

ADVERTISEMENT FOR BIDS

Quotes will be received in the Office of the Purchasing Technician, Greenville Utilities Commission, 401 S. Greene Street, Greenville, North Carolina 27834 until 3:00 PM (EDST) on March 16, 2011, for the furnishing of herbicides.

Greenville Utilities reserves the right to reject any or all bids.

SECTION I
GENERAL INSTRUCTIONS FOR INFORMAL QUOTES
GREENVILLE UTILITIES COMMISSION
REQUEST FOR QUOTATION

MARCH 16, 2011

1.0 NOTICE TO BIDDERS

Quotations, subject to the conditions made a part hereof, will be received in the Office of the Purchasing Technician, Greenville Utilities Commission, 401 S. Greene Street, Greenville, North Carolina 27834 until 3:00 PM (EDST) on March 16, 2011.

2.0 STANDARD FORMS REQUIRED

Each bidder must submit a proposal on the enclosed request for quotation form. **The quotation must be signed by an authorized official of the firm.**

3.0 DEPOSIT

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

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 bidder.

6.0 EXCEPTIONS TO BE CLEARLY STATED

If quote is not in strict accordance with Section II, "Specifications," bidder must list or note all exceptions **on the Request for Quotation Form**, otherwise, it is fully understood that the successful bidder will furnish equipment and/or materials exactly as specified. GUC reserves the right to accept or reject quotes and to determine the lowest responsible, responsive bid from the standpoint of quality, performance, and price.

7.0 EVALUATION AND AWARD OF QUOTATIONS

GUC reserves the right to reject any and all quotations, to waive any and all informalities, and to disregard all nonconforming or conditional quotes or counter proposals. In evaluating quotes, GUC shall consider whether the quotes comply with the prescribed requirements, plus all alternates or options requested. GUC reserves the right to include or exclude any option or alternative in GUC's opinion is in GUC's best interests. If a quote is to be awarded, it will be awarded to the lowest responsible, responsive bidder whose evaluation by GUC indicates that the award will be in GUC's best interests.

8.0 PROMPT PAYMENT DISCOUNTS

Bidders 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 contract.

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 QUANTITIES

Quantities specified are only estimates of Greenville Utilities Commission's (GUC's) needs for a twelve month period. GUC reserves the right to purchase more or less than the stated quantities at firm prices indicated herein based on our actual needs.

11.0 CONTRACT PERIOD

It is the intent of Greenville Utilities Commission (GUC) to enter into a multi-year contract at the time the contract is awarded by GUC to the successful bidder for a total contract period not to exceed three (3) years. **Prices shall remain fixed during the first year** with option for annual extensions at the same or negotiated unit prices for up to two (2) additional years if market and service conditions so warrant and prove to be in the best interest of GUC.

12.0 BID WITHDRAWAL

A bidder must notify GUC in writing of its request to withdraw a bid within seventy-two (72) hours after the bid opening, not including Saturdays, Sundays, or holidays. In order to justify withdrawal, the bidder must demonstrate that a substantial error exists and that the bid was submitted in good faith.

13.0 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 labor when available.

14.0 CONTACT INFORMATION:

Questions regarding this bid request should be directed to Cleve Haddock, Purchasing Technician, (252) 551-1533, haddocgc@guc.com.

15.0 TERMS AND CONDITIONS

The attached Terms and Conditions of Greenville Utilities Commission (GUC) are considered part of the bid proposal.

SECTION II
GREENVILLE UTILITIES COMMISSION
SPECIFICATIONS FOR HERBICIDES
MARCH 16, 2011

- Item I Arsenal, 28.7% active ingredient, (25 gallons, 10 cans @ 2.5 gallons each)
- Item II Accord Concentrate Herbicide (180 gallons, 6 drums @ 30 gallons each)
- Item III Sahara DG Herbicide (600 pounds, 15 drums @ 40 pounds each)
- Item IV Sprakil SK-26 granular weed killer (1200 pounds, 30 buckets @ 40 pounds each)
- Item V Bullseye (Dye) (5 gallons, 2 cans @ 2.5 gallons each)
- Item VI Timberland 90, Agricultural Adjuvant, (25 gallons,10 cans @ 2.5 gallons)

Notes: (1) Bidders are to specify on the attached Request for Proposal Form the brand name of all items quoted, if more than one brand is approved and the expected delivery time.

Method of Award:

Item(s) I-VI will be awarded as individual item(s) or as a total quote for all item(s).

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GREENVILLE UTILITIES COMMISSION

SPECIFICATIONS FOR HERBICIDES

MARCH 16, 2011

In the space below, please provide a price quote for the following herbicides. If your firm is unable to furnish the herbicides in accordance with our specifications and you wish to offer a substitute, please provide us with full details of the substitute method.

QUOTATIONS SHOULD BE RECEIVED BY 3:00 PM ON MARCH 16, 2011. Quotations can be mailed to Cleve Haddock, Purchasing Technician, 401 South Greene Street, Greenville, NC 27834 or faxed to (252) 551-3302. Greenville Utilities reserves the right to reject any and all quotes that are not in GUC's best interest.

| ITEM NO. | ESTIMATED QUANTITY | DESCRIPTION | DELIVERY TIME DAYS | UNIT PRICE | EXTENSION |
|-------------------------|--------------------|--|--------------------|------------|-----------|
| I | 25 gallons | Arsenal 28.7% active ingredient (2.5 gallon cans) | _____ | \$ _____ | \$ _____ |
| II | 180 gallons | Accord Concentrate Herbicide (30 gallon drums) | _____ | \$ _____ | \$ _____ |
| III | 600 pounds | Sahara DG Herbicide (40 pound drums) | _____ | \$ _____ | \$ _____ |
| IV | 1200 pounds | SpraKil SK-26 (40 lb buckets) | _____ | \$ _____ | \$ _____ |
| V | 5 gallons | Bullseye (Dye) (2.5 gallon cans) | _____ | \$ _____ | \$ _____ |
| VI | 25 gallons | Timberland 90 (2.5 gallon cans) | _____ | \$ _____ | \$ _____ |
| TOTAL ITEMS I-VI | | | | | \$ _____ |

Note: Item(s) I-VI will be awarded as individual item(s) or as a total quote for all item(s).

Complete and Check All Math: It is the responsibility of the Bidder to extend bid prices and supply a total for all items.

It is certified that this proposal is made in good faith and without collusion or connection with any other person bidding on the same above listed items. It is also certified that this proposal is made in good faith and without collusion or connection with any GUC employee(s).

We quote you as per instructions above. If invoice is paid within _____ days from date of receipt of invoice, a discount of _____% will be allowed.

Firm Name: _____ Phone: (_____) _____

Address: _____

City _____ State _____ Zip Code _____

Fax (_____) _____ E-mail _____

Authorized Official _____ Title _____
Typed Name

Signature Date _____

**A copy of your proposal should be received no later than
March 16, 2011 at 3:00 PM (EDST).**

NO BIDS CONSIDERED UNLESS SUBMITTED ON THIS FORM

(RETURN ONLY THIS FORM AND EXCEPTION FORM)

GREENVILLE UTILITIES COMMISSION
GREENVILLE, NORTH CAROLINA
EXCEPTION FORM FOR HERBICIDES

Specifications for: Herbicides

Bidder's Certification: This is to certify that it is our intent to furnish equipment, material, services, etc. in absolute compliance with the bid specification except where expressly noted below.

Instructions: The following is a list of exceptions to the bidding documents and/or specifications pertaining to the furnishing of herbicides. Bidders shall identify each exception by specification page and paragraph number on this form. The omission of exception assumes complete compliance with the Specifications.

| <u>Page/Paragraph #</u> | <u>Exception/Variation</u> |
|-------------------------|----------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Firm Represented: _____

Typed Name: _____

Authorized Signature of Certification: _____

Date: _____

SECTION III

TERMS AND CONDITIONS FOR SERVICES OR THE PURCHASE OF

APPARATUS, SUPPLIES, MATERIALS, OR EQUIPMENT

NOT SUBJECT TO A FORMAL BID

These Terms and Conditions, made and entered into on this purchase order date 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 the vendor as identified on the purchase order, hereinafter referred to as "PROVIDER";

1.0 TAXES

No taxes shall be included in any bid 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 apparatus, supplies, materials, or equipment will be made after the receipt and acceptance 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 CONDITION AND PACKAGING

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.

5.0 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.**

6.0 AWARD OF CONTRACT

All purchases will be based on the lowest responsible, responsive offer that is most advantageous to GUC as determined upon consideration of such factors as prices offered, the quality of the article(s) offered, the general reputation and performance capabilities of the Provider, substantial conformity with the specifications the suitability of the article(s) for the intended use, the related materials needed, the date(s) of delivery and performance, and such other factors deemed by GUC to be pertinent or peculiar to the purchase in question.

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 Technician.

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.

7.0 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.

8.0 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 bid prior to their delivery, it shall be the responsibility of the successful Provider to notify the GUC Purchasing Technician, 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.

9.0 INSURANCE

9.1 **Coverage** – The Provider at its sole cost and expense shall provide commercial insurance of such type and with the following coverage and limits:

9.1.1 **Worker's Compensation** – The Provider shall provide and maintain Worker's 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.

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

9.1.3 **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.

9.2 **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 Technician. Any waiver of insurance must be approved by the Purchasing Technician.

Waiver approved:

 Purchasing Technician

10.0 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.

11.0 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.

12.0 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 Technician, 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.

13.0 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.

14.0 INSPECTION AT BIDDER'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.

15.0 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.

16.0 GOVERNING LAWS

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

17.0 ADMINISTRATIVE CODE

Quotes, bids, proposals, and awards are subject to applicable provisions of the North Carolina Statutes, Rules, Regulations, or Administrative Codes.

18.0 CLARIFICATIONS/INTERPRETATIONS

Any and all questions regarding these Terms and Conditions must be addressed to the GUC Purchasing Technician. 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 GUC's Purchasing Technician.**

19.0 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.

20.0 TERMINATION OF AGREEMENT

GUC or Provider may terminate this Agreement for just cause at any time. Provider will be paid for all labor and expenses incurred as of the termination date. 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 failure to comply with the services in this agreement, (2) Provider's failure to perform in accordance with this Agreement, (3) Provider's disregard of laws and regulations related to this Agreement, (4) Provider's violation of the provisions of the Agreement, (5) Provider's failure to perform in accordance with all project requirements, or (6) Provider's failure to work in accordance with GUC's policies and/or procedures.

21.0 DELIVERY

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.

22.0 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 Third Party claims, actions, costs, expenses, including reasonable attorney fees, judgments, or other damages resulting from injury to any person (including injury resulting in death), or damage (including loss or destruction) to third party tangible property arising out of the negligent 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 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 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.

23.0 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.

24.0 WARRANTY(IES)

The Provider hereby includes all warranties, whether expressed or implied.

25.0 INTEGRATED CONTRACT

These Terms and Conditions represent the entire contract between the Parties. No verbal or other written agreement(s) shall be held to vary the provisions of this Agreement.

26.0 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.

27.0 NOTICES

Notices to the Parties should be sent to the addresses specified on the first page of these Terms and Conditions.

Cleve Haddock
Purchasing Technician
Greenville Utilities Commission
P.O. Box 1847
Greenville, NC 27835-1847

Vendor Specified on Page 1 of Section III