

## **ADVERTISEMENT FOR PROPOSALS**

Sealed proposals will be received in the Office of the Procurement Manager, Greenville Utilities Commission, 401 S. Greene Street, Greenville, North Carolina 27834 until 4:00 PM (EDST) on September 15, 2021 for Tree Removal Services.

Instructions for submitting proposals and complete specifications will be available in the Office of the Procurement Manager, Greenville Utilities Commission, 401 S. Greene Street, Greenville, North Carolina during regular office hours, which are 8:30AM – 5:00PM Monday through Friday.

Greenville Utilities Commission reserves the right to reject any or all proposals. **Late proposals will not be considered.**

**SECTION I**

**GREENVILLE UTILITIES COMMISSION**

**GENERAL INSTRUCTIONS FOR REQUEST FOR PROPOSAL**

**SEPTEMBER 15, 2021 @ 4:00 PM**

**1.0 NOTICE TO RESPONDENTS**

Sealed proposals, subject to the conditions made a part hereof, will be received in the Office of the Procurement Manager, Greenville Utilities Commission, 401 S. Greene Street, Greenville, North Carolina 27834 until 4:00 PM (EDST) on September 15, 2021.

**2.0 STANDARD FORMS REQUIRED**

Each respondent must submit a proposal on the enclosed "Request For Proposal" (RFP) form(s). **The proposal must be signed by an authorized official of the firm. A letter, resolution, or other documentation listing official(s) authorized to sign GUC's Terms & Conditions for the company and the official legal name of the firm as registered with the appropriate local and/or state agencies must accompany the respondent's response.**

**3.0 DEPOSIT**

A deposit is **NOT** required for this proposal.

**4.0 NC SALES TAX**

Do **not** include NC sales taxes in the quoted figure; however, Greenville Utilities Commission (GUC) does pay sales tax. Sales tax should be added to the invoice as a separate item.

**5.0 FEDERAL EXCISE TAX**

GUC is exempt from Federal Excise Tax and will issue a Federal Exemption Certificate upon request to the successful respondent.

**6.0 EXCEPTIONS TO BE CLEARLY STATED**

If the proposal is not in strict accordance with Section II, "Specifications," respondent must list or note all exceptions **on the RFP Form**, otherwise, it is fully understood that the successful respondent will furnish equipment, materials, or services exactly as specified. GUC reserves the right to accept or reject proposals and to determine the best responsible, responsive proposal from the standpoint of quality, performance, and price.

**7.0 EVALUATION CRITERIA AND AWARD**

Proposer selection shall be based on evaluation and rating of Proposer's demonstrated competence and qualifications/performance for the type of services/products to be offered. The following guidelines will be used as minimum criteria for rating the Proposer:

- Quality of approach and methodology that demonstrates an understanding of the requirements.
- Quality, extent and relevance of Proposer's staff / experience in conducting service(s).
- Location and facilities attributes.
- Overall cost

GUC reserves the right to reject all proposals or accept such proposals, as appears in its own best interest, and to waive technicalities or irregularities of any kind in the proposal. GUC is not obligated to accept the lowest cost proposal. If a proposal is to be awarded, it will be awarded to the responsible, responsive respondent whose evaluation by GUC indicates that the award will be in GUC's best interests.

### **8.0 PROMPT PAYMENT DISCOUNTS**

Respondents are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it may be considered in the award of the proposal.

### **9.0 NUMERICAL ERRORS**

In the case of a discrepancy between a unit price and the extension (the unit price multiplied by the number of units), the unit price governs. In the case where numerical quotes are stated both in numbers and in words, the words govern.

### **10.0 MINORITY BUSINESS PARTICIPATION PROGRAM**

GUC has adopted an Affirmative Action and Minority and Women Business Enterprise Plan (M/WBE) Program. Firms submitting a proposal are attesting that they also have taken affirmative action to ensure equality of opportunity in all aspects of employment, and to utilize M/WBE suppliers of materials and/or labor.

### **11.0 CONTRACT PERIOD**

October 1, 2021 to July 1, 2022

### **12.0 CONTACT INFORMATION:**

Questions regarding this request for quotation should be directed to Cleve Haddock, Procurement Manager at (252) 551-1533, [haddockc@guc.com](mailto:haddockc@guc.com). **All questions pertaining to the RFP must be received by Wednesday, September 1, 2021.**

### **13.0 TERMS AND CONDITIONS**

**The attached Terms and Conditions must be considered as part of the proposal.**

**SECTION II**  
**GREENVILLE UTILITIES COMMISSION**  
**REQUEST FOR PROPOSAL TREE REMOVAL SERVICES SPECIFICATIONS**  
**SEPTEMBER 15, 2021**

**General Description**

The successful Contractor will supply labor, tools and equipment as specified necessary to provide services capable of independently performing tree removal. **See Appendix A for map of tree removal route.**

**Safety**

Job site activities shall at all times be conducted in accordance with all applicable Federal, State and Local requirements, to include but not limited to, the North Carolina Occupational Safety and Health Standards, The National Electrical Safety Code and the North Carolina Manual on Uniform Traffic Control Devices for Streets and Highways.

**Work Week**

The work week will be within GUC's normal working hours. These hours are 7:00 a.m. to 5:30 p.m. Monday through Friday excluding holidays, as shown on the attached holiday schedule.

**Damage to Facilities**

The Contractor shall be responsible for damages to any Greenville Utilities Commission or customer-owned facilities caused by its employees.

**Supervision**

The Contractor shall remain in close communication with the GUC Representative at all times. No work shall commence unless it has been directed by the GUC Representative.

**Scope of Work**

All tree removal services shall conform to good forestry standards.

All trees and debris generated by the Contractor from tree removal shall be chipped and removed from the site.

**Customer Notification**

Greenville Utilities Commission will provide advance notification of customers being affected by tree removal activities. All tree removal requests will be referred to the Greenville Utilities Commission Representative and approved prior to removal.

**Emergency Services (Not Applicable)**

**Contingency**

Any situation which occurs such that the Contractor cannot satisfactorily perform the job, should be brought to the attention of the Greenville Utilities Commissions Representative immediately. The Contractor will be required to respond to customer complaints within 24 hours. If the GUC Representative deems a complaint valid, the Contractor will be expected to resolve the claim immediately. The successful Contractor is responsible for all costs as a result of its and/or employee(s) negligence.

**Contractor Employees**

Employees will maintain a professional attitude toward the work being performed and toward any and all customer contact incurred while working.

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**GREENVILLE UTILITIES COMMISSION**

**PROPOSAL FORM**

**VENDOR PROFILE QUESTIONNAIRE**

1. Please provide a brief history of your firm: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. Please provide a statement of qualifications and describe experience level for each crew position: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Please provide your firm's office location(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. Please provide a list of similar work completed or in process: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. Please describe age and type of equipment proposed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
6. Please provide at least three (3) references with contact information:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Questions 1–6 must be answered. GUC reserves the right to reject any proposal that has incomplete responses.

**GREENVILLE UTILITIES COMMISSION**

**PROPOSAL FORM**

**FOR TREE REMOVAL SERVICES**

The undersigned respondent hereby declares that it has carefully examined the enclosed detailed specifications for furnishing GUC with the services listed below. The undersigned respondent further agrees, if this proposal is accepted within thirty (30) days from the date of the opening, to furnish any or all of the items upon the quoted prices.

**All questions pertaining to this RFP must be received by or before September 1, 2021.**

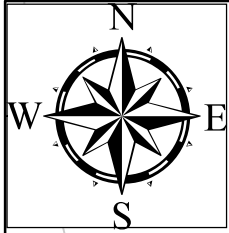
**Start Date For All Tree Removal is October 1, 2021 and All Tree Removal Must be Completed By July 1, 2022 Per The Specifications And Tree Locations Identified Within This RFP.**

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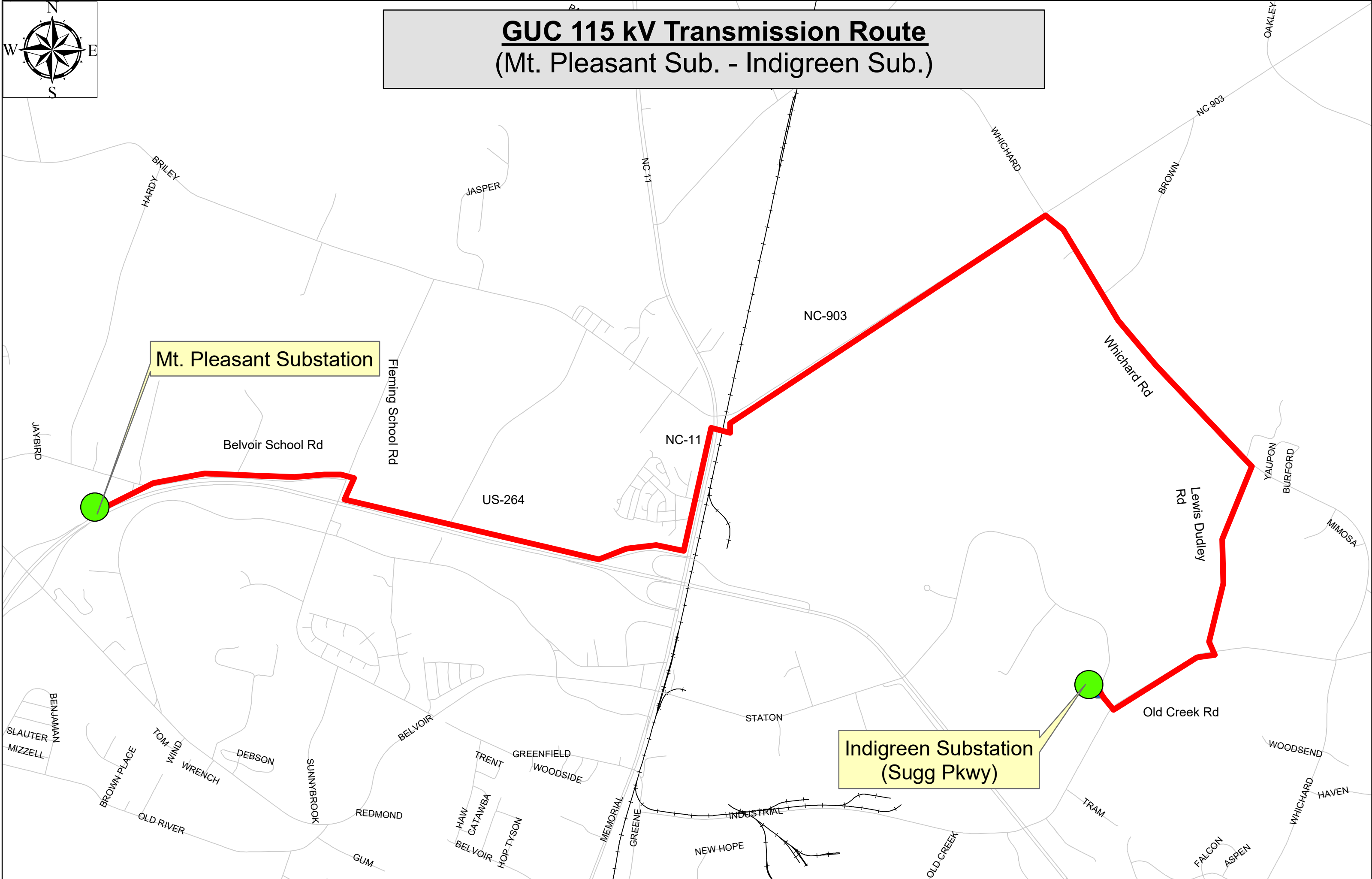
**Appendix A: Tree Clearing Route Map**

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# **GUC 115 kV Transmission Route** **(Mt. Pleasant Sub. - Indigreen Sub.)**



**Tree Removal Locations and Cost Form**

<b>Name</b>	<b>Parcel #</b>	<b>Address</b>	<b># of Trees</b>	<b>Price</b>
JOT Properties LLC	22330	1151 Belvoir School Rd	31	
JOT Properties LLC	20462	1151 Belvoir School Rd	4	
Judith Elaine Scott	10048	0 Belvoir School Rd	3	
Carolyn H Moye	10268	0 Belvoir School Rd	27 <sup>1</sup>	
Janice J Fuchs	41803	0 Fleming School Rd	242 <sup>1</sup>	
Walter B Council	04840	0 Fleming School Rd	64	
Betty Staton Garcia	21110	2621 Jones Staton Rd	10	
Edna Randolph Lanier	18683	2621 Jones Staton Rd	4	
Johnnie S Cates	87223	0 Martin Luther King Jr HWY	263	
HPD LLC	50556	0 Martin Luther King Jr HWY	109	
HPD LLC	33416	0 Martin Luther King Jr HWY	168	
DSM Pharmaceuticals	47002	0 NC HWY 11	162	
DSM Pharmaceuticals	80968	1 NC HWY 11	21	
Pitt Couty BOE	27194	3101 N Memorial Dr	10	
Patheon Manufacturing	03191	0 NC 903 N	76	
Ajay T Patel	23921	102 NC 903 N	6	
Amber Ainsley	57909	5900 NC 903 N	13	
Michael J Kachmer	12825	0 NC 903 N	14	
Lillie H Stevens	09919	0 NC 903 N	11	
Cherry O Cain	08838	600 NC 903 N	3	
Alma Little Barnes Heirs	01006	724 NC 903 N	2	
Patsy G White	01071	0 NC 903 N	90	
Betty M Blackwell	34320	822 NC 903 N	1	
Clayton D People	36036	832 NC 903 N	1	
Jimmy C Keel	38569	842 NC 903 N	1	
Walter F Yarrell	09325	852 NC 903 N	1	
Deborah Jean Purser	34545	862 NC 903 N	2	
Arthur Heath	33601	872 NC 903 N	3	
Eldner Smith III	50704	0 Whichard Rd	60	
Katherine L Lewis	50703	5337 Whichard Rd	7	
Katherine L Lewis	05338	5315 Whichard Rd	29	
Robert Hines	13384	5271 Whichard Rd	8	
Joyce Ann Daniels	05499	5235 Whichard Rd	1	
Jerry Smith	03589	5227 Whichard Rd	4	
Emma Parker Roberson	17584	5211 Whichard Rd	1	
Allen C Newbold	20957	0 Whichard Rd	45	
Martha J Pierce Living Trust	18148	0 Whichard Rd	77	
Lucille Tharrington Mayo	35753	0 Whichard Rd	362	

Carolyn Williams Edwards	38895	4953 Whichard Rd	5	
Oscar L Holloman	25825	1505 Lewis Dudley Rd	68	
Eastern Farms LLC	37495	0 Lewis Dudley Rd	32	
Stacy A Whitehurst	48116	1429 Lewis Dudley Rd	3	
Eastern Farms LLC	12351	0 Lewis Dudley Rd	126	
Christopher E Calderon	10408	1297 Lewis Dudley Rd	18	
Jennie Lisa Jones	59765	1267 Lewis Dudley Rd	6	
Jeffrey Troy Jones	47271	1255 Lewis Dudley Rd	2	
Anthony Herring	67328	1245 Lewis Dudley Rd	5	
Ernest Lee Simmons Life Estate	37839	1225 Lewis Dudley Rd	5	
William Oscar Mizell Life Estate	40447	2367 Old Creek Rd	13	
Anthony Charles Burroughs	12515	2358 Old Creek Rd	6	
Donald Grizzard	83843	2310 Old Creek Rd	4	
Janie Harrelson McLawhorn	09579	2306 Old Creek Rd	4	
Deborah C Hines	63457	2254 Old Creek Rd	1	
<b>Total Trees</b>			2234	<b>Total Cost: \$</b>

<sup>1</sup> Parcels have volunteer trees in DOT right of way that are not included in the “# of trees” column. Contractor is responsible for including costs of removing these trees in their proposal. Trees in DOT ROW have an average 4” DBH.

**Complete and Check All Math:** It is the responsibility of the Proposer to extend all prices and supply a total price where applicable.

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**Letter of Compliance to E-Verify for Greenville Utilities Commission**

1. I have submitted a proposal for contract or desire to enter into a contract with the Greenville Utilities Commission;
2. As part of my duties and responsibilities pursuant to said proposal and/or contract, I affirm that I am aware of and in compliance with the requirements of E-Verify, Article 2 of Chapter 64 of the North Carolina General Statutes, to include (mark which applies):
  
3. \_\_\_\_ After hiring an employee to work in the United States I verify the work authorization of said employee through E-Verify and retain the record of the verification of work authorization while the employee is employed and for one year thereafter; or
4. \_\_\_\_ I employ less than fifteen (15) employees in the State of North Carolina.
  
5. As part of my duties and responsibilities pursuant to said proposal and/or contract, I affirm that to the best of my knowledge and subcontractors employed as a part of this proposal and/or contract, are in compliance with the requirements of E-Verify, Article 2 of Chapter 64 of the North Carolina General Statutes, to include (mark which applies):
  
6. \_\_\_\_ After hiring an employee to work in the United States the subcontractor verifies the work authorization of said employee through E-Verify and retains the record of the verification of work authorization while the employee is employed and for one year thereafter; or
7. \_\_\_\_ Employ less than fifteen (15) employees in the State of North Carolina.

Specify subcontractor: \_\_\_\_\_

\_\_\_\_\_ (Company Name)

By: \_\_\_\_\_ (Typed Name)

\_\_\_\_\_ (Authorized Signatory)

\_\_\_\_\_ (Title)

\_\_\_\_\_ (Date)



MEMORANDUM

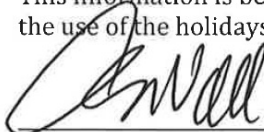
TO: All Employees  
DATE: August 1, 2020  
SUBJECT: 2021 HOLIDAY SCHEDULE

The following holidays will be observed by the City of Greenville and Greenville Utilities Commission during 2021:

New Year's	Friday, January 1, 2021
Martin Luther King, Jr. Day	Monday, January 18, 2021
Good Friday	Friday, April 2, 2021
Memorial Day	Monday, May 31, 2021
Independence Day	Monday, July 5, 2021
Labor Day	Monday, September 6, 2021
Veterans Day	Thursday, November 11, 2021 Friday, November 12, 2021
Thanksgiving	Thursday, November 25, 2021 Friday, November 26, 2021
Christmas	Friday, December 24, 2021 Monday, December 27, 2021
New Year's (2022)	Friday, December 31, 2021

For 2021, the "floating holiday" has been designated as Friday, November 12.

This information is being provided now in order to allow you to make personal plans for the use of the holidays.

  
\_\_\_\_\_  
Ann E. Wall  
City Manager

  
\_\_\_\_\_  
Anthony C. Cannon  
GUC General Manager/CEO

### **SECTION III**

#### **TERMS AND CONDITIONS FOR THE PURCHASE OF**

#### **APPARATUS, SUPPLIES, MATERIALS, EQUIPMENT AND SERVICES**

These Terms and Conditions, made and entered into on this the \_\_\_\_\_ day of \_\_\_\_\_, by and between GREENVILLE UTILITIES COMMISSION OF THE CITY OF GREENVILLE, PITT COUNTY, NORTH CAROLINA, with one of its principal offices and places of business at 401 S. Greene Street, Post Office Box 1847, Greenville, Pitt County, North Carolina 27835-1847, hereinafter referred to as "GUC" and \_\_\_\_\_, a \_\_\_\_\_ organized and existing under and by virtue of the laws of the State of \_\_\_\_\_, with one of its principal offices and places of business at \_\_\_\_\_, hereinafter referred to as "PROVIDER";

#### **1.0 TAXES**

No taxes shall be included in any proposal prices. GUC is exempt from Federal Excise Tax. GUC is not exempt from North Carolina state sales and use tax or, if applicable, Pitt County sales and use tax. Such taxes shall be shown as a separate item on the invoice.

#### **2.0 INVOICES**

It is understood and agreed that orders will be shipped at the established contract prices and quantities in effect on dates orders are placed. Invoicing at variance with this provision may subject the contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate line item. All invoices must bear the GUC purchase order number. Mail all invoices to Greenville Utilities Commission, Finance Department, P. O. Box 1847, Greenville, NC 27835-1847.

#### **3.0 PAYMENT TERMS**

Payments for equipment, materials, or supplies will be made after the receipt and acceptance of the equipment, materials, or supplies and after submission of a proper invoice. GUC's normal payment policy is thirty (30) days. GUC will not be responsible for any goods delivered without a purchase order having been issued. Payment will be made in U. S. currency only.

#### **4.0 QUANTITIES**

Quantities specified are only estimates of GUC's requirements. GUC reserves the right to purchase more or less than the stated quantities at prices indicated in the submitted Proposal Form based on our actual needs.

#### **5.0 AFFIRMATIVE ACTION**

The Provider will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of the handicapped, and concerning the treatment

of all employees, without discrimination by reason of race, color, religion, sex, national origin, or physical handicap.

## **6.0 CONDITION AND PACKAGING**

Unless otherwise indicated in the proposal, it is understood and agreed that any item offered or shipped shall be new and in first class condition, that all containers shall be new and suitable for storage or shipment, and that prices include standard commercial packaging.

## **7.0 SAMPLES**

Samples of items, if required, must be furnished free of expense to GUC, and if not destroyed, will, upon request, be returned at the Provider's expense. Request for the return of samples must be made at the proposal opening, otherwise, the samples will become GUC's property. Each individual sample must be labeled with Provider's name.

## **8.0 SPECIFICATIONS**

Any deviation from specifications must be clearly pointed out, otherwise, it will be considered that items offered are in strict compliance with specifications, and the Provider will be held responsible. Deviations must be explained in detail. **The Provider shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**

## **9.0 INFORMATION AND DESCRIPTIVE LITERATURE**

Providers are to furnish all information requested. Further, as may be specified elsewhere, each Provider must submit with its proposal: cuts, sketches, descriptive literature, and/or complete specifications covering the products offered. Reference to literature submitted with a previous proposal does not satisfy this provision. Proposals which do not comply with these requirements will be subject to rejection.

## **10.0 AWARD OF CONTRACT**

GUC reserves the right to reject all proposals or accept such proposals, as appears in its own best interest, and to waive technicalities or irregularities of any kind in the proposal. GUC is not obligated to accept the lowest cost proposal. If a proposal is to be awarded, it will be awarded to the responsible, responsive respondent whose evaluation by GUC indicates that the award will be in GUC's best interests.

Acceptance of the order includes acceptance of all terms, conditions, prices, delivery instructions, and specifications as shown on this set of Terms and Conditions and in this order or attached to and made a part of this order.

The conditions of this order cannot be modified except by written amendment in the form of "Amended Purchase Order," which has been approved by GUC's Purchasing Buyer II.

In the event of a Provider's failure to deliver or perform as specified, GUC reserves the right to cancel the order or any part thereof, without prejudice to GUC's other rights. The Provider agrees that GUC may return part of or all of any shipment at Provider's expense. GUC may charge the Provider with all reasonable expenses resulting from such failure to deliver or perform.



## **11.0 MEDIATION/BINDING ARBITRATION**

In the event of any dispute between the Parties, the Parties agree to submit any dispute to non-binding mediation before a mutually agreeable Mediator prior to initiating litigation. If the Parties are unable to agree upon a Mediator within thirty (30) days after demand therefore, either Party may petition a Court of competent jurisdiction for the designation of a qualified Mediator for these purposes. Each Party shall bear its own costs and expenses of participating in the mediation (including, without limitation, reasonable attorneys' fees), and each Party shall bear one-half (1/2) of the costs and expenses of the Mediator. Unless otherwise agreed, the Parties will hold the mediation in Greenville, North Carolina. The matters discussed or revealed in the mediation session shall not be disclosed in any subsequent litigation.

In the event the matter is not resolved in mediation, either Party may request arbitration. The parties shall jointly select an Arbitrator, and shall be bound by the decision of the Arbitrator with respect to any dispute between the parties with respect to this Agreement. If the parties are unable to mutually agree upon an Arbitrator, the Parties shall each select an Arbitrator, and the two Arbitrators so selected shall select a third Arbitrator, and the decision of the majority of the Arbitrators shall be conclusive and binding upon the Parties. The Parties at all times agree to equally split the costs of any Arbitrator(s) selected in an effort to resolve the dispute between the Parties. Any party desiring to resolve a dispute under the terms of this Agreement shall notify the other Party in writing, and the Parties shall seek to agree upon a mutually agreed-upon Arbitrator within a period of ten (10) days from the date of such written demand. If the Parties are unable to agree within such ten (10) day period, the Parties shall each select an Arbitrator, and the two (2) Arbitrators so selected shall select a third Arbitrator within fifteen (15) days from the date of the written demand for arbitration, and a decision shall be rendered by the Arbitrator(s) so selected within five (5) days after such Arbitrator(s) is selected.

## **12.0 GOVERNMENT RESTRICTIONS**

In the event any Governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship, or performance of the items offered on this proposal prior to their delivery, it shall be the responsibility of the successful Provider to notify the GUC Purchasing Buyer II, at once, indicating in its letter the specific regulation which required such alterations. GUC reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or, in the sole discretion of GUC, to cancel the contract.

## **13.0 INSURANCE**

**13.1 Coverage** – During the term of the contract, the Provider at its sole cost and expense shall provide commercial insurance of such type and with the following coverage and limits:

**13.1.1 Workers' Compensation** – The Provider shall provide and maintain Workers' Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$1,000,000 each accident, covering all Provider's employees who are engaged in any work under the contract. If any work is sublet, the Provider shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the contract.

**13.1.2 General Liability** – Commercial Liability Coverage written on an “occurrence” basis in the minimum amount of \$1,000,000 per occurrence.

**13.1.3 Automobile** – Automobile Liability Insurance, to include coverage for all owned, hired, and non-owned vehicles used in connection with the contract with a minimum combined single limit of \$1,000,000 per accident.

**13.2 Requirements** - Providing and maintaining adequate insurance coverage is a material obligation of the Provider. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized to do business in North Carolina by the Commissioner of Insurance. The Provider shall at all times comply with the terms of such insurance policies and all requirements of the insurer under any of such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the Provider shall not be interpreted as limiting the Provider’s liability and obligations under the contract. It is agreed that the coverage as stated shall not be canceled or changed until thirty (30) days after written notice of such termination or alteration has been sent by registered mail to GUC’s Purchasing Buyer II.

#### **14.0 PATENTS AND COPYRIGHTS**

The Provider shall hold and save GUC, its officers, agents, and employees, harmless from liability of any kind, including costs and expenses, including reasonable attorney fees, on account of any copyrighted articles or any patented or unpatented invention, device or appliance manufactured or used in the performance of this contract.

#### **15.0 PATENT AND COPYRIGHT INDEMNITY**

The Provider will defend or settle, at its own expense, any action brought against GUC to the extent that it is based on a claim that the product(s) provided pursuant to this agreement infringe any U.S. copyright or patent; and will pay those costs, damages, and attorney fees finally awarded against GUC in any such action attributable to any such claim, but such defense, settlements, and payments are conditioned on the following: (1) that Provider shall be notified

promptly in writing by GUC of any such claim; (2) that Provider shall have sole control of the defense of any action on such claim and of all negotiations for its settlement or compromise; (3) that GUC shall cooperate with Provider in a reasonable way to facilitate the settlement of defense of such claim; (4) that such claim does not arise from GUC modifications not authorized by the Provider or from the use of combination of products provided by the Provider with products provided by GUC or by others; and (5) should such product(s) become, or in the Provider’s opinion likely to become, the subject of such claim of infringement, then GUC shall permit Provider, at Provider’s option and expense, either to procure for GUC the right to continue using the product(s), or replace or modify the same so that it becomes non-infringing and performs in a substantially similar manner to the original product.

## **16.0 EXCEPTIONS**

All proposals are subject to the terms and conditions outlined herein. All responses will be controlled by such terms and conditions and the submission of other terms and conditions, price catalogs, and other documents as part of a Provider's response will be waived and have no effect on this Request for Proposal or any other contract that may be awarded resulting from this solicitation. The submission of any other terms and conditions by a Provider may be grounds for rejection of the Provider's proposal. The Provider specifically agrees to the terms and conditions set forth in this set of Terms and Conditions by affixing its name on the signatory page contained herein.

## **17.0 CONFIDENTIAL INFORMATION**

Except as provided by statute and rule of law, GUC will keep trade secrets which the Provider does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the Provider. Cost information shall not be deemed confidential. The determination of whether a matter is confidential will be determined by North Carolina law.

## **18.0 ASSIGNMENT**

No assignment of the Provider's obligations or the Provider's right to receive payment hereunder shall be permitted without the express written consent of GUC, provided however, upon written request approved by the GUC Purchasing Buyer II, solely as a convenience to the Provider, GUC may:

- Forward the Provider's payment check directly to any person or entity designated by the Provider, and
- Include any person or entity designated by Provider as a joint payee on the Provider's payment check.
- In no event shall such approval and action obligate GUC to anyone other than the Provider, and the Provider shall remain responsible for fulfillment of all contract obligations.

## **19.0 ACCESS TO PERSON AND RECORDS**

GUC shall have reasonable access to persons and records of Provider as a result of all contracts entered into by GUC.

## **20.0 INSPECTION AT PROPOSALDER'S SITE**

GUC reserves the right to inspect, at a reasonable time, the item, plant, or other facilities of a prospective Provider prior to contract award and during the contract term as necessary for GUC's determination that such item, plant, or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the contract. Provider may limit GUC's access to restricted areas.

## **21.0 AVAILABILITY OF FUNDS**

Any and all payments of compensation of this specific transaction and any continuation or any renewal or extension are dependent upon and subject to the allocation of GUC funds for the purpose set forth in this Agreement.

## **22.0 GOVERNING LAWS**

All contracts, transactions, agreements, etc., are made under and shall be governed by and construed in accordance with the laws of the State of North Carolina.

## **23.0 ADMINISTRATIVE CODE**

Proposals, bids, and awards are subject to applicable provisions of the North Carolina Administrative Code and General Statutes and Laws of the State of North Carolina.

## **24.0 EXECUTION**

In the discretion of GUC, failure of a duly authorized official of Provider to sign the Signatory Page may render the proposal invalid.

## **25.0 CLARIFICATIONS/INTERPRETATIONS**

Any and all questions regarding these Terms and Conditions must be addressed to the GUC Procurement Manager. Do not contact the user directly. **These Terms and Conditions are a complete statement of the parties' agreement and may only be modified in writing signed by Provider and the GUC Purchasing Buyer II.**

## **26.0 SITUS**

The place of all contracts, transactions, agreements, their situs and forum, shall be North Carolina, where all matters, whether in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

## **27.0 TERMINATION OF AGREEMENT**

GUC or Provider may terminate this Agreement for just cause at any time. Provider will be paid for all time and expenses incurred as of the termination date. Termination for just cause by either party shall be by certified letter and shall be effective thirty (30) days after signed and acknowledged receipt of said letter. Just cause shall be based on reasonable grounds, and there must be a fair and honest cause or reason for such action. The causes for termination, include, but are not limited to: (1) Provider's persistent failure to perform in accordance with the Terms and Conditions, (2) Provider's disregard of laws and regulations related to this transaction, and/or (3) Provider's substantial violation of the provisions of the Terms and Conditions.

## **28.0 DELIVERY**

**Shipments will be made only upon releases from a purchase order issued by GUC in accordance with GUC's current needs.**

Time is of the essence with respect to all deliveries under this Agreement. Delivery of all equipment, materials, or supplies shall be made Free on Board (FOB) GUC Warehouse, 801 Mumford Road, Greenville, North Carolina 27834, unless otherwise specified. The agreed price for such equipment, materials, or supplies shall include all costs of delivery and ownership, and risks of loss shall not be transferred from Provider to GUC until express written acceptance of delivery and inspection by GUC. Delivery hours are between 8:00 AM and 4:30 PM Monday-Friday only. **GUC's purchase order number is to be shown on the packing slip or any related documents.** GUC reserves the right to refuse or return any delivery with no purchase order number or which is damaged. GUC will not be charged a restocking fee for any delivery which is refused or returned.

## **29.0 INDEMNITY PROVISION**

Provider agrees to indemnify and save GREENVILLE UTILITIES COMMISSION of the City of Greenville, Pitt County, North Carolina, and the City of Greenville, North Carolina, its co-owners, joint venturers, agents, employees, and insurance carriers harmless from any and all losses, claims, actions, costs, expenses including reasonable attorney fees, judgments, subrogations, or other damages resulting from injury to any person (including injury resulting in death), or damage (including loss or destruction) to property of whatsoever nature of any person arising out of or incident to the performance of the terms of this Contract by Provider, including, but not limited to, Provider's employees, agents, subcontractors, and others designated by Provider to perform work or services in, about, or attendant to, the work and services under the terms of this Contract. Provider shall not be held responsible for any losses, expenses, claims, subrogations, actions, costs, judgments, or other damages, directly, solely, and proximately caused by the negligence of Greenville Utilities Commission of the City of Greenville, Pitt County, North Carolina. Insurance covering this indemnity agreement by the Provider in favor of Greenville Utilities Commission of the City of Greenville, Pitt County, North Carolina, and the City of Greenville, North Carolina, shall be provided by Provider.

## **30.0 FORCE MAJEURE**

Neither party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party. In any such event of force majeure, the parties shall advise each other of such event, and the parties shall negotiate an equitable adjustment to their respective obligations under this Agreement.

## **31.0 WARRANTY(IES)**

The Provider hereby includes all warranties, whether expressed or implied, including, but not limited to, the Implied Warranty of Merchantability and the Implied Warranty of Fitness for a Particular Purpose.

### **32.0 INTEGRATED CONTRACT**

These Terms and Conditions, Instructions to Proposers, Specifications, and the selected Provider's proposal represents the entire contract between the Parties. No verbal or other written agreement(s) shall be held to vary the provisions of this Agreement.

### **33.0 CONTRACT PROVISIONS**

Each of the provisions of these Terms and Conditions shall apply to the full extent permitted by law, and the invalidity in whole or in part of any provision shall not affect the remainder of such provision or any other provisions.

### **34.0 E-VERIFY**

E-Verify - I understand that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25 et seq. I am aware of and in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes. To the best of my knowledge, any subcontractors employed by me as a part of this contract are in compliance with the requirements of E-Verify and Article 2 of Chapter 64 of the North Carolina General Statutes.

### **35.0 IRAN DIVESTMENT ACT CERTIFICATION**

By acceptance of this purchase order, Vendor/Contractor certifies that, as of the date of the purchase order or contract, it is not on the Final Divestment List as created by the State Treasurer pursuant to N.C.G.S. § 143-6A-4. In compliance with the requirements of the Iran Divestment Act and N.C.G.S. § 143C-6A-5(b), Vendor/Contractor shall not utilize in the performance of the contract any subcontractor that is identified on the Final Divestment List.

### **36.0 NOTICES**

Notices to the Parties should be sent to the names and addresses specified below:

Cleve Haddock, CLGPO  
Procurement Manager  
Greenville Utilities Commission  
P.O. Box 1847  
Greenville, NC 27835-1847

Vendor Specified on Page 1 of Section III when awarded.

#### **Notice to Proposers:**

**Greenville Utilities Commission is committed to the health and safety of our customers and employees.**

**We are taking the spread of COVID-19 very seriously and continue to monitor the latest Local, State, and Federal guidance.**

GREENVILLE UTILITIES COMMISSION

By: \_\_\_\_\_  
Anthony C. Cannon

Title: General Manager/CEO  
(Authorized Signatory)

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Name (Print): Amy Carson Quinn

Title: Executive Secretary

Date: \_\_\_\_\_

(OFFICIAL SEAL)

COMPANY NAME:

By: \_\_\_\_\_

Name (Print): \_\_\_\_\_

Title: \_\_\_\_\_  
(Authorized Signatory)

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Name (Print): \_\_\_\_\_

Title: Corporate Secretary

Date: \_\_\_\_\_

(CORP. SEAL)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

By: \_\_\_\_\_  
Jeff W. McCauley

Title: Chief Financial Officer

Date: \_\_\_\_\_

APPROVED AS TO FORM AND LEGAL CONTENT:

By: \_\_\_\_\_  
Phillip R. Dixon

Title: General Counsel

Date: \_\_\_\_\_