that time.

17. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between the parties and supersedes any and all prior written or oral agreements existing between the parties. This Agreement may be amended only by written instrument signed by each party.

18. PRECEDENCE: This Agreement shall take precedence over any inconsistent or contradictory provisions contained in any CLIENT-issued purchase order, requisition, notice to proceed, or like document regarding the Services.

19. SURVIVAL: All obligations arising prior to the termination of this Agreement and all provisions of this Agreement providing indemnity or allocating responsibility or liability between CLIENT and EWI shall survive the completion of the Services hereunder and the termination of this Agreement.

20. DELIVERABLES AND ELECTRONIC FILES: In accepting and utilizing any drawings, reports or data in hard copy or in any form of electronic media generated and furnished by EWI (hereinafter Data), the CLIENT agrees that all such data are instruments of service of EWI, which shall be deemed the author, and shall retain all common law, statutory law and other intellectual property rights, including copyrights, to the data. The CLIENT agrees not to reuse the data, in whole or in part for any purpose other than for the Work. The CLIENT agrees not to transfer the data to others without the prior written consent of EWI. The CLIENT further hereby waives all claims against EWI resulting in any way from any unauthorized changes to or reuse of the data for any other project by anyone other than EWI.

The CLIENT and EWI agree that any data furnished by either party shall conform to the specifications agreed upon in the agreement. Any changes to the data specifications by either the CLIENT or EWI are subject to prior review and acceptance by the other party. Additional services by EWI made necessary by changes to the data specifications shall be compensated for as Additional Services.

Data furnished by either party shall be subject to an acceptance period of thirty (30) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the data shall correct any discrepancies

or errors detected and reported within the acceptance period. After the acceptance period, the data shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files of the data. The CLIENT is aware that differences may exist between the electronic data files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by EWI and electronic data files, the signed or sealed hard-copy construction documents shall govern.

The data may not be used or reused by CLIENT, its employees, agents or subcontractors on any extension of the project or on any other project without the prior written consent of EWI, which consent will not be unreasonably withheld. In addition, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless EWI, its shareholder, officers, directors, employees and sub consultants (collectively, EWI) against all damages, liabilities or costs, including reasonable attorney's fees and defense costs, arising from any changes to the data made by anyone other than EWI or from any reuse of the data without the prior written consent of EWI.

UNDER NO CIRCUMSTANCES SHALL DELIVERY OF DATA FOR USE BY THE CLIENT BE DEEMED A SALE BY EWI AND EWI MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE REGARDING THE DATA. IN NO EVENT SHALL EWI BE LIABLE FOR INDIRECT OR CONSEQUENTIAL DAMAGES AS A RESULT OF THE CLIENT'S USE OR REUSE OF THE DATA.

21. INDEPENDENT CONTRACTOR: EWI is an independent contractor and not an employee, agent, representative or joint venturer of CLIENT. CLIENT is interested only in the results achieved by the services of EWI. EWI shall determine the time, manner, means, and method of doing the work. CLIENT is not responsible for deducting and shall not deduct, from payments to EWI any amounts for withholding tax, FICA, insurance or other similar items relating to EWI, its employees or subcontractors.

22. SEVERABILITY. If any portion of this Agreement is determined to be unenforceable or invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect and be binding on both parties. In the event any provisions are deemed unenforceable or invalid, the parties agree to revise the Agreement to replace such provisions with valid and enforceable provisions that as closely as possible express the intention of the stricken provisions(s). These terms and conditions shall survive the completion of the Services under this Agreement and the termination of the Agreement for any cause.

23. BINDING EFFECT. This Agreement shall be binding upon the parties hereto and upon their respective heirs, personal representatives, successors and permitted assigns.

24. ASSIGNMENT. The obligations of each party hereunder may not be assigned without the prior written consent of the other party.

25. AMENDMENT. This Agreement may not be amended or modified except by a writing signed by each party.

26. GOVERNING LAW: This Contract shall be governed by, construed, and interpreted in accordance with the laws of the State of Missouri, excluding any choice of law rules, which may direct the application of the laws of any other jurisdiction.

27. JURISDICTION AND VENUE OF LEGAL PROCEEDINGS: The parties agree that the Circuit Courts of Greene County, Missouri shall have exclusive jurisdiction and shall be the venue of all suits regarding this Agreement, and CLIENT hereby consents to personal jurisdiction in such court. Any mediation or arbitration proceedings between the parties shall be conducted in Greene County, Missouri. In any legal proceeding between the parties regarding this Agreement, the prevailing party shall be entitled to recover its costs and attorneys fees from the other party.

28. NOTICE: All written notices required by this Agreement shall be delivered to the other party by hand delivery or by mailing them, certified, first class postage prepaid, return receipt requested to the address designated in the Environmental Services Agreement and via facsimile. Either party may change their address by providing its new address in writing to the other party.

29. COLLECTION CHARGES: As a part of the consideration hereof, the customer agrees to pay all costs of collection, including but not limited to all court costs and reasonable attorney's fees, if this account is placed for collection.