

PWC

Fayetteville's

HOME TOWN UTILITY

**PROJECT MANUAL
CONTRACT DOCUMENTS AND SPECIFICATIONS FOR**

**DIESEL FUEL AST REPLACEMENT
FOR THE FAYETTEVILLE PUBLIC WORKS COMMISSION**

PWC2021041

March 2021
Fayetteville Public Works Commission
PWC Operations Center
955 Old Wilmington Road
Fayetteville, NC 28301

**REQUEST FOR PROPOSAL
Diesel Fuel AST Replacement
Fayetteville Public Works Commission**

Notice to Bidders

NOTICE Pursuant to N.C.G.S 143-131, The Fayetteville Public Works Commission (PWC) will receive sealed proposals for this project until 5:00pm., Thursday April 1, 2021. Proposals will be received in the Procurement Department, 1st Floor, PWC Administration Building, 955 Old Wilmington Road, Fayetteville, NC 28301.

A. Scope of Work

The Fayetteville Public Works Commission is currently seeking qualified contractors to perform the following work:

Removal of the existing 10,000-gallon Diesel Fuel Above Ground Storage Tank (AST) system including the submerged turbine pump (STP), valves, piping, probes, sensors, platform, and ladders. Contractor shall take possession of the tank, platform, ladders, STP, and appurtenances upon removal from their currently installed locations and all other items as shown on the Contract Drawings. PWC will contract with an Environmental Contractor for the removal of fuel and/or water from the tank, cleaning and preparation for removal by the Contractor. Upon removal of the existing tank the Contractor shall install a new 20,000-gallon Diesel Fuel AST with walkway, ladders, saddles, and new concrete piers as shown on the Contract Drawings and per the specifications shown on the Contract Drawings. There are two bid alternates shown on sheet C.2.1. Bid Alternate 1 shall be to replace the Diesel Off Load Pump. Bid Alternate 2 shall be to replace the Gasoline Off Load Pump.

All work shall be done in accordance with the terms and conditions outlined herein and subject to final approval and acceptance by the Fayetteville Public Works Commission.

B. Bid Proposal

Prospective bidders should complete the enclosed bid proposal, sign and date where indicated, and return the completed proposal to the Fayetteville Public Works Commission. All proposals shall be sealed in an envelope and addressed to:

SEALED BID: DIESEL FUEL AST REPLACEMENT
Fayetteville Public Works Commission
Attention: Shelby Lesane
955 Old Wilmington Road
Fayetteville, NC 28301

All proposals must be received by **5:00 pm, Thursday, April 1, 2021**, in order to be considered. The successful contractor will be notified in writing at the earliest possible date after the bid opening. Late bids will not be considered and will be returned to the Bidder unopened. This is an informal bid; therefore, there will be no formal bid opening. Bids will be opened the next business day and a bid tabulation will be provided to all bidders.

A bid may be modified or withdrawn by the Bidder any time prior to the time and date set for the receipt of bids. The Bidder shall notify the PWC Procurement Department in writing up to the time and date set for the receipt of bids. Bid shall not be modified or withdrawn after Bids are opened except in accordance with N.C.G.S. Section 143-129-1. PWC Reserves the right for limited extension, Bid withdrawals must be in writing no later than 5:00p.m., Thursday, April 8,2021.

Bids will be examined promptly after opening and an award will be made at the earliest possible date. Bids must be held firm for acceptance by the Fayetteville Public Works Commission for a period of sixty (60) days after bid opening date.

All questions regarding this project shall be submitted in writing to Shelby Lesane, Procurement Advisor, by fax at (910) 483-1429 or by e-mail to Shelby.Lesane@faypwc.com. All questions shall be submitted no later than **5:00 p.m., Friday, March 26, 2021**, in order to be considered. Oral explanations and interpretations made prior to bid opening shall not be binding.

The Fayetteville Public Works Commission will provide all bidders with the questions and answers. If the questions result in revisions to the plans and/or this Request for Proposal, an addendum will be issued. It is anticipated that the responses to the questions and any necessary addendum will be issued on or before **Tuesday, March 30, 2021**.

Bidders are expressly prohibited from contacting any Fayetteville Public Works Commission official or employee associated with this Request for Proposals, except as noted above. Violation of this prohibition is grounds for the immediate disqualification of the bidder.

C. Bid Security

- a. Each Bid shall be accompanied by Bid security in the form of either a cashier's or certified check or an acceptable Bid Bond in the amount of five percent (5%) of the Bid amount, and made payable to the Fayetteville Public Works Commission, North Carolina.
- b. The Bid security is a guarantee that if the contract is awarded by PWC to the Bidder, the Bidder shall enter into the contract with PWC for the work mentioned in this Bid or forfeit the Bid security to PWC, not as a penalty, but as liquidated damages.
- c. No forfeiture under a Bid security shall exceed the lesser of (a) the difference between the Bid for which the Bid security was written and the next low Bid of another Bidder, or (b) the face amount of the Bid security (Code of North Carolina, Section 11-57B).
- d. All bonds shall be executed by a surety company selected by the Bidder, which is legally authorized to do business in the State of North Carolina (NCGS Chapter 44 A-26), and the bond shall be the same in both form as well as substance as AIA Document A310, Bid Bond.
- e. The Bidder shall require the attorney-in-fact, who executed the required bond on behalf of the surety company, to affix thereto a certified and current copy of the power of attorney.
- f. The bond premium shall be paid by the Bidder and the cost shall be included in the Bid price.
- g. Any inspection of procurement transaction records shall be subject to reasonable restrictions to ensure the security and integrity of the records

D. General Conditions

- a. Award of Contract – The Fayetteville Public Works Commission will prepare a Purchase Order to the successful bidder, in the bid amount. Prior to beginning work, the successful Contractor shall furnish the appropriate bonds and insurance certificates to the Fayetteville

Public Works Commission's Purchasing Department within ten (10) calendar days of receipt of the executed Purchase Order. If the Contractor fails to provide such requested information within this time, the Fayetteville Public Works Commission reserves the right to cancel the Purchase Order and proceed with awarding the contract to the next lowest, responsible bidder. The Fayetteville Public Works Commission, if deemed advisable in the interest of the Fayetteville Public Works Commission, may extend this time.

- b. The Fayetteville Public Works Commission will issue a written Notice to Proceed to the Contractor upon receipt of the Contractor's bonds and insurance information.
- c. The Fayetteville Public Works Commission reserves the right to reject any and all bids, to waive any and all informalities, and to disregard all non-conforming, non-responsive, or conditional bids.
- d. **In order to be considered for award of this bid, contractors and prospective bidders shall submit the required qualification information with their bid.** The Fayetteville Public Works Commission will review all of the bids and qualification information to determine the lowest, responsive, responsible Bidder. The Fayetteville Public Works Commission reserves the right not to award the Contract to the lowest Bidder if the Bidder fails to provide the requested information, or if the submitted information does not meet the satisfaction of the Fayetteville Public Works Commission, or has been falsified. The information requested is intended to indicate the minimum requirements for work on this project. **The following items are considered to be the Contractors Qualification Information and are required to be submitted with the Contractors Bid:**
 - i. A list of client references and contact information (minimum of three (3))
 - ii. A list of projects (minimum of three (3) projects), similar in nature and completed within the last three (3) years.
 - iii. Proof of General Contractors Licensure
 - iv. Copy of Certificate of Insurance (Reference section D of this RFP)

Failure or refusal to furnish any of these items with the Contractors Bid shall constitute a basis for disqualification of any Bidder. Should Fayetteville Public Works Commission adjudge that the apparent low bidder is not the lowest, responsive, responsible bidder by virtue of the qualification information, said apparent low bidder will be notified.

- e. The Contractor must be licensed as a General Contractor in the State of North Carolina pursuant to NCGS Chapter 87, Article 1 and 1A.
- f. The Contractor's attention is directed to the fact that all applicable State Laws, Municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they are deemed to be included in the contract the same as though herein.
- g. The Fayetteville Public Works Commission reserves the right to request tests on any or all materials and workmanship by a certified testing firm. Initial tests shall be completed at the expense of the Fayetteville Public Works Commission. Re-inspections and re-testing required due to failure of previous tests shall be at the Contractor's expense.
- h. All prices submitted herein shall be firm against any increase for the contract period.
- i. The Fayetteville Public Works Commission reserves the right to delete any single item or combination of items from the successful bidder's proposal.
- j. All work required on the plans, specified herein or as directed by the Fayetteville Public Works Commission in the field to satisfactorily complete the above project is the Contractor's responsibility. The Contractor shall be responsible for performing any excavation and grading, furnishing all materials, labor, equipment, tools, and incidentals necessary to complete the work, leaving the site in a neat and satisfactory condition.
- k. Payment shall be monthly estimates approved by the Fayetteville Public Works Commission on the work completed. The Contractor shall review all pay application quantities with the

Fayetteville Public Works Commission's Project Coordinator, prior to submitting an official application for payment. The monthly estimates shall be based on the work completed as of the last Friday of the month.

- l. The Fayetteville Public Works Commission shall make monthly payment to the Contractor on the basis of a duly certified and approved estimate for the work performed during the preceding month under the Contract. In accordance with N.C.G.S. 143-134.1, the Fayetteville Public Works Commission will retain 5% of the amount of each monthly periodic payment. The Fayetteville Public Works Commission may, after 50% of the work has been completed, consider waiving further retainage on the project upon the following conditions: (1) Written consent of surety is received; (2) Satisfactory progress is being made on the Project; and (3) Prior to 50% completion, any nonconforming work identified in writing by the Fayetteville Public Works Commission has been corrected by the Contractor and accepted by the Fayetteville Public Works Commission. If retainage is discontinued or reduced, the Fayetteville Public Works Commission reserves the right to reinstate retainage up to the 5% level if the Contractor performs unsatisfactorily. Furthermore, the Fayetteville Public Works Commission reserves the right to continue to retain payment, even in the event the Contractor's work is satisfactory, in order to ensure a total of 2.5% retainage over the life of the project. The Fayetteville Public Works Commission reserves the right to withhold additional payments for unsatisfactory job progress, defective construction not remedied, disputed work, or third-party claims filed against the Fayetteville Public Works Commission or reasonable evidence that a third-party claim will be filed.
- m. There will be no payment for stored materials.
- n. The Contractor is charged with the responsibility of actually inspecting and examining the site prior to submitting the bid, as no additional allowances for extra compensation will be allowed as a result of the work being of a different nature than contemplated by the Contractor.
- o. The Contractor shall commence work to be performed under this agreement on a date specified in a written Notice to Proceed from the Fayetteville Public Works Commission and shall fully complete all work hereunder within 90 consecutive calendar days from said date. For each calendar day in excess of the above number of days, the Contractor shall pay to the Fayetteville Public Works Commission the sum of five hundred dollars (\$500) as liquidated damages reasonably estimated in advance to cover any losses incurred by the Fayetteville Public Works Commission by reason of failure of said Contractor to complete the work within the time specified. Time extensions must be requested in writing for the Fayetteville Public Works Commission Project Engineer's approval, based on valid excessive delays caused by weather or other conditions not the fault of the Contractor.
- p. The Contractor shall establish and maintain records in accordance with generally accepted accounting practices and submit in a form acceptable to OWNER an itemized cost breakdown together with supporting data. OWNER may audit CONTRACTOR's records related to such costs during normal business hours. The CONTRACTOR's total fee for overhead and profit shall not exceed 15% of the value of the additional work approved by the OWNER. No increase in Contract Price shall be granted for Inexcusable Delays, unless otherwise agreed to by OWNER.
- q. The Contract price may only be change by a Change Order. The value of any Work covered by a Change Order or any Clam for an Adjustment in the Contract Price shall be determined as follows:
 - i. Where the Work involved is covered by unit prices contained in these Contract Documents, by application of such unit prices to the quantities of the items involved.Or

- ii. Where the Work involved is not covered by unit prices contained in the Contract Documents, by mutually agreed unit prices or lump sum (which may include an allowance for overhead and profit); or
 - iii. Where the work is not covered by unit prices contained in these Contract Documents and agreement to a unit price or lump sum is not reached, on the basis of the cost of the work plus a CONTRACTOR'S fee for overhead profit.
- r. The Contractor shall guarantee all workmanship and methods of construction for a period of one (1) year from the date of final payment.
- s. The Contractor shall indemnify and hold harmless the Fayetteville Public Works Commission and its agents and employees from and against all claims, damages, losses and expenses, including reasonable attorney's fees, arising out of, or resulting from the performance of the work, caused by an act or omission of the Contractor, any subcontractor, and anyone for whose acts any of them may be liable. In cases of concurring fault, each party shall bear his share of the loss. In any and all claims against the Fayetteville Public Works Commission or any of its agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone of whose acts any of them may be liable, the indemnification obligation under the preceding paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor under Worker's Compensation Acts, disability benefit acts or other employee benefit acts.
- t. Statutory Requirements for Contracting with PWC:
- LICENSING: The Contractor shall be licensed as a North Carolina Public Utilities Contractor, Unlimited, pursuant to NCGS Chapter 87, Article 1 and 1A
 - E-VERIFY: The Contractor shall verify the work authorization of his employees using the Federal E-Verify program and shall comply with all requirements of the E-Verify program pursuant to Federal law and in accordance with NCGS Chapter 64, Article 2. The Contractor shall ensure that all his subcontractors, whether currently employed or subsequently hired, comply with all E-Verify requirements. Failure to comply with these requirements shall be considered a breach of Contract
 - IRAN DIVESTMENT ACT: As mandated by NCGS. 147-86.59(a), Contractor hereby certifies that he is not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to NCGS 147-86.58. Contractor/Vendor further certifies that in accordance with NCGS 146-86.58(b) that it shall not utilize any subcontractor found on the State Treasurer's Final Divestment List. Contractor/Vendor certifies that the signatory to this Purchase Order is authorized by the Contractor/Vendor to make the foregoing statement
- u. Termination – The Fayetteville Public Works Commission reserves the right to immediately terminate this contract, if during the progress of the work or during the warranty period, the Contractor:
- Persistently fails to prosecute the work properly and in accordance with this contract (to include failure to provide sufficient crews, equipment, or resources, failure to adhere to the schedule, etc.),
 - Demonstrates disregard for the policies, procedures, and requirements of the Fayetteville Public Works Commission,
 - Demonstrates complete disregard of the authority of the Fayetteville Public Works Commission and their designated representative, or
 - Violates in any substantial way the provisions and requirements of this contract.

Such termination shall be made in writing, upon providing seven (7) calendar days notice to the Contractor and their surety.

Additionally, the Fayetteville Public Works Commission may terminate the contract for their convenience. In such instance, the Contractor will be notified seven (7) calendar days prior, and will be paid for all work completed, plus other expenses as mutually agreed upon with the Fayetteville Public Works Commission.

E. Insurance

The insurance required for this contract is as follows:

- (a) Commercial General Liability ISO #CG 00 01 10 93: The Contractor shall take out and maintain during the life of this contract commercial general liability insurance with limits of \$1,000,000 per occurrence; \$2,000,000 aggregate other than products/completed operations; \$2,000,000 aggregate for products/completed.
- (b) Automobile Liability ISO #CA 00 01 12 93: The Contractor shall take out and maintain during the life of this contract automobile liability insurance in an amount not less than \$1,000,000 combined single limit per accident for bodily injury and property damage from owned, non-owned, and hired automobiles.
- (c) Workers' Compensation and Employers' Liability Insurance: The Contractor shall take out and maintain during the life of this contract workers' compensation insurance as required by the laws of the State of North Carolina and Employers' Liability with limits of \$100,000 each accident, \$500,000 policy limit and \$100,000 each employee for all employees employed on the project. In case any employee(s) engaged in work under this contract is or are not protected under the Workers' Compensation Statute, the Contractor shall provide adequate coverage for the protection of employees not otherwise protected.
- (d) Property Insurance: If contracted to construct a building, the Contractor shall purchase and maintain "Builder's Risk" insurance. This insurance shall include the interests of the Fayetteville Public Works Commission, the Contractor and Subcontractors and shall be written on a one hundred percent (100%) completed value basis (full value as of the date that all construction is finished and includes the Contractor's total cost plus profit), and to remain in force until the project is completed and accepted by the Fayetteville Public Works Commission.
Regardless of the nature of the work to be performed, coverage must also be provided for the theft or damage of building materials and supplies, which are not permanently attached and stored on site for any period of time. This coverage shall be an "Installation Floater," and where no building construction is involved, the amount of the coverage shall equal the value of the materials stored on site.

It is the responsibility of the Contractor to inform the policy provider of any and all change orders which increase the building's value. Any penalties or losses incurred due to the Contractor's failure to adequately insure the building during construction will be the Contractor's responsibility.
- (e) Owner's and Contractor's Protective Liability I.S.O. #CG 00 09 10 93: The Contractor shall secure and maintain during the life of the contract, an Owner's and Contractor's

Protective Liability insurance policy for the Fayetteville Public Works Commission, with minimum limits of \$1,000,000 per occurrence/\$2,000,000 aggregate.

Acceptability of Insurance

All insurance policies shall be written by insurers licensed to do business in North Carolina. It is realized that certain business activities may not be readily insurable by admitted carriers. If insurance is written by non-admitted carriers whose names appear on the current listing of approved and non-admitted carriers prepared by the North Carolina Department of Insurance, such carriers will be favorably considered assuming they meet all other requirements. Non-admitted carriers should be so identified on the Certificate of Insurance form. The Fayetteville Public Works Commission reserves the right to reject any and all certificates or policies issued by insurers with a Best's rating less than A.

Indemnity Provision

Contractor assumes entire responsibility and liability for losses, expenses, demands and claims in connection with or arising out of any injury, or alleged injury (including death) to any person, or damage, or alleged damage, to property of the Fayetteville Public Works Commission or others sustained or alleged to have been sustained in connection with or to have arisen out of or resulting from the negligence of the Contractor, his subcontractors, agents, and employees, in the performance of the work/service set forth these contract documents, and any changes, addenda, or modifications including losses, expenses or damages sustained by the Fayetteville Public Works Commission, and agrees to indemnify and hold harmless the Fayetteville Public Works Commission, its officials, employees or volunteers from any and all such losses, expenses, damages, demands and claims and agrees to defend any suit or action brought against them, or any of them, based on any such alleged injury or damage, and to pay all damages, cost and expenses in connection therewith or resulting there from. As an integral part of this agreement Contractor agrees to purchase and maintain during the life of this contract contractual liability insurance in the amount required in the general liability insurance requirements and to furnish proper evidence thereof.

Other Provisions:

- (1) Any deductible or self-insured retention must be declared to and approved by the Fayetteville Public Works Commission.
- (2) The policies are to contain, or be endorsed to contain, the following provisions:
 - (a) Commercial General Liability Coverage
 - 1) The Fayetteville Public Works Commission, its officials, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Fayetteville Public Works Commission, its officials, employees or volunteers.

- 2) The Contractor's insurance coverage shall be primary insurance as respects the Fayetteville Public Works Commission, its officials, employees and volunteers. Any insurance or self-insurance maintained by the Fayetteville Public Works Commission, its officials, employees or volunteers shall be excess of Contractor's insurance and shall not contribute with it.
- 3) Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(b) All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) calendar days prior written notice by certified mail, return receipt requested, has been given to:

Fayetteville Public Works Commission
Attn: Trent Ensley, Procurement Manager
P.O. Box 1089
Fayetteville, NC 28302-1089

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Fayetteville Public Works Commission, its officials, employees, and volunteers. In the event the Fayetteville Public Works Commission is damaged by the failure of the Contractor to maintain such insurance and to so notify the Fayetteville Public Works Commission, the Contractor shall bear all reasonable costs properly attributable thereto.

(c) Subcontractors

Contractor shall include all subcontractors as insurers under its policies OR shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

(d) No Waiver of Immunity

Any insurance coverage required by the terms of this contract shall not be deemed a contract of insurance purchased by the Fayetteville Public Works Commission nor a waiver of the Fayetteville Public Works Commission's immunity pursuant to NCGS 160A-485.

F. Performance and Payment Bonds

- a. The Contractor, at the time of the execution of the Contract shall be required to furnish a Performance Bond and Payment Bond in an amount equal to at least one-hundred percent (100%) of the Contract price as security for the faithful performance of this Contract and as security for the payment of all persons performing labor and furnishing materials and

- equipment in connection with this Contract in accordance with N.C.G.S. Chapter 44A, Article 3.
- b. The corporate surety furnishing the bonds shall be authorized to do business in the state of North Carolina and shall be acceptable to the Fayetteville Public Works Commission. All contract payment bonds and contract performance bonds shall be executed on “Performance Bond” and “Payment Bond” forms provided in this Proposal and be countersigned by a regularly authorized agent of the corporate surety who is resident in North Carolina and who is licensed by the North Carolina Department of Insurance.
 - c. In all Performance and Payment Bonds, the provision that no suit, action, or proceeding by reason of any default whatsoever shall be brought on this Bond after a specified number of months shall be fixed at twelve (12) months. The face value of the Bond shall be one-hundred percent (100%) of the Contract price for a period of twelve (12) months following the day when the last of the labor was performed, or equipment was furnished, or final settlement was made with the Contractor, whichever occurs last.
 - d. Whenever the Surety or Sureties on the bond so furnished shall be deemed by the Fayetteville Public Works Commission to be insufficient or unsatisfactory, the Contractor, within ten (10) business days after notice to that effect shall furnish and deliver a new bond to the Fayetteville Public Works Commission in the same penalty and on the same conditions with Surety satisfactory to the Fayetteville Public Works Commission and this duty shall continue on the part of the Contractor, whenever and so often as the Fayetteville Public Works Commission shall require a new bond with a satisfactory Surety or Sureties. If the Contractor shall fail to furnish such bond, within ten (10) business days after said notice is mailed to his address, the Fayetteville Public Works Commission through its proper agent or agents, may stop all further work under said Contract and complete the unfinished work at the expense of the Contractor.

G. Technical Specifications

The technical specifications are shown on the Contract Drawings titled “Diesel Fuel AST Replacement”.

H. Project Location

The project is at Fayetteville PWC’s main campus located at 955 Old Wilmington Road, Fayetteville, NC 28301.

I. Project Drawings

The attached drawings provide information for the replacement of the existing Diesel Fuel Tank with a new 20,000-gallon Diesel Fuel Tank. The Contractor is to maintain a full set of plans on site, at all times.

J. Special Conditions

These Special Conditions are intended to supplement and amplify the requirements of this Contract. Where any article or item of this Contract is modified or deleted by this section, the remaining unaltered provisions of that article, paragraph, subparagraph, or clause shall remain in effect. In the event of a conflict, these Special Conditions shall take precedence.

1. Customer Service

The Contractor is expected to make every effort to reduce the impact of their operation to the Fayetteville Public Works Commission's operation and maintenance of PWC's vehicle Fleet and fueling operations. Full cooperation and coordination with the Fayetteville Public Works Commission personnel is expected. It is expected that the Contractor will promptly respond to any concerns voiced by the Fayetteville Public Works Commission personnel and make every effort to resolve them immediately. Providing exemplary customer service shall be incidental to this Contract, and no additional payment will be made for this service.

2. Resolving Discrepancies

Except as may be otherwise specifically stated in these Contract Documents, the following order of precedence shall be adhered to for resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents:

1. Any addendum issued prior to the opening of Bids
2. Special Conditions
3. Measurement and Payment
4. Approved Contract Drawings
5. Fayetteville Public Works Commission Standard Details
6. Fayetteville Public Works Commission Technical Specifications

3. Guarantee

All work completed under these Contract Documents shall be guaranteed by the Contractor for a period of one (1) year from the date of final acceptance. During that period, all serious defects discovered in the work, as determined by the Fayetteville Public Works Commission, shall be removed and replaced in a satisfactory manner by the Contractor at no cost to the Fayetteville Public Works Commission. The Fayetteville Public Works Commission may conduct an independent inspection, at their sole expense, of the completed work prior to the completion of the one (1) year guarantee period.

Should the Fayetteville Public Works Commission's inspection determine that the work is not in accordance with these Contract Documents; the Contractor shall mobilize and make all necessary repairs at no expense to the Fayetteville Public Works Commission. The Contractor will receive written notification from the Fayetteville Public Works Commission and be allowed the chance to review any available inspection pictures or other documentation. The Contractor shall respond to the Fayetteville Public Works Commission with a plan of action within 30 calendar days of receiving notification. Failure to respond to the Fayetteville Public Works Commission's notification may result in the Fayetteville Public Works Commission withholding payments to the Contractor. Alternatively, the Fayetteville Public Works Commission reserves the right to contract with another party to complete the warranty work, at the sole expense of the Contractor.

4. Cleanliness During Construction

The Contractor shall perform a daily clean-up of all dirt, debris, scrap materials and other disposable items resulting from the Contractor's operations, whether on-site or off-site. The Contractor shall remove all construction equipment, barricades, tools, surplus materials, etc. no longer required at the site. No open accumulation of refuse, surplus or scrap materials will be permitted. The

Contractor shall legally dispose off-site all waste materials and other excess materials resulting from construction. No separate payment shall be made for maintaining a clean project site.

Failure of the Contractor to maintain a clean site will be basis for the Fayetteville Public Works Commission to issue a written Notice of Non-Compliance. If the Contractor does not take corrective measures within 24 hours, the Fayetteville Public Works Commission may authorize the clean-up to be performed by others, and the cost shall be deducted from monies due the Contractor.

5. Subcontractors

Second tier subcontractors shall not be allowed. Violation of this provision of the Contract may be deemed a breach of the Contract.

6. Stored Materials

There will be no payment for stored materials on this project.

7. Disposal of Debris

The Contractor shall properly dispose of all debris resulting from their operations, in accordance with applicable Federal, State, and local laws, regulations, and rules.

8. Working Times

The Contractor shall limit its operations to Monday through Friday, during normal business hours. Regular working hours shall not exceed 40 hours per week, 8 hours per day (between 7:00 a.m. and 5:00 p.m.), Monday through Friday. No Work is permitted on legal Holidays (to include weekends). No Work, unless otherwise required due to an emergency and authorized by the Fayetteville Public Works Commission, shall be performed on weekends or after hours without prior written approval from the Fayetteville Public Works Commission. Requests to work other than regular working hours must be submitted in writing to the Fayetteville Public Works Commission a minimum of two (2) business days in advance in order to arrange for appropriate personnel to be at the site of the Work. Requests shall only be approved if the Fayetteville Public Works Commission determines that the work is necessary in order to meet the contract completion date. The written request shall include a proposed schedule for the Work to be completed.

During the course of construction, it may be necessary to complete portions of the Work outside of the normal working hours, to accommodate the utility owner's operations, traffic, and/or public convenience. The Contractor, the Fayetteville Public Works Commission, and the utility owner will determine an acceptable schedule required for Work during such hours. The costs for such Work shall be considered incidental to the Project and no additional payment will be made.

Legal holidays observed by the Fayetteville Public Works Commission include New Year's Day, Martin Luther King's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving (2 days), and Christmas (2 days).

The Contractor shall plan their activities in order to maintain compliance with the requirements set forth in this section. Failure of the Contractor to properly plan and complete their activities within

the times indicated, shall result in the Fayetteville Public Works Commission issuing a Non-Compliance Notice.

Inspector overtime shall be charged if the Contractor works beyond regular working hours, to include weekends. The overtime will be charged at a rate of \$100.00 per hour. Inspector overtime may be waived for circumstances beyond the Contractor's control, as deemed by the Project Engineer or Project Coordinator.

9. Limits of Construction

The Contractor shall confine their operations as close to the existing tank and containment area as possible to minimize any impact to PWC's fueling operations.

10. Equipment

The Contractor shall be equipped with equipment perfectly adaptable for the type of construction required; all such equipment shall be of sufficient capacity to handle the work in an expeditious and safe manner. The Fayetteville Public Works Commission reserves the right to deny the use of inadequate equipment or of equipment not capable of performing the work in an acceptable manner.

With respect to the foregoing, it is the intent of the Fayetteville Public Works Commission to require that the Contractor be equipped to perform the work shown and specified, expeditiously and in accordance with the best modern practice.

11. Materials

All materials to be utilized are to be in new condition. Materials are to be stored in strict accordance with the manufacturer's directions. Materials are to be of the type and brand specified within these Contract Documents, including Technical Specifications. **No alternative or substitute materials shall be considered.**

The Contractor shall be responsible for providing all of the specified products, along with required documentation necessary for the Fayetteville Public Works Commission to review and verify that the products specified are being used.

12. Emergency Response

The Contractor shall maintain a construction crew capable of performing emergency maintenance work 24 hours a day, seven (7) days a week, including all holidays. As a minimum, phone numbers shall be furnished for at least three (3) individuals in responsible charge (capable of making company binding decisions) to be available 24 hours a day, seven (7) days a week, including holidays. The emergency phone numbers, and responsible individual's names shall be furnished to the Fayetteville Public Works Commission at the pre-construction conference. The Contractor's designated emergency personnel shall be expected to respond and perform emergency maintenance work immediately, in less than two (2) hours, or the work will be performed by others and all associated costs shall be deducted from the Contractor's payment.

The Contractor shall notify the Fayetteville Public Works Commission Dispatcher (910-678-7400

or 910-223-4494) of the problem, the anticipated response time, and the estimated time required to complete the repair work. If the Contractor does not notify the Dispatcher when the work will be completed, a Fayetteville Public Works Commission crew will make the necessary repairs or alternate measures will be taken at the Contractor's expense.

13. Submittals

The Contractor shall provide submittal information as outlined below, and in accordance with these Contract Documents. The Contractor shall not perform any portion of the Work requiring submittal and review until the respective submittal has been approved by the Fayetteville Public Works Commission. Work performed prior to review and acceptance shall be at the Contractor's risk.

The Contractor shall submit to the Fayetteville Public Works Commission of all required submittal data for review and approval. The Contractor shall furnish, prior to use of the materials, satisfactory written certification of his compliance with the manufacturer's standards for all materials, conformance with the methods of the manufacturer, and accordance with all standards specified and referenced within these specifications. If requested by the Fayetteville Public Works Commission, the manufacturer of materials, equipment, or product shall submit evidence of having consistently produced materials of satisfactory quality and performance for a period of at least two (2) years.

Once the contract has been awarded the Contractor shall provide submittals on the following:

- Details (specifications, SDS, etc.) on the proposed materials to be used
- Contractor's safety plan
- Proposed project schedule
- Contractor personnel emergency contact information
- Concrete Mix Data for Pre-Cast Concrete Piers
- Fuel Tank, Pumps, and all other components
- Contractors one-year labor warranty

The Fayetteville Public Works Commission shall review and approve, disapprove, or approve with comment the submittal within 10 business days of receipt. All notifications on the submittals will be provided to the Contractor in writing. The Fayetteville Public Works Commission shall return a copy of the submittals to the Contractor.

The Fayetteville Public Works Commission's review of the submittals will cover only general conformity to these Contract Documents, external connections, and dimensions which affect the layout. The Fayetteville Public Works Commission's review does not indicate a thorough review of all dimensions, quantities, and details of the material, equipment, device, or item shown. The Fayetteville Public Works Commission's review shall not relieve the Contractor of the Contractor's sole responsibility for errors, omissions, or deviations in the drawings and data, nor of the Contractor's sole responsibility for compliance with these Contract Documents.

When the submittal is returned marked "Not Approved" or "Revised and Resubmit", the corrections shall be made as noted thereon and as instructed by the Fayetteville Public Works Commission and a new copy shall be re-submitted.

When the submittal is returned marked "Approved" or "Approved as Noted", no additional copies need to be furnished, unless otherwise specifically requested by the Fayetteville Public Works Commission.

The Contractor shall accept full responsibility for the completeness of each re-submittal. The Contractor shall verify that all corrected data and additional information previously requested by the Fayetteville Public Works Commission are provided on the re-submittal.

When corrected copies are re-submitted, the Contractor shall in writing direct specific attention to all revisions and shall list separately any revisions made other than those called for by the Fayetteville Public Works Commission on previous submissions.

Requirements specified for initial submittals shall also apply to re-submittals. Re-submittals shall be made within 30 calendar days of the date the letter returning the material to be modified or corrected, unless within 14 calendar days the Contractor submits an acceptable request for an extension of the stipulated time period, listing the reasons the re-submittal cannot be completed within that time.

Any need for more than one (1) re-submission, or any other delay in obtaining the Fayetteville Public Works Commission's review of submittals, will not entitle the Contractor to an extension of the contract duration, unless the delay of the Work is directly caused by a change in the Work authorized by a Change Order or by failure of the Fayetteville Public Works Commission to review any submittal within the submittal review period specified herein and to return the submittal to the Contractor.

14. Warranty Against License Agreements

The Contractor shall warrant to the Fayetteville Public Works Commission that the equipment used on this Contract, where covered by patents or license agreements, is furnished in accordance with such agreements and that the prices included herein cover all applicable royalties and fees in accordance with such license agreements. The Contractor shall defend, indemnify, and hold the Fayetteville Public Works Commission harmless from and against any and all costs, loss, damage, or expense arising out of or in any way connected with any claim of infringement of patent, trademark, or violation of license agreement.

15. Erosion Control

The provisions of Chapter 139, North Carolina Statutes as amended, Soil Erosion and Sedimentation Control shall be applicable to this project. All necessary erosion control measures shall remain serviceable until the site is restored and stabilized. Upon such time, the Contractor shall remove all temporary measures.

All fees, penalties, fines for non-compliance and all civil actions resulting there from shall be the Contractor's responsibility and shall in no way involve the Fayetteville Public Works Commission. The Contractor shall immediately notify the Fayetteville Public Works Commission of any fine, penalty, or notice of non-compliance by North Carolina Division of Environmental Quality (NCDEQ). The Contractor may be required to modify or supplement the measures at no additional cost to the Fayetteville Public Works Commission.

In addition to installing and maintaining the appropriate erosion control devices, the Contractor shall maintain a neat and clean jobsite. The Contractor shall take the necessary measures to minimize dust, ensure the streets are clean and free of debris, and other measures as required. The

Contractor shall maintain the proper erosion control devices to ensure against erosion. The Contractor shall ensure that the catch basin and inlet protection devices are free of dirt and debris.

Permanent and temporary erosion control measures proposed by the Contractor for staging areas, haul roads, etc. shall be at the Contractor's expense and shall not constitute additional compensation.

No mechanical equipment or machinery is permitted to be in Rockfish Creek, to prevent the disturbance of silt in the stream. Only foot traffic is allowed in the creek during construction. All cranes and equipment are to work from the creek bank, while installing the truss system and repairing the pipe supports. The Contractor shall take all necessary precautions to prevent any sedimentation from entering Rockfish Creek as a result of their operations.

16. Site Restoration

Once construction is completed, the Contractor shall be responsible for restoring the site to as good as, or better than, existing conditions. All exposed areas are to be replaced with seed and mulch (to include erosion control matting) to insure against erosion, in accordance with the Soil Erosion and Sedimentation Control requirements.

For those areas outside the project limits, the Contractor shall be responsible for installing seed and mulch in all disturbed areas, unless otherwise noted on the plans.

17. Coordination with Engineer

The Fayetteville Public Works Commission has contracted with Haggett Engineering Associates, Inc. to complete the design and provide construction observation. As noted in the plans, the Contractor shall coordinate with Haggett Engineering Associates and the Fayetteville Public Works Commission as needed.

Haggett Engineering Associates, Inc may make inspections to observe various construction activities at their discretion. The Contractor shall make every effort to accommodate Haggett Engineering Associates personnel (as well as the Fayetteville Public Works Commission personnel) in order to complete the inspections.

No additional payment shall be made for this coordination.

18. Final Inspection/Acceptance of Work

When the Project Coordinator deems the project completed and ready for final inspection, the Project Coordinator shall notify the Project Engineer. During the final inspection any items documented shall be compiled in a final punch list and provided to the Contractor within five (5) business days. The Contractor shall be required to complete each item in the final inspection punch list within 30 calendar days of receipt. Failure to complete the punch list in that time may result in liquidated damages being assessed. The project will not be considered complete until all punch list items are completed and accepted, unless otherwise determined by the Project Engineer. All punch list items shall be completed prior to release of final payment. Once the deficiencies have been addressed to the Fayetteville Public Works Commission's satisfaction, a final acceptance letter will be issued to the Contractor.

FINAL COMPLETION DOCUMENTATION

Prior to receiving final payment, the Contractor shall complete and/or provide the following:

- Complete all punch list items to the satisfaction of the Project Engineer.
- Satisfactorily resolve all customer complaints and obtain the required releases.
- Provide all labor and manufacture warranties required.

19. Review of Contractor Pay Request

Prior to the Contractor submitting an application for payment, the Contractor and the Fayetteville Public Works Commission shall review and agree on all items and quantities that the Contractor is requesting payment for. Each pay request shall contain a certificate documenting any sales tax paid by the Contractor for that billing period. *A certified form is required even if no sales tax was paid for that pay request period.*

Final payment and release of retainage will not be made until:

1. the Fayetteville Public Works Commission has completed a final inspection of the work,
2. all deficiencies noted in the final inspection have been satisfactorily addressed,
3. all necessary site restoration has been completed, and
4. all required documentation (reports, release of liens, Property Owner release, etc.) has been submitted.

The Contractor is strongly urged to submit draft pay applications to the Fayetteville Public Works Commission prior to submittal of the official pay application. The Fayetteville Public Works Commission will review and provide any comments on the draft pay application within five (5) business days. Draft pay applications can be either emailed or faxed.

It is expected that the pay application will have a cover sheet similar to AIA Form G702 (or approved equal) that summarizes the contract value, any change orders, and work completed to date. The Contractor shall furnish two (2) copies (one original and one copy) of the pay request. The Contractor shall include copies of all invoices claimed on the sales tax certification.

K. Measurement and Payment

This section defines the methods of measurement and payment for each of the prices listed in the Proposal, which are required to complete the work. The price bid shall be full compensation for the work required under each bid item, which shall include all incidental costs relative thereto. Certain items of work are specified and/or shown as a detail in the Contract Documents; bid prices shall include all items of work required to furnish and/or install each in accordance with the Project requirements, whether specifically stated or itemized in the Measure and Payment description.

Each unit price for the specific line item shall include coordination with Fayetteville Public Works Commission personnel, all materials, labor, and incidentals associated with the specific item of work, and proper disposal of any waste items.

Replacement of Diesel Fuel AST – The lump sum unit price bid for Replacement of Diesel Fuel AST shall include all work necessary to complete the work in accordance with these Contract Documents. Payment under this item shall include all costs of mobilization, bonds and insurance and other related

costs. The lump sum price shall also include, but is not limited to: erosion control, installation of new 20,000 gallon fuel tank, replacement of pipe supports, new ladders, new saddles, new concrete piers, coordination with the Fayetteville Public Works Commission and their Design Engineer, site restoration, and all necessary equipment, material, labor and incidentals to complete the work as specified and shown on the Contract Drawings. .

ALTERNATE NO. 1- Replacement of Diesel Fuel Off Loading Pump – The lump sum unit price bid for Replacement of Diesel Fuel Off Loading Pump shall include all work necessary to complete the work in accordance with these Contract Documents. If accepted by PWC payment under this item shall include all costs of mobilization, bonds and insurance and other related costs. The lump sum price shall also include, but is not limited to: erosion control, installation of new Diesel Off Loading Pump, coordination with the Fayetteville Public Works Commission and their Design Engineer, site restoration, and all necessary equipment, material, labor and incidentals to complete the work.

ALTERNATE NO. 2- Replacement of Gasoline Off Loading Pump – The lump sum unit price bid for Replacement of Gasoline Off Loading Pump shall include all work necessary to complete the work in accordance with these Contract Documents. Payment under this item shall include all costs of mobilization, bonds and insurance and other related costs. The lump sum price shall also include, but is not limited to: erosion control, installation of new Gasoline Off Loading Pump, remove and replace with new pipe supports, coordination with the Fayetteville Public Works Commission and their Design Engineer, site restoration, and all necessary equipment, material, labor and incidentals to complete the work.

PROPOSAL

Diesel Fuel AST Replacement
March 2021

Item 1:

Replacement of Diesel Fuel AST 1 LS at \$ _____ per LS Total \$ _____

Total Base Bid Price: \$ _____

Alternate 1:

Replacement of Diesel Fuel Off Loading Pump 1 LS at \$ _____ per LS Total \$ _____

Alternate 2:

Replacement of Gasoline Off Loading Pump 1 LS at \$ _____ per LS Total \$ _____

Respectfully submitted this _____ day of _____, 2021.

Name of CONTRACTOR: _____

By: _____

Title: _____

Address: _____

License No: _____

Witness: _____

BID BOND

This is a Bid Bond that is subject to the provisions of Article 3 of Chapter 44A of the North Carolina General Statutes.

This Bond is Executed on _____, 20_____.

The name of the PRINCIPAL is _____

The name of the SURETY is _____

The Fayetteville Public Works Commission is the OWNER

The amount of the Bond is _____

(Dollars) _____ (\$ _____)

KNOW ALL MEN BY THESE PRESENTS, the Principal and Surety above named are hereby held and firmly bound unto the above-named OWNER hereinafter called the OWNER in the penal sum of the amount stated above in lawful money of the United States, for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of the above obligation is such that whereas the Principal has submitted to the OWNER a certain Bid attached hereto and hereby made a part hereof to enter into a Contract in writing, for the construction of:

PROJECT: Diesel Fuel AST Replacement for Fayetteville Public Works Commission

NOW, THEREFORE

- (a) If said Bid shall be rejected, or in the alternate,
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a Contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performance of said Contract, and for the payment of all persons performing labor or furnishing materials in connection herewith, and shall in all other respects perform the agreement created by acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein state.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall in no way be impaired or affected by any extension of time within the OWNER may accept such Bid; and said surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

ATTEST:

(Principal Secretary)
(SEAL)

Principal

BY: _____

(Address)

Witness as to Principal

Surety

(Address)

(Address)

ATTEST:

N.C. Resident Agent
(SEAL)

Witness as to Surety

(Address)

- (1) Correct name of contractor
- (2) A Corporation, a Partnership or an Individual, as the case maybe
- (3) If contractor is a Partnership, all partners should execute bond

PERFORMANCE BOND

Date of Execution: _____

Name of Principal: _____
(Contractor)

Name of Surety: _____

Name of Contracting
Body: Fayetteville Public Works Commission of the City of Fayetteville, N.C.

Amount of Bond: _____

PROJECT: Diesel Fuel AST Replacement for Fayetteville Public Works Commission

KNOW ALL MEN BY THESE PRESENTS, That We, the Principal and Surety above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these present.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal entered into a certain Contract with the Contracting Body, identified as shown above and hereto attached.

NOW, THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extensions there of that may be granted by the Contracting Body, with or without notice to the Surety, and during the life of any Guaranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under the several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Executed in _____ counterparts.

Witness:

(Proprietorship of Partnership)

ATTEST:

By: _____

Title: _____
(Corporate Secretary or
Assistant Secretary, Only)

Witness:

Countersigned:

N.C. Licensed Resident Agent

Name and Address- (Surety Agent)

Surety Company Name and N.C.
Regional or Branch Office Address

CONTRACTOR:

(Trade or Corporate Name)

By: _____

Title: _____
(Owner, Partner, Corporate President or
Vice-President, Only)

(CORPORATE SEAL)

SURETY COMPANY:

By: _____

Title: _____
(Attorney in Fact)

(SURETY CORPORATE SEAL)

PAYMENT BOND

Date of Execution: _____

Name of Principal: _____
(Contractor)

Name of Surety: _____

Name of Contracting Body: Fayetteville Public Works Commission of the City of Fayetteville, N.C.

Amount of Bond: _____

PROJECT: Diesel Fuel AST Replacement for Fayetteville Public Works Commission

KNOW ALL MEN BY THESE PRESENTS, that We, the PRINCIPAL and Surety above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal entered into a certain Contract with the Contracting Body, identified as shown above and hereto attached.

NOW, THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extensions there of that may be granted by the Contracting Body, with or without notice to the Surety, and during the life of any guaranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under the several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Executed in _____ counterparts.

Witness:

(Proprietorship or Partnership)

ATTEST:

By: _____

Title: _____
(Corporate Secretary or
Assistant Secretary, Only)

Witness:

Countersigned:

N.C. Licensed Resident Agent

Name and Address-Surety Agent

Surety Company Name and N.C.
Regional or Branch Office Address

CONTRACTOR:

(Trade or Corporate Name)

By: _____

Title: _____
(Owner, Partner, or Corporate
President or Vice-President, Only)

(CORPORATE SEAL)

SURETY COMPANY:

By: _____

Title: _____
(Attorney in Fact)

(SURETY CORPORATE SEAL)

NOTICE TO PROCEED

TO: _____

DATE: _____

PROJECT: Diesel Fuel AST
Replacement for PWC

You are hereby notified to commence work in accordance with the Contract dated _____, 2021, on _____, 2021, and you are to complete the WORK by _____, 2021.

**Fayetteville Public Works Commission
OF THE CITY OF FAYETTEVILLE**

BY: _____

Trent Ensley
Purchasing Manager

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED

is hereby acknowledged this the _____ day
of _____, 2021.

CONTRACTOR

BY: _____

TITLE: _____

APPENDIX