ADVERTISEMENT FOR BIDS

Sealed proposals will be received in the Office of the Purchasing Technician, Greenville Utilities Commission, 401 S. Greene Street, Greenville, North Carolina 27834 until 2:00 PM (EST) on July 11, 2011 and immediately thereafter publicly opened and read for the furnishing of Sanitary Sewer Outfall and Water Distribution/Transmission Line Right-of-Way Clearing. Instructions for submitting bids and complete specifications will be available in the Office of the Purchasing Technician, 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 bids.

SECTION I

GENERAL INSTRUCTIONS FOR INFORMAL QUOTES

GREENVILLE UTILITIES COMMISSION

REQUEST FOR QUOTATION

JULY 11, 2011

1.0 NOTICE TO BIDDERS

Sealed bids, 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 2:00 PM (EST) on July 11, 2011. **Bids submitted in a fax or e-mail in response to this Invitation for Bids will not be acceptable.**

2.0 STANDARD FORMS REQUIRED

Each bidder must submit a proposal on the enclosed bid forms. **The bid must be signed by an authorized official of the firm. Return only the attached Proposal Form. Do not return the Advertisement for Bids, Instructions to Bidders or Specifications.**

3.0 PREPARATION OF BID

Bids must be in sealed envelopes clearly marked on the outside with the name of the bid and the bid opening date and time. Bid shall be addressed to PURCHASING TECHNICIAN, GREENVILLE UTILITIES COMMISSION, 401 S. GREENE STREET, GREENVILLE, NORTH CAROLINA 27834.

4.0 TIME FOR OPENING BIDS

Bids will be opened promptly and read at the hour and on the date set forth in the advertisement in the Office of the Purchasing Technician, Greenville Utilities Main Office, 401 S. Greene Street, Greenville, North Carolina. Bidders or their authorized agents are invited to be present.

5.0 DEPOSIT

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

6.0 NC SALES TAX

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

7.0 FEDERAL EXCISE TAX

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

8.0 EXCEPTIONS TO BE CLEARLY STATED

If bid is not in strict accordance with Section II, "Specifications," bidder must list or note all exceptions **on the Request for Proposal 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 bids with noted minor deviations from specifications and to determine the lowest responsible, responsive bid from the standpoint of quality, performance, and price.

9.0 EVALUATION AND AWARD OF BIDS

GUC reserves the right to reject any and all bids, to waive any and all informalities, and to disregard all nonconforming or conditional bids or counter proposals. In evaluating bids, GUC shall consider whether the bids 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 bid 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. Only firm prices will be considered for award of this bid.

10.0 CONTRACT PERIOD

It is the intent of Greenville Utilities Commission (GUC) to procure contract labor forces for sanitary sewer outfall Right-of-Way (ROW) clearing. The Contractor is to supply labor, tools and equipment as specified necessary to provide forces capable of independently performing line ROW clearing along sanitary sewer outfall and water distribution/transmission lines owned by GUC.

This contract is anticipated to be in effect for approximately eight (8) weeks (**start date for 2011 is August 3, 2011**), depending upon cost per hour of contract awarded and services provided meet GUC's professional and operating standards. This crew should be provided with a working foreman and groundsperson **experienced** in ROW clearing typical to sewer outfall and water distribution / transmission lines both in **rural and urban environments**.

It is also 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 eight (8) weeks annually during a three (3) year term. **Prices shall remain fixed during the first year** with option for renewal periods at the same or negotiated prices for up to eight (8) weeks annually during the two (2) additional years if market and service conditions so warrant and prove to be in the best interest of GUC.

11.0 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.

12.0 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 bids are stated both in numbers and in words, the words govern.

13.0 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.

14.0 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.

15.0 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.

16.0 CONTACT INFORMATION:

Questions regarding this request for quotation should be directed to Jeff Sutton, Sewer Supervisor for Water Resources at (252) 551-1548, suttonjw@guc.com, or Cleve Haddock, Purchasing Technician, (252) 551-1533, haddocgc@guc.com.

17.0 TERMS AND CONDITIONS

The attached Terms and Conditions apply to all purchases made by Greenville Utilities Commission (GUC) and must be considered as part of the quotation proposal.

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SECTION II

GREENVILLE UTILITIES COMMISSION

SPECIFICATIONS FOR SANITARY SEWER OUTFALL AND WATER DISTRIBUTION/TRANSMISSION LINE RIGHT-OF-WAY CLEARING

JULY 11, 2011

1.0 GENERAL DESCRIPTION

It is the intent of Greenville Utilities Commission (GUC) to procure contract labor forces for sanitary sewer outfall ROW clearing. The Contractor is to supply labor, tools and equipment as specified necessary to provide forces capable of independently performing line right-of-way (ROW) clearing along sanitary sewer outfall and water distribution/transmission lines owned by GUC.

2.0 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.

3.0 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. Tuesday through Friday excluding holidays, as shown on the attached holiday schedule.

4.0 DAMAGE TO FACILITIES

The Contractor shall be responsible for damages to any Utility or customer-owned facilities caused by its forces.

5.0 SUPERVISION

The Contractor shall remain in close communication with the GUC representative at all times. No work shall commence that has not been directed by the GUC representative.

6.0 SCOPE OF WORK

All ROW cutting shall conform to good forestry standards with respect to clearing procedures. In general, the following guidelines shall be used: All right-of-ways will be cleared 20' wide--10' left & right of center of the sewer line or water main unless specified otherwise.

7.0 CONTINGENCY

Any situation that occurs such that the Contractor cannot satisfactorily perform the job should be brought to the attention of the GUC 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.

8.0 CONTRACTOR EMPLOYEES

While working or performing ROW clearing activities on GUC systems, all employees of the Contractor will be required to wear uniforms and proper identification identifying them as employees of the Contractor. Employees will maintain a professional attitude toward the work being performed and toward any and all customer contact incurred while working on GUC systems.

9.0 LABOR

9.1 Working Foreman -- A working foreman shall be able to operate a 4WD tractor, trim trees and accomplish related work to acceptable standards; recognize and remove hazardous trees and limbs in the vicinity of sewer manholes; prepare time sheets and other related reports; talk to property owners and obtain permission to trim or remove trees; and perform all of the duties of a foreman and/or a groundsperson.

9.2 Groundsperson -- A groundsperson is expected to be able to correctly operate and maintain a power saw, drive and assist in the operation and maintenance of a truck, and use and care for brush axes and other hand tools. A practical knowledge of CPR, first aid, rope handling, knot tying, and tree felling techniques is required. A groundsperson is also responsible for pre-departure equipage inspections and job-site parking and set-up procedures.

10.0 EQUIPMENT

10.1 Right-of-way Truck -- A truck capable of transporting necessary personnel into and out of limited access right-of-ways. Each truck/crew is to be equipped with two gas powered chain saws, two gas powered industrial string/blade trimmers, ropes and gear necessary for line clearing and safety equipment.

10.2 4WD Tractor -- A tractor capable of traversing all types of terrain--both wet and dry conditions. Tractor shall be equipped with a rotary-type bush hog of sufficient width to accomplish the 20' ROW clearing with a minimum amount of passes including the ability to work around sanitary sewer manholes and remain within the 20' ROW width. Contractor will also be responsible for freeing equipment when and if it were to become stuck.

11.0 CREW STRUCTURE

1 Working Foreman
1 Groundsperson
1 Standard ROW Truck
1 4WD Tractor with Bush-hog

12.0 SCOPE OF CONTRACT

This contract is anticipated to be in effect for approximately eight (8) weeks depending upon cost per hour of contract awarded and services provided meet GUC's professional standards. This crew should be provided with a working foreman and groundsperson experienced in ROW clearing typical to sewer outfall and water distribution/ transmission lines both in rural and urban environments.

13.0 METHOD OF AWARD

All work described will be awarded to one contractor based on the lowest responsible, responsive bid.

SUBMIT QUOTES ON ATTACHED REQUEST FOR QUOTATION FORM

[Balance of page left blank intentionally]

Vendor Name: _____

THIS IS NOT AN ORDER **THIS IS NOT AN ORDER**

Greenville Utilities

In the space below, please provide us with a price quote for a contract crew to perform sanitary sewer outfall & water distribution/transmission line right-of-way (ROW) clearing per the attached specifications. If your firm is unable to furnish in accordance with our specifications and you wish to offer a substitute for our specifications, please give full details.

QUOTATIONS SHOULD BE RECEIVED BY 2:00 PM (EST) ON JULY 11, 2011. Quotations can be mailed to Cleve Haddock, Purchasing Technician, Greenville Utilities Commission, 401 S. Greene Street, Greenville, NC 27834. Only one copy required unless otherwise requested. Greenville Utilities Commission (GUC) reserves the right to reject any and all quotes that are not in GUC's best interests.

DESCRIPTION	RATE/ HOUR	OVERHEAD RATE	OTHER CHARGES*	TOTAL COST PER HOUR
Contract crew to perform Sanitary Sewer Outfall and Water Distribution/Transmission Line ROW Clearing, per the attached specifications and consisting of:				
Working Foreman	$ _____	$ _____	$ _____	$ _____
Groundsperson	$ _____	$ _____	$ _____	$ _____
Standard ROW Truck	$ _____	$ _____	$ _____	$ _____
4 WD Tractor with Bushhog	$ _____	$ _____	$ _____	$ _____
GRAND TOTAL PER HOUR				$ _____
TOTAL COST				$ _____

* Describe Other Charges: _____

_____

_____

_____

Complete All Math(s): It is the responsibility of the Bidder to extend unit 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_____

Fax (_____) _____ E-Mail _____

Authorized Official _____Title_____
Typed Name

_____ Date _____
Signature

A copy of your proposal should be received no later than July 11, 2011 at 2:00 PM (EST).

NO BIDS CONSIDERED UNLESS SUBMITTED ON THIS FORM

(RETURN ONLY THIS FORM AND EXCEPTION FORM)

Vendor Name: _____

GREENVILLE UTILITIES COMMISSION

Exception/Variation Form

Specifications for: Sanitary Sewer Outfall and Water Distribution/ Transmission Line Right-of-Way Clearing

Provider'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: List all exceptions or variations to these bid specifications. Providers shall identify each exception or variation by specification page. The omission of exception or variation information shall be deemed by the Commission as the Provider's intent to absolutely comply with the bid specification. If additional space is required, Provider may reproduce this form as necessary.

Page #	Exception/Variation
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Authorized Signature of Certification: _____
Print Name: _____
Title: _____

Firm Represented: _____
Address: _____
_____

MEMORANDUM

TO: All Employees

DATE: October 8, 2010

SUBJECT: **2011 HOLIDAY SCHEDULE**

The following holidays will be observed by Greenville Utilities Commission and the City of Greenville during 2011:

New Year's	Friday, December 31, 2010
Martin Luther King Jr. Day	Monday, January 17, 2011
Good Friday	Friday, April 22, 2011
Memorial Day	Monday, May 30, 2011
Independence Day	Monday, July 4, 2011
Labor Day	Monday, September 5, 2011
Veterans Day	Friday, November 11, 2011
Thanksgiving	Thursday, November 24, 2011 Friday, November 25, 2011
Christmas	Monday, December 26, 2011 Tuesday, December 27, 2011
New Year's (2012)	Monday, January 2, 2012

SECTION III

TERMS AND CONDITIONS FOR THE PURCHASE OF

APPARATUS, SUPPLIES, MATERIALS, EQUIPMENT OR SERVICES

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 by Provider 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. All invoices must bear the GUC purchase order number and be mailed 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 in U.S. currency only after the receipt and acceptance of the apparatus, supplies, materials, and equipment, and after submission of a proper invoice. GUC will not be responsible for any goods delivered without a purchase order having been issued. GUC's normal payment policy is thirty (30) days.

4.0 CONDITION AND PACKAGING

Unless otherwise indicated in the bid, 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.

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 amendment in the form of "Amended Purchase Order," which has been expressly approved by an authorized signatory of GUC.

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, Provider agrees that GUC may return part of or all of any shipment at Provider's expense. GUC may charge Provider with all

reasonable and direct expenses resulting from such failure to deliver or perform; provided, after written notice, Provider is afforded an opportunity to commence cure within thirty (30) days prior to GUC enacting said remedies.

5.0 SPECIFICATIONS

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

6.0 AWARD OF CONTRACT

As directed by State statute, qualified bids will be evaluated and acceptance made of the lowest responsible, responsive bid 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 Provider, substantial conformity with the specifications and other conditions set forth in the bid, the suitability of the article(s) for the intended use, the related services 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.

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 materials, 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 GUC 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 to discretion of GUC, to cancel the contract.

9.0 INSURANCE

9.1 Coverage: During the term of the contract, 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 – 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 $1,000,000.00 each accident, covering all Provider's employees who are engaged in any work under the contract. If any work is sublet, 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 $1,000,000.00 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 $1,000,000.00 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. 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

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 U.S. copyrighted articles or any patented or unpatented invention, device, or appliance manufactured or used in the performance of this contract, or for any other violation of intellectual property law rights.

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 reasonable 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 Provider or from the use of combination of products provided by Provider with products provided by GUC or by others; and (5) should such product(s) become, or in Provider's opinion be 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 become non-infringing and performs in a substantially similar manner to the original product.

12.0 ASSIGNMENT

No assignment of Provider's obligations or Provider's right to receive payment hereunder shall be permitted without the express written consent of GUC, which shall not be unreasonably withheld; provided, however, upon written request approved by GUC, solely as a convenience to Provider, GUC may:

a. Forward Provider's payment check directly to any person or entity designated by Provider; and
b. Include any person or entity designated by Provider as a joint payee on Provider's payment check.
c. In no event shall such approval and action obligate GUC to anyone other than Provider, and 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 pertaining to this order.

14.0 INSPECTION AT BIDDER'S SITE

On reasonable written notice, 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; 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 of this contract shall be determined and construed.

17.0 ADMINISTRATIVE CODE

Bids, proposals, and awards are subject to applicable provisions of the North Carolina Administrative Code.

18.0 CLARIFICATIONS/INTERPRETATIONS

Any and all questions regarding these Terms and Conditions must be addressed to GUC. 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 a duly authorized signatory of Provider and GUC.

19.0 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. Parties shall have thirty (30) days after signed and acknowledged receipt of said letter to commence cure prior to terminating for just cause. 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 material provisions of these 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.

20.0 DELIVERY

Shipments will be made only upon releases from a purchase order issued by GUC in accordance with GUC's current needs. 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. GUC shall visually inspect equipment and materials within ten (10) days of delivery for damage and specified components. Goods found nonconforming shall be remedied pursuant to the Warranty Provision. Delivery hours are between 8:00 a.m. and 4:30 p.m. Monday through 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.

21.0 INDEMNITY PROVISION

Provider agrees to indemnity 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.

22.0 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 the Agreement.

23.0 WARRANTY(IES)

(a) Limited Product Warranty Statements: For each Product purchased from Provider or an authorized reseller, Provider makes the following limited warranties: (i) the Product is free from defects in material and workmanship; (ii) the Product materially conforms to Provider's specifications that are attached to, or expressly incorporated by reference into, these terms; (iii) at the time of delivery, Provider has title to the Product free and clear of liens and encumbrances; and (iv) for professional services performed by Provider hereunder, Provider warrants the services will be performed in accordance with generally accepted professional standards (collectively, the "Limited Warranties"). The Limited Warranties set forth herein does not apply to any software furnished by Provider. If software is furnished by Provider, then the attached Software License Addendum shall apply.

(b) Conditions to the Limited Warranties: The Limited Warranties are conditioned on: (i) GUC storing, installing, operating, and maintaining the Product in accordance with Provider's instructions; (ii) no repairs, modifications, or alterations being made to the product other than by Provider or its authorized representatives; (iii) using the Product within any conditions or in compliance with any parameters set forth in specifications that are attached to, or expressly incorporated by reference into, these terms; (iv) GUC discontinuing use of the Product after it has, or should have had, knowledge of any defect in the Product; (v) GUC providing prompt written notice of any warranty claims within the warranty period described below; (vi) at Provider's discretion, GUC either removing and shipping the Product or non-conforming part thereof to Provider, at GUC's expense, or GUC granting Provider access to the Products at all reasonable times and locations to assess the warranty claims; and (vii) GUC not being in default of any payment obligation to Provider under these terms.

(c) Exclusions from Limited Warranty Coverage: The Limited Warranties specifically exclude any equipment comprising part of the Product that is not manufactured by Provider or not bearing its nameplate. To the extent permitted, Provider hereby assigns any warranties made to Provider for such equipment. Provider shall have no liability to GUC under any legal theory for such equipment or any related assignment of warranties. Additionally, any Product that is described as being experimental, developmental, prototype, or pilot is specifically excluded from the Limited Warranties and provided to GUC "as is" with no warranties of any kind. Also excluded from the Limited Warranties are normal wear and tear items including any expendable items that comprise part of the Product, such as fuses, light bulbs, and lamps.

(d) Limited Warranty Period: GUC shall have twelve (12) months from initial operation of the Product, or eighteen (18) months from shipment, whichever occurs first (or in the case of services, twelve (12) months from the completion of services), to provide Provider with prompt, written notice of any claims of breach of the Limited Warranties. Continued use or possession of the Product after expiration of the warranty period shall be conclusive evidence that the Limited Warranties have been fulfilled to the full satisfaction of GUC, unless GUC has previously provided Provider with notice of a breach of the Limited Warranties.

(e) Remedies for Breach of Limited Warranty: GUC's sole and exclusive remedies for any breach of the Limited Warranties are limited to Provider's choice of repair or replacement of the Product, or non-conforming parts thereof, re-performance of the services, or refund of all or part of the purchase price. The warranty on repaired or replaced parts of the Product or re-performed services shall be for twelve (12) months from repair or replacement. However, the warranty period for repair and replacement of Product shall not exceed one (1) year from expiration of the Original Warranty. Unless otherwise agreed to in writing by Provider: (i) GUC shall be responsible for any labor required to gain access to the Product so that Provider can assess the available remedies; and (ii) GUC will be responsible for providing Provider with working access to the Products, including the removal, disassembly, replacement, or reinstallation of any equipment, materials, or structures to the extent necessary to permit Provider to perform its warranty obligations, or transportation costs to and from the Provider factory or repair facility, or for damage to equipment components or parts resulting in whole or in part from improper maintenance or operation or from their deteriorated condition. All exchanged Products replaced under this Limited Warranty will become the property of Provider.

(f) Transferability: The Limited Warranties shall be transferable during the warranty period to the initial end-user of the Product.

THE LIMITED WARRANTIES SET FORTH IN THIS SECTION ARE PROVIDER'S SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO THE LIMITS OF LIABILITY SET FORTH BELOW. PROVIDER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE

24.0 INTEGRATED CONTRACT

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

25.0 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.

26.0 NOTICES

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

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

Vendor Specified on Page 1 of Section III