



INVITATION FOR BID

PWC2526037

MINI EXCAVATOR

Date of Issue: October 6, 2025

**Bid Submission Date: October 16, 2025
4:00 P.M.**

Direct all inquiries concerning this IFB to:

**Shelby Lesane
Procurement Advisor II
procurement@faypwc.com**

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**ADVERTISEMENT FOR BID
FAYETTEVILLE PUBLIC WORKS COMMISSION
MINI EXCAVATOR**

**Cumberland County
North Carolina**

Pursuant to N.C.G.S 129-131, emailed Bids will be accepted electronically, until **4:00 p.m. EST, Thursday, October 16, 2025**, for one (1) **MINI EXCAVATOR**. Bids must be submitted electronically to procurement@faypwc.com prior to the deadline.

The Public Works Commission seeks to procure one mini excavator of the latest design, and current production model, with all standard equipment as listed in the manufacturer's literature. The enclosed specifications detail the minimum requirements for this unit. The successful bidder is responsible for providing all parts necessary for operation that are not explicitly mentioned. All equipment must comply with OSHA, State, and Federal regulations.

Enclosed are the Instructions to Bidders, Detailed Specifications, and Bid Pricing Form. Bidders must submit the completed Bid Pricing Form, Attachment B, Attachment C, and any required addendum acknowledgments. Submissions must be made using the provided forms or exact copies thereof, as specified in the bid documents. Unsolicited bid samples or descriptive literature may not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the IFB. Failure to comply with these requirements shall constitute sufficient cause to reject a bid without further consideration.

Questions regarding this bid must be submitted in writing to the attention of **Shelby Lesane**, at procurement@faypwc.com no later than **5:00 p.m., EST Wednesday, October 8, 2025**, in order to be considered for a response.

Email bids to procurement@faypwc.com with the bid title and number in the subject line "**IFB: PWC2526037 - MINI EXCAVATOR**". Late bids will not be considered.

Fayetteville Public Works Commission reserves the right to accept or reject any or all bids, to waive minor informalities or technicalities as permitted by law, to disregard nonconforming or nonresponsive bids, and to re-advertise for bids if deemed in the best interest of PWC. The bid tabulation and announcement of the apparent low bidder at the bid opening do not constitute a binding contract with PWC. No contract will be considered awarded until a formal written Agreement is executed by both PWC and the successful bidder. The award of a contract, if made, will be to the lowest responsible, responsive bidder whose qualifications indicate the award will be in the best interest of PWC.

FAYETTEVILLE PUBLIC WORKS COMMISSION
Nikole Bohannon
Procurement Manager

**INSTRUCTIONS TO BIDDERS
FAYETTEVILLE PUBLIC WORKS COMMISSION
MINI EXCAVATOR**

PURPOSE AND BACKGROUND

The Public Works Commission seeks to procure one (1) mini excavator of the latest design, and current production model, with all standard equipment as listed in the manufacturer's literature. The enclosed specifications detail the minimum requirements for this unit. The successful bidder is responsible for providing all parts necessary for operation that are not explicitly mentioned. All equipment must comply with OSHA, State, and Federal regulations.

OBJECTIVE OF THE REQUEST

It is the intent of this bid invitation to obtain pricing for **MINI EXACVATOR** within the detailed specifications section of this Invitation for Bid (IFB). You are requested to submit your bid on the enclosed Bid Pricing Form.

IFB SCHEDULE

The following table shows the schedule of events to prepare your organization's response. The key deadlines and targeted dates for this process are as follows:

Action	Responsibility	Date/Time
Submit Written Questions	Bidders	Wednesday, October 8, 2025 @ 5:00 p.m.
Provide Response to Questions	PWC	Thursday, October 9, 2025 @ 5:00 p.m.
IFB Submission	Bidders	Thursday, October 16, 2025 @ 4:00 p.m.
Award /Sale of Goods Agreement	PWC	October 2025
Preferred Delivery	Awarded Bidder	June 2026

QUESTIONS

Written questions shall be e-mailed to procurement@faypwc.com by the date and time specified in the IFB schedule. Bidders will enter "IFB **PWC2526037 - MINI EXCAVATOR** – Questions" as the subject of the email.

Questions received prior to the submission deadline date, the Procurement Advisor's response, and any additional information deemed necessary by PWC will be posted in the form of an addendum to the PWC website and shall become an Addendum to this IFB. No information, instruction, or advice provided orally or informally by any PWC personnel, whether made in response to a question or otherwise concerning this IFB, shall be considered authoritative or binding. Firms shall rely only on written material contained in an Addendum to this IFB.

Inquiries should be submitted no later than the date and time noted in the IFB schedule. Questions answered verbally will be followed up by written addenda as deemed necessary; oral interpretations shall have no effect.

VENDOR REGISTRATION VIA ISUPPLIER

- 1) All vendors interested in doing business with PWC must register as a vendor through the iSupplier Portal using the link below. The iSupplier self-service portal enables vendors to have real-time access to information regarding purchase orders, invoices, and payments through a secure environment. Attach a copy of your W9 to your online registration.

<https://www.faypwc.com/isupplier-doing-business-with-pwc/>

SUBMISSION INSTRUCTIONS

- 1) Bids should be complete and carefully worded and should convey all the information requested in the IFB. Bids should be prepared simply and economically, providing a straightforward, concise description of the bidder's capabilities to satisfy the requirements of the IFB. Emphasis should be on completeness and clarity of content. If the bid includes any comment over and above the specific information requested in the IFB, the bidder should include this information as a separate appendix to its bid. Bids that include clarifications or modifications to any of the IFB's contractual requirements, or a bidder's standard terms and conditions, may be deemed non-responsive and not considered for award at PWC's discretion.
- 2) Unsolicited bid samples or descriptive literature may not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the IFB. Failure to comply with these requirements shall constitute sufficient cause to reject a bid without further consideration. PWC reserves the right to accept or reject any or all bids, to waive minor informalities or technicalities as permitted by law, to disregard nonconforming or nonresponsive bids, and to re-advertise for bids if deemed in the best interest of PWC. The bid tabulation and announcement of the apparent low bidder at the bid opening do not constitute a binding contract with PWC. No contract will be considered awarded until a formal written Agreement is executed by both PWC and the successful bidder. The award of a contract, if made, will be to the lowest responsible, responsive bidder whose qualifications indicate the award will be in the best interest of PWC.
- 3) Bids may be withdrawn by the bidder only in writing and if receipt of such withdrawal is acknowledged by PWC prior to the time for the bid submittal deadline identified in the Advertisement for Bidders (or such later date included in an Addendum). Written withdrawal requests shall be submitted on the bidder's letterhead and signed by an official of the bidder duly authorized to make such request. Any withdrawal request made after the bid submittal deadline shall be allowed only if the price bid was based upon a mistake that constituted a substantial error, provided the bid was submitted in good faith, and then only pursuant to the terms of N.C.G.S. § 143-129.1.
- 4) Email bids to procurement@faypwc.com with the bid title and number in the subject line "**IFB: PWC2526037 - MINI EXCAVATOR**". Late bids will not be considered.
- 5) Bids will be examined promptly after the due date and an award will be made at the earliest possible date. Bids must be held firm for PWC for a period of sixty (60) days after the bid due date. A purchase order will be issued to the awarded bidder.
- 6) Bidders shall submit bids only on the Bid Pricing Forms provided herein, or exact copies

thereof (**See Attachment B – Bid Pricing Form**). Failure to provide full and complete Bid Pricing Forms using the form provided herein will result in a bid being deemed non-responsive.

- 7) All bids must be signed by an authorized official of the bidder. Bids may be rejected for any omission, alteration of form, additions not called for, conditional bid, or any irregularities of any kind.
- 8) Do not submit alternate bids unless specifically called for on the Bid Pricing Forms.

QUANTITIES AND PRICING

- 1) Quantities listed are estimates **ONLY** based on historical usage. PWC does not guarantee a minimum or maximum quantity to be purchased.
- 2) All bidders are advised to include all costs incurred by the bidder in delivering the **ONE MINI EXCAVATOR** to the PWC Fleet Department **1093 Public Works Drive, Fayetteville, NC 28301** in their bid submittal. The invoice submitted for payment shall not reflect any other costs (fuel surcharge, toll, etc.). PWC is not tax-exempt.

EVALUATION AND AWARD

- 1) PWC reserves the right to inspect, at a reasonable time, the equipment, item, plant, or other facilities of a prospective Bidder prior to award, and during the Sale of Goods Agreement term, as PWC deems necessary to determine that such equipment, item, plant, or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Sale of Goods Agreement.
- 2) PWC reserves the right to request additional information from bidders to aid in the evaluation process. This information may include but is not limited to, financial statements, a reference list of contracts of similar size, etc.
- 3) PWC reserves the right to make a single award for all items or may award separate contracts to multiple bidders for various items to the lowest responsive, responsible bidder or bidders, taking into consideration product quality, performance to PWC, and conformity with the specifications in these bid documents. PWC may also consider, among other things, the Bidder's past performance conduct on other contracts, and other information as PWC deems necessary to assist in the evaluation of any bid.
- 4) The Sale of Goods Agreement will be awarded to begin on or about **October 31, 2025**.
- 5) The successful bidder shall not assign, transfer, or convey any part of the agreement, including rights or obligations, to a third party without obtaining prior written approval from PWC. This includes the assignment of payments that may become due under the agreement. Any unauthorized assignment may result in disqualification or termination of the agreement. Approved assignments do not relieve the successful bidder of their responsibilities under the terms of the agreement unless explicitly stated in writing by PWC.
- 6) The successful bidder must promptly notify PWC in writing of any legal actions, investigations, or issues arising during the agreement period that may impact their ability to perform their obligations under the agreement. Failure to provide timely notification may result in

termination of the agreement. As outlined in Attachment C: Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters, the successful bidder must also certify that no such legal impediments exist at the time of bid submission. If circumstances change after submission or during the agreement period, the bidder is required to immediately inform PWC, providing full details of the situation.

DELIVERY AND PAYMENT

- 1) Delivery to be made F.O.B. Public Works Commission **Fleet Department 1093 Public Works Drive, Fayetteville, NC 28301**
- 2) Deliveries shall be made between the hours of **9:00 a.m. and 3:00 p.m., Monday through Friday**, within the time frame specified on the Bid Pricing Form.
- 3) Payment for equipment, material, supplies, etc. purchased pursuant to this bid shall be made by Public Works Commission approximately thirty days after the same has been delivered, inspected, approved and the invoice received in the PWC Accounts Payable Office, P.O. Box 1089, Fayetteville, North Carolina 28302.

SPECIFICATIONS FOR MINI EXCAVATOR

It is the intent of these specifications, to secure for the Public Works Commission, (1) new mini excavator, of the latest design, current production model, with all standard equipment listed in the manufacture's literature. Specifications for this unit are enclosed herein and should be considered to be minimum requirements. All parts not specifically mentioned which are necessary in operations shall be furnished by the successful bidder. All equipment provided shall meet the requirements of OSHA, State and Federal Laws.

It will be the bidder's responsibility to carefully examine each item of this specification. Failure to respond to each section of the technical specification will cause the proposal to be rejected without review, as "non-responsive". A check mark in the blank immediately preceding each number shall indicate minimum requirements are met. All exceptions and variations must be clearly noted on the attached Exception / Variation form. This form must be signed and returned with the bid package. Failure to clearly identify all exceptions or variations, as determined by and at the discretion of the Public Works Commission may be cause for rejection of the bid.

Bid will be awarded on the basis of price, equipment quality, and conformity with this set of specifications. The Public Works Commission reserves the right to reject any or all bids and to waive all informalities.

DELIVERY:

The completed unit shall be delivered by the successful bidder to:
Public Works Commission, Fleet Maintenance Department
1093 Public Works Drive
Fayetteville, North Carolina.

DESCRIPTION

1. ____ Mini excavator, equivalent to the Kubota KX040-5R1T.
2. ____ Operating weight of 9,000lbs.
3. ____ Unit to have an open canopy, with ROPS.
4. ____ Unit to have rubber tracks.
5. ____ Unit to have 6-way blade.
6. ____ Unit to have 4 LED work lights on canopy, 2 in front and 2 in rear.
7. ____ Unit to have a travel motion alarm.

8. ___ Unit to have an 18" QA trenching bucket.
9. ___ Unit to have a quick coupler.
10. ___ Unit to have a hydraulic thumb.
11. ___ Dig depth 11' without an extendable arm.
12. ___ Bucket digging force 9,500lbs.
13. ___ Arm digging force 4,100lbs.
14. ___ Engine to be Diesel, Tier 4 compliant.
15. ___ Parts and Service manual in electronic format.
16. ___ Unit to have 3 keys.
17. ___ Warranty (1) year minimum of parts and labor on entire unit shall be provided unless otherwise stated in these specifications. All warranty service is to be FOB Public Works Commission, 1093 Public Works Drive, Fayetteville North Carolina (mileage and travel time covered by warranty).

ATTACHMENT B: BID PRICING FORM

Bidder Information:

Name of Company

Address

Phone Number

Email Address

NAICS

**Is the company an N.C.
Certified HUB or DBE
Printed Name**

Title

Signature

Date

Bidders shall submit bids only on the Bid Pricing Forms provided herein, or exact copies thereof. Each bidder must sign the Bid Pricing Form and provide the manufacturer's name, lead time, and item number for each line item. Failure to provide a full and complete Bid Pricing Form, including the required signature, manufacturer's name, lead time, and item number, will result in the bid being deemed non-responsive, as PWC will not have the necessary information to properly evaluate the bids.

Furnish And Deliver:

Item #	QTY.	UOM	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1 (820)	1	E.A.	One MINI EXCAVATOR Make: _____ Model: _____ Lead Time: _____	\$	\$

TOTAL EXTENDED PRICE: \$ _____

ATTACHMENT C: CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The Primary Participant, _____ (major third party contractor), certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(If the primary participant is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT _____ CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET. SEQ. ARE APPLICABLE THERETO.

Signature

Title

Printed Name

Date

PWC at a Glance



Customers



- In operation since 1905
- Provides Electric, Water & Wastewater Services
- Total Customers: 121,886
- Number of Services: 274,101
 - Electric: 83,537
 - Water: 92,453
 - Wastewater: 92,100
 - Irrigation: 6,011
- Customers with 2+ services: 75%
- Annual Customer Turnover: 20-25%

Customer Service



- Annual Customer Contacts: 495,136
- Average Monthly Calls: 32,363
- Annual Bills Generated: 1.4 Million
- Customer Incentive Programs: 13
- Annual Water Leak Notifications: 20,363 (17.2 million gal)

Employees



- Number of Employees: 651
- Average Tenure of Employees: 10 years
- Average Age: 45
- Annual Turnover: 9.0%*
- Annual Hours Worked: 1.2 Million

*non retirement

Facilities



- Butler-Warner Generation Plant (268 MW)
 - Electric Service Area: 147 Sq. miles
- P.O. Hoffer Water Treatment Facility (39.5 MGD)
- Glenville Lake Water Treatment Facility (18.0 MGD)
 - Drinking Water Service Area: 116 Sq. miles
- Cross Creek Water Reclamation Facility (25 MGD)
- Rockfish Creek Water Reclamation Facility (21 MGD)
 - Wastewater Service Area: 109 Sq. miles

Electric Operations



- Purchase Wholesale Power from Duke Energy
- Only NC municipal system to own/operate a generation plant (Dispatched for use by Duke Energy)
- Generation Capacity: 268 MW
- Solar Generation: 1 MW
- Battery Storage: 2 MW
- Annual MWH Sold: 1.9 million
- System Peak: 499 MW (Feb. 9, 2015)
- Reliability Rate: 99.99%
- Electric Distribution Substations: 32
- Distribution Lines: 1,360 miles
- Transmission Lines: 123 miles
- Streetlights/Area Lights: 37,853

Water/Wastewater Operations



- Population Served: 225,000
- Drinking Water Treated: 10.7 Billion Gallons/Year
- 100% Compliant for all EPA Drinking Water Standards
- Daily Water Treatment Capacity: 57.5 MG/Day
- Daily Wastewater Treatment Capacity: 46 MG/Day
- Water/Wastewater Infrastructure: 2,825 miles
- Hydrants: 8,616
- Sanitary Sewer Lift Stations: 78
- Manholes: 34,002

Financial



- FY24 Annual Operating Budget: \$428.8 Million
- Total Assets: \$1.62 Billion
- Bond Rating: Aa2(Moody's), AA (Standard & Poor), AA (Fitch)
- Operations & Maintenance Expense per Customer: \$505 (\$557 National Median)
- Annual Cash Contributions to the City of Fayetteville in Lieu of Taxes: \$12.2 Million
- Annual Streetlight Services: \$3.9 Million
- Annual Annexation Construction Costs: \$4.8 Million
- Total Annual Contributions to the City of Fayetteville: \$25.4 Million

Visit www.faypwc.com to learn more about PWC



SALE OF GOODS AGREEMENT

This Sale of Goods Agreement ("Agreement") is made by and between the City of Fayetteville (the "City"), by and through the Fayetteville Public Works Commission ("PWC"), a North Carolina public authority, and [insert seller's full legal name] ("Seller"), a [identify the legal entity and State in which formation was accomplished] (each of PWC and Seller is a "Party" and both are collectively the "Parties") as of the date of execution last written below (the "Effective Date"). In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, The Parties agree as follows:

1. Sale of Goods. Seller shall sell to PWC and PWC shall purchase from Seller the following [Identify the goods specifically] (the "Goods"). PWC may issue a purchase order for the Goods that specifies any additional applicable terms and conditions set forth for the purchase (a "Purchase Order"), but such Purchase Order is subject to the terms of this Agreement. In the event of a conflict between the provisions of this Agreement and the provisions of any Contract Documents, attachment, exhibit or Purchase Order made pursuant to this Agreement, the terms of this Agreement shall govern.

2. Contract Documents. "Contract Documents" means, collectively, the following documents that were either made available to Seller by PWC during the bid solicitation process (including Drawings) or executed by the Parties, or both, which are all incorporated by reference herein:

- a. This Agreement
- b. Notice to Prospective Bidders
- c. Definitions
- d. Instructions to Bidders
- e. General Conditions
- f. Materialman's Proposal
- g. Bid Bond
- h. Technical Specifications
- i. Purchase Order(s)
- j. Addenda

3. Delivery of Goods. Seller shall deliver the Goods [EITHER: "on or before _____" OR "as specified in the Contract Documents or an applicable Purchase Order issued by PWC" OR "as otherwise agreed in writing by the Parties"] (the "Delivery Date"). Timely delivery of the Goods is of the essence. If Seller fails to deliver the Goods on or before the Delivery Date, PWC may, without any liability to Seller, terminate this Agreement immediately by providing written notice to Seller. Unless otherwise specified in an applicable Purchase Order or the Contract Documents, excluding this Agreement, all Goods shall be delivered to PWC's Warehouse at 955 Old Wilmington Road, Fayetteville, North Carolina 28301 (the "Delivery Point") during PWC's normal business hours. Delivery shall be made FOB Delivery Point.

4. Title and Risk of Loss. Title of the Goods passes to PWC upon delivery of the Goods to the Delivery Point. Seller bears all risk of loss or damage to the Goods until delivery of the Goods to the Delivery Point.

5. Packaging. Seller shall properly pack, mark, and ship the Goods as instructed by PWC and otherwise in accordance with applicable law and industry standards and shall provide PWC with all shipment documentation showing the quantity of pieces in shipment, the number of cartons or containers in shipment, Seller's name, the airway bill or bill of lading number, and the state of origin.

6. Inspection and Rejection of Nonconforming Goods. PWC has the right to inspect the Goods on or after the Delivery Date. PWC, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If PWC rejects any portion of the Goods, PWC has the right, effective upon written notice to Seller, to: (a) terminate this Agreement in its entirety and require Seller to remove the Goods in a commercially reasonable time period or pay the full cost and expense to have the rejected Goods returned to Seller; or (b) reject the Goods and require replacement of the rejected Goods at Seller's sole expense. If PWC requires replacement of the Goods, Seller shall, at its sole expense and in the lesser of ninety (90) days or the number of days between any applicable Purchase Order of PWC and the Delivery Date, replace the nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective goods and the delivery of replacement Goods. Any inspection or other action by PWC under this Section shall not reduce or otherwise affect Seller's obligations under this Agreement, including Seller's warranties, and PWC shall have the right to conduct further inspections after Seller has carried out its remedial actions.

7. Price. PWC shall purchase the Goods from Seller in the total amount of \$_____ ("Price"). The Price includes all packaging, transportation costs to the Delivery Location, insurance, fees, and applicable taxes, including, but not limited to, all sales, use, or excise taxes. No increase in the Price is effective, whether due to increased material, labor, transportation costs or otherwise, without the prior written consent of PWC.

8. Billing and Payment. Seller shall invoice PWC within thirty (30) days after the completion of the delivery of the Goods. PWC shall pay the undisputed portion of the invoice within forty-five (45) calendar days after PWC's receipt of the invoice. All payments from PWC to Seller shall be transferred electronically to Seller's designated financial institution, and Seller shall, prior to delivery of its invoice to PWC, supply the name of Seller's financial institution, routing number, and account number on the form available from PWC and provide to PWC a completed and signed IRS Form W-9. Seller has the right to impose a late payment charge of one percent (1%) per month for amounts unpaid by PWC by the date due.

Provider shall comply with all of the following requirements so that PWC may recover the full amount of sales and use tax under North Carolina law permitted under the law:

- a. Furnish PWC documentary evidence showing the material used, sales tax paid, and County paid (County of sale). The documentary evidence shall include Provider's certified statement showing total purchases of materials from each separate vendor and total sales taxes charged to PWC and paid by Provider. The documentary evidence shall also include Provider's certified statement as to the amount paid by PWC for sales tax on the Goods. A certified form is required even if no sales tax was paid for the pay request period. Materials used from Provider's warehouse stock shall be shown in a

certified statement at warehouse stock prices and amount of County of Use Tax charged to PWC and paid by Provider;

- b. Provider shall furnish to PWC invoices or copies of invoices for all materials purchased for said work within pay request period, and such invoices shall state the amount of North Carolina Sales Tax, if any, paid for the Goods. Provider shall also furnish to PWC invoices identifying the amount paid for the sales and use tax on Services that are subject to such taxation under North Carolina law; and
- c. Provider shall not include any tax paid on supplies, tools, and equipment that Provider uses to perform its obligations under this Agreement.

9. Warranties. Seller warrants to PWC that for a period of twenty-four (24) months from the Delivery Date, all Goods will: (a) be free from any defects in workmanship, material and design; (b) conform to applicable specifications, drawings, designs, samples and other requirements set forth in the Contract Documents or as specified by PWC and agreed to by Seller; (c) be fit for their intended purpose and operate as intended; (d) be free and clear of all liens, security interests, or other encumbrances; and (e) not infringe or misappropriate any third party's patent or other intellectual property rights. These warranties survive any delivery, inspection, acceptance or payment of or for the Goods by PWC. These warranties are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of PWC's discovery of the noncompliance of the Goods with the foregoing warranties. If PWC gives Seller notice of noncompliance with this Section 9, Seller shall, at its own cost and expense, within thirty (30) days replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Goods to PWC.

10. Termination. Notwithstanding any other or additional remedies that may be provided under this Agreement, PWC may terminate this Agreement with immediate effect upon written notice to the Seller, either before or after the acceptance of the Goods, if: (a) Seller repudiates, or threatens to repudiate, any of its obligations under this Agreement; (b) Seller is in breach of, or threatens to breach, any representation, warranty, or covenant of Seller under this Agreement and either the breach cannot be cured or, if the breach can be cured, it is not cured by Seller within a commercially reasonable period of time under the circumstances, in no case exceeding seven (7) days following Seller's receipt of Notice of such breach; (c) Seller fails to, or threatens to fail to, timely deliver Goods conforming to the requirements of, and otherwise in accordance with, the terms and conditions of this Agreement; or (d) Seller becomes insolvent, files a petition for bankruptcy, or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors. PWC shall be obligated to pay Seller only for work performed and reasonable expenses incurred until delivery of the notice of termination.

11. Insurance. During the term of this Agreement and for a period of three (3) years after the date of this Agreement, Seller shall, at its own expense, maintain and carry insurance in full force and effect that includes, but is not limited to, commercial general liability (including product liability) with limits no less than \$1,000,000 for each occurrence and \$3,000,000 in the aggregate and umbrella liability in a sum no less than \$5,000,000, which insurance shall be placed with insurance companies authorized to do business in the State of North Carolina and rated A minus VII or better by the current edition of Best's Key Rating Guide or otherwise approved in writing by PWC. Prior to delivering any Goods, Seller shall deliver to PWC

certificates of insurance confirming each such coverage, and Seller shall direct its insurers to provide annually to PWC certificates confirming each such coverage during the coverage period. PWC shall be named as an additional insured in the insurance policy. Seller shall not reduce or allow the required insurance coverages to lapse without PWC's prior written approval. All policies for insurance must be endorsed to contain a provision giving PWC a thirty (30) calendar day prior written notice by certified mail of any cancellation of that policy or material reduction in coverage. Should a notice of cancellation be issued for non-payment of premiums or any part thereof, or should Seller fail to provide and maintain certificates as set forth herein, PWC shall have the right, but not the obligation, to pay such premium to the insurance company or to obtain such coverage and to deduct such payment from any sums that may be due or become due to Seller, or to seek reimbursement for said payments from Seller. Any such sums paid by PWC shall be due and payable immediately by Seller upon notice from PWC. The insurance provisions of this Agreement shall not be construed as a limitation on Seller's responsibilities and liabilities pursuant to the terms and conditions of this Agreement.

12. Indemnification. Seller shall indemnify, defend, and hold harmless PWC and its Commissioners, officers, employees, agents, and representatives (collectively, "Indemnitees") from and against all claims, actions, liabilities, damages, losses, costs, and expenses (including, without limitation, injury to or death of any persons and damage to property, economic and consequential damages and attorneys' fees) asserted by one or more third parties against one or more of the Indemnitees arising out of negligent or willful acts, violations of law, infringement of any patent, trademark, trade secret, copyright, or other intellectual property right of a third party, or omissions or breach of the obligations set forth in this Agreement by Seller or any of its employees, agents, representatives, and subcontractors. Seller's obligation to indemnify, defend, and hold harmless the Indemnitees shall survive the termination of this Agreement and shall include the duty to pay for the reasonable attorney's fees and costs associated with defending the Indemnitee(s) by the legal counsel of each Indemnitee's choice.

13. Notices. Any notice which either Party is required or desires to give the other shall be deemed sufficiently given if, in writing, it is delivered personally, or sent by certified U.S. mail, return-receipt requested, postage prepaid, to the addresses listed hereinbelow, or such other address as either Party shall give to the other Party by written notice in accordance herewith. Any notice given herein by personal delivery shall be deemed delivered when received. Any properly addressed notice given herein by certified mail shall be deemed delivered on the third Business Day after the same is deposited in an official United States Post Office, postage prepaid, or if sooner upon the date when the return receipt therefor is signed, or refusal to accept the mailing by the addressee is noted thereon by the postal authorities.

To PWC:
Fayetteville Public Works Commission
Attn: Timothy Bryant, CEO/General Manager
PO Box 1089
Fayetteville, NC 28302

To Seller:
[INSERT MAILING ADDRESS]

14. Compliance. Seller hereby acknowledges that "E-Verify" is the federal E-Verify program operated by the US Department of Homeland Security and other federal agencies which is used to verify the work authorization of newly hired employees pursuant to federal law

and in accordance with Article 2, Chapter 64 of the North Carolina General Statutes. Seller further acknowledges that all employers, as defined by Article 2, Chapter 64 of the North Carolina General Statutes, must use E-Verify and after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS §64-26(a). Seller hereby pledges, attests, and warrants through execution of this Agreement that Seller complies with the requirements of Article 2, Chapter 64 of the North Carolina General Statutes and further pledges, attests, and warrants that all subcontractors currently employed by or subsequently hired by Seller to provide services for PWC shall comply with all E-Verify requirements. Failure to comply with the above requirements shall be considered a breach of this Agreement. Seller hereby further acknowledges that the execution and delivery of this Agreement constitutes Seller's certification to PWC and to the North Carolina State Treasurer that, as of the Effective Date, Seller is not listed on (a) the Final Divestment List created and maintained by the North Carolina Department of State Treasurer pursuant to the Iran Divestment Act of 2015, Chapter 147, Article 6E of the General Statutes of North Carolina (the "Iran Divestment Act"); or (b) the list of companies that the North Carolina State Treasurer determines to be engaged in a boycott of Israel in accordance with Article 6G of Chapter 147 of the General Statutes of North Carolina. Seller represents and warrants to Commission that Seller, and all persons and entities owning (directly or indirectly) an ownership interest in it: (i) are not, and will not become, a person or entity with whom a party is restricted from doing business with under regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001, Executive Order 13224 Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action; and (ii) are not knowingly engaged in, and will not knowingly engage in, any dealings or transactions or be otherwise associated with such persons or entities described in clause (i) above. Seller also shall at all times during the term of this Agreement comply with Executive Order 11246, including but not limited to the Equal Opportunity Clause requirements set forth in 41 C.F.R. § 60-1.4. Seller shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a) prohibiting discrimination against qualified individuals on the basis of protected veteran status or disability and requiring affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

15. Cumulative Remedies. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law or in equity.

16. Miscellaneous Provisions. Seller is and shall remain an independent contractor. Nothing contained in this Agreement shall be deemed or construed to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the Parties. No breach or non-performance of any term of this Agreement shall be deemed to be waived by either Party unless said breach or non-performance is waived in writing and signed by the Parties. No waiver of any breach or non-performance under this Agreement shall be deemed to constitute a waiver of any subsequent breach or non-performance, and for any such breach or non-performance each Party shall be entitled to such remedies as provided by law. No consent or waiver by a Party shall be effective unless it is in writing and then only to the extent specifically stated. The invalidity, illegality, or un-enforceability of any portion or provision of this Agreement shall in no way affect the validity, legality, and/or enforceability of

any other portion or provision of this Agreement. Any invalid, illegal, or unenforceable provision of this Agreement shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced the same as if the Agreement had not contained any portion or provision which was invalid, illegal, or unenforceable; provided, however, severability shall not prevent this entire Agreement from being void in the event any portion or provision of this Agreement that is of the essence of this Agreement shall be void. This is the entire agreement of the Parties on the subject matter hereof, and all prior negotiations, representations, proposals, letters, agreements, understandings, or other communications between the Parties, whether written or oral, are hereby merged into the Agreement and superseded by this Agreement. This Agreement shall not be modified unless such modifications are evidenced in writing, signed by both Parties. Nothing herein shall be construed to give any right or benefits hereunder to anyone other than the Parties. This Agreement shall be governed by the laws of the State of North Carolina without the application of the laws of any other state. The exclusive venue for all mediations and litigation and any other legal proceedings regarding this Agreement shall be the State and Federal Courts serving Cumberland County, North Carolina, and Seller consents to personal jurisdiction in such courts. Seller irrevocably waives, to the fullest extent permitted by law, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court serving Cumberland County or that any such suit, action or proceeding brought in any such court serving Cumberland County has been brought in an inconvenient forum. This Agreement may be executed in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument, and all such counterparts together shall be deemed an original of this Agreement. For purposes of this Agreement, a facsimile copy or scanned copy or photocopy of a party's signature shall be sufficient to bind such party. This Agreement shall be subject to execution by electronic means in accordance with Article 40 of Chapter 66 of the North Carolina General Statutes. The titles of the paragraphs throughout this Agreement are for convenience only and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this instrument.

17. Conflicts. Except with PWC's knowledge and prior written consent, the Seller shall not engage in any activity or accept any employment, interest or contribution that would reasonably appear to compromise the Seller's professional judgment with respect to the Goods. The Seller shall disclose to PWC any business or personal relationship with any Commissioner, officer, director, manager, or supervisor of PWC.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their duly authorized representatives as of the Effective Date.

Fayetteville Public Works Commission

[INSERT SELLER'S FULL LEGAL NAME]

By: _____
Timothy Bryant, CEO/General Manager

By: _____
(Printed Name) (Title)

Date: _____

Date: _____

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act (N.C. Gen. Stat. § 159-1 et seq.).

By: _____
Rhonda Haskins, Chief Financial Officer

Approved as to form:

Legal Dept.

SAMPLE

ATTACHMENT F: BID SUBMITTAL CHECKLIST

To ensure your bid is considered for evaluation and potential award, the following forms and required information must be submitted in full. Each item on this checklist must be completed and provided with your bid response. Failure to submit any required documentation or information may result in disqualification. Please carefully review the checklist to confirm all required materials are included before submitting your bid.

- ☐ 1. Properly Marked Sealed Bid (Submission Instructions paragraph 4)
- ☐ 2. Descriptive Literature, **if applicable** (Attachment A)
- ☐ 3. Deviations, **if applicable** (Attachment A)
- ☐ 4. Attachment B Company Information (completed and signed)
- ☐ 5. Attachment B Manufacturer Information (provided)
- ☐ 6. Attachment B Part Number Information (provided)
- ☐ 7. Attachment B Lead Time Information (provided)
- ☐ 8. Attachment B Unit Price Information (provided)
- ☐ 9. Attachment C (completed and signed) or Explanation (provided)
- ☐ 10. Addendum 1, if applicable (acknowledged and signed)
- ☐ 11. Addendum 2, if applicable (acknowledged and signed)
- ☐ 12. Addendum 3, if applicable (acknowledged and signed)
- ☐ 13. Addendum 4, if applicable (acknowledged and signed)