

## **REQUEST FOR QUOTATION**

Quotes will be received in the Office of the Buyer II, Greenville Utilities Commission, 401 S. Greene Street, Greenville, North Carolina 27834 until 3:00 PM (EDST) on November 3, 2015, for the furnishing of dead-end shoes, stirrup clamps, cable clamps, strandvises, and guy guards.

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

**SECTION I**  
**GENERAL INSTRUCTIONS FOR INFORMAL QUOTES**  
**GREENVILLE UTILITIES COMMISSION**  
**REQUEST FOR QUOTATION**  
**NOVEMBER 3, 2015**

**1.0 NOTICE TO BIDDERS**

Quotations, subject to the conditions made a part hereof, will be received in the Office of the Buyer II, Greenville Utilities Commission, 401 S. Greene Street, Greenville, North Carolina 27834 until 3:00 PM (EDST) on November 3, 2015.

**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, materials and services exactly as specified. GUC reserves the right to accept or reject quotes and to determine the lowest responsible, responsive quote 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, Buyer II, (252) 551-1533, [haddocgc@guc.com](mailto: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 DEAD-END SHOES, STIRRUP CLAMPS

CABLE CLAMPS, STRANDVISES AND GUY GUARDS

NOVEMBER 3, 2015

<u>Items</u>	<u>Specifications</u>
Item I	<b>#6-1/0 Dead-End Shoes</b> are to be Maclean #HDSO-47 or Anderson #ADEZ-47N. (GUC Stock #207570)
Item II	<b>336 Dead-End Shoes</b> are to be Maclean #HDSO-70 or Anderson #ADEZ-88N. (GUC Stock #202450)
Item III	<b>556-795 Dead-End Shoes</b> are to be Maclean #HDSO-116 or Anderson #ADEZ-116N. (GUC Stock #202440)
Item IV	<b>Hot Line Clamps Taps</b> are to be Anderson #BC-2/0, Anderson #BC-2/0 FTP, Chance #S1520CC, Fargo #GH-100, CMC #HLB2/0 or Maclean - CIS20. (GUC Stock #202350)
Item V	<b>1/0 Suspension Clamps with Armor Rods</b> are to be Maclean #RALS-1-N or Anderson #AAC301. (GUC Stock #202420)
Item VI	<b>1/0 Single Stirrup Clamps</b> are to be Anderson #AHLS-022019-E. (GUC Stock #202390)
Item VII	<b>336 MCM Double Stirrup Clamps</b> are to be Anderson #AHLS-397021-E. (GUC Stock #202370)
Item VIII	<b>556-954 Stirrup Saddle</b> are to be Anderson #AHLS-954022-E. (GUC Stock #202380)
Item IX	<b>336 Suspension Clamps</b> are to be Maclean #RALS-2-N or Maclean #AC-125. (GUC Stock #202400)
Item X	<b>Steel Dead-End Clamps</b> are to be Anderson/Hubbell #MDE46N. (GUC Stock #210300)
Item XI	<b>3/8" Strandvises</b> are to be Fargo #GDE702, Hubbell #GDE 5102, Reliable #5102 or Aluma-Form # AGD 5102 (GUC Stock #203490)
Item XII	<b>3/8" Long Strandvises</b> are to be Reliable #5102L, Hubbell #GDE5102L or Aluma-Form # AGD 5102L (GUC Stock #203491)

- Item XIII      **7197 Cable Clamps** are to be Blackburn #W40-1 or Reliable #7197. (GUC Stock #203500)
- Item XIV      **7187 Cable Clamps** are to be Blackburn #W20-1 or Reliable #7187. (GUC Stock #203510)
- Item XV      **1/4" Strandvises** are to be Reliable #5100, Hubbell #GDE5100 or Aluma-Form # AGD 5100 (GUC Stock #203492)
- Item XVI      **W62-1 Cable Clamps** are to be Blackburn #W62-1 or Maclean #7195 (GUC Stock #208230)
- Item XVII      **5/16" Strandvises** are to be Reliable/Maclean #5101, Hubbell #GDE 5101 or Aluma-Form # AGD 5101 (GUC Stock #203493)
- Item XVIII      **Yellow Guy Guards** are to be Electrical Materials #707Y, Joslyn #1493Y or Preformed Line Products #PG6000-SC (GUC Stock #208690)
- Item XIX      **Clamps, 1272 Suspension, w/Socket Eye connector**, to be Hubbell # HAS204S or Maclean # LS-9-S (GUC Stock #202431)
- Item XX      **795 Cushion Grip Suspension, w/Socket Eye** to be Preformed Line Products # CGS-1097 SE w/Socket Eye (GUC Stock #202432)
- Item XXII      **1272 Cushion Grip Suspension w/ Socket Eye** to be Preformed Line Products CGS # 1098 SE w/ Socket Eye (GUC Stock #202434)
- Item XXII      **1272 Dead End Shoe** to be Anderson # ADS-155-S or Maclean # ASD-69-S (GUC Stock #202441)

- Notes:**
- (1) All item(s) will be purchased in box quantities.
  - (2) Bidders are to specify on the attached Request for Proposal Form the brand name of all item(s) quoted, if more than one brand is approved, and the expected delivery time.

**Method of Award: Item(s) twenty-two (22) will be awarded as a total quote.**

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Vendor Name: \_\_\_\_\_

**GREENVILLE UTILITIES COMMISSION**

**PROPOSAL FORM FOR DEAD-END SHOES, STIRRUP CLAMPS,**

**CABLE CLAMPS, STRANDVISES AND GUY GUARDS**

In the space below, please provide a price quote for the following dead-end shoes, stirrup clamps, cable clamps, strandvises and guy guards per the attached specifications. If your firm is unable to furnish the dead-end shoes, stirrup clamps, cable clamps, strandvises and guy guards in accordance with our specifications and you wish to offer a substitute, please provide us with full details of the approved equivalent.

**QUOTATIONS SHOULD BE RECEIVED BY 3:00 PM ON November 3, 2015.** Quotations can be mailed or delivered to Cleve Haddock, Buyer II, 401 South Greene Street, Greenville, NC 27834 or e-mailed to haddocgc@guc.com. Greenville Utilities reserves the right to reject any and all quotes that are not in GUC's best interest.

ITEM NO.	EST. QUANTITY	DESCRIPTION	DELIVERY TIME	UNIT PRICE	EXTENSION
I	550	#6-1/0 Dead-End Shoes (GUC Stock #207570)  Name Brand _____	_____	\$ _____	\$ _____
II	250	336 MCM Dead-End Shoes (GUC Stock #202450)  Name Brand _____	_____	\$ _____	\$ _____
III	75	556-795 Dead-End Shoes (GUC Stock #202440)  Name Brand _____	_____	\$ _____	\$ _____
IV	600	Hot Line Clamps (GUC Stock #202350)  Name Brand _____	_____	\$ _____	\$ _____
V	75	1/0 Suspension Clamps with Armor Rods (GUC Stock #202420)  Name Brand _____	_____	\$ _____	\$ _____

ITEM NO.	EST. QUANTITY	DESCRIPTION	DELIVERY TIME	UNIT PRICE	EXTENSION
VI	300	1/0 Single Stirrup Clamps (GUC Stock #202390)  Name Brand _____	_____	\$ _____	\$ _____
VII	150	336 MCM Double Stirrup Clamps (GUC Stock #202370)  Name Brand _____	_____	\$ _____	\$ _____
VIII	50	556-954 Stirrup Clamps (GUC Stock #202380)  Name Brand _____	_____	\$ _____	\$ _____
IX	50	336 Suspension Clamps (GUC Stock #202400)  Name Brand _____	_____	\$ _____	\$ _____
X	75	Clamps, Steel Dead-End (GUC Stock #210300)  Name Brand _____	_____	\$ _____	\$ _____
XI	500	3/8" Strandvises (GUC Stock #203490)  Name Brand _____	_____	\$ _____	\$ _____
XII	450	3/8" Long Strandvises (GUC Stock #203491)  Name Brand _____	_____	\$ _____	\$ _____
XIII	275	7197 Cable Clamps (GUC Stock #203500)  Name Brand _____	_____	\$ _____	\$ _____

ITEM NO.	EST. QUANTITY	DESCRIPTION	DELIVERY TIME	UNIT PRICE	EXTENSION
XIV	425	7187 Cable Clamps (GUC Stock #203510)	_____	\$ _____	\$ _____
		Name Brand _____			
XV	50	¼ " Strandvises (GUC Stock #203492)	_____	\$ _____	\$ _____
		Name Brand _____			
XVI	200	W62-1 Cable Clamps (GUC Stock #208230)	_____	\$ _____	\$ _____
		Name Brand _____			
XVII	100	5/16" Strandvises (GUC Stock #203493)	_____	\$ _____	\$ _____
		Name Brand _____			
XVIII	500	Yellow Guy Guard (GUC Stock #208690)	_____	\$ _____	\$ _____
		Name Brand _____			
XIX	50	Clamps, 1272 Suspension, w/Socket Eye connector (GUC Stock #202431)	_____	\$ _____	\$ _____
		Name Brand _____			
XX	50	795 Cushion Grip Suspension, w/Socket Eye (GUC Stock #202432)	_____	\$ _____	\$ _____
		Name Brand _____			
XXI	50	1272 Cushion Grip Suspension w/ Socket Eye (GUC Stock #202434)	_____	\$ _____	\$ _____
		Name Brand _____			



XXII      50      1272 Dead End Shoe      \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_  
(GUC Stock #202441)

Name Brand \_\_\_\_\_

**TOTAL ITEMS I-XXII** \$ \_\_\_\_\_

The undersigned bidder hereby declares that it has carefully examined the enclosed detailed specifications for furnishing GUC with the below listed items. The undersigned bidder 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 price.

**Method of Award:** Items I-XXII will be awarded as a total quote for all twenty-two (22) items together.

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

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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  
November 3, 2015 at 3:00 PM (EDST).**

**NO BIDS CONSIDERED UNLESS SUBMITTED ON THIS FORM**

**(RETURN ONLY THIS FORM AND EXCEPTION FORM)**

**GREENVILLE UTILITIES COMMISSION**

**EXCEPTION FORM FOR DEAD-END SHOES, STIRRUP CLAMPS,**

**CABLE CLAMPS, STRANDVISES AND GUY GUARDS**

**Specifications for:** Dead-end shoes, stirrup clamps, cable clamps, strandvises and guy guards.

**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 Dead-end shoes, stirrup clamps, cable clamps, strandvises and guy guards. 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: \_\_\_\_\_

**E-VERIFY LETTER OF COMPLIANCE**

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 twenty-five (25) 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 twenty-five (25) employees in the State of North Carolina.  
Specify subcontractor: \_\_\_\_\_

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

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

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

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

\_\_\_\_\_ (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, equipment or services 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 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.

## **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 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.

## 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 Buyer II. Any waiver of insurance must be approved by the Buyer II.

Waiver approved: \_\_\_\_\_

Buyer II

## **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 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.

## **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 Buyer II. 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 Buyer II.**

#### **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**

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.

## **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  
Finance/Purchasing Department, Buyer II  
Greenville Utilities Commission  
401 South Greene Street  
Greenville, N.C. 27834

Vendor Specified on Page 1 of Section III