



GUILFORD COUNTY CONTRACT NO. 918
Parent Contract No. 0

THIS CONTRACT is hereby made, entered into, and effective as of July 1, 2018, by and between GUILFORD COUNTY, a body politic and corporate of the State of North Carolina, hereinafter referred to as the “COUNTY,” and CLARKE POWER SERVICES, INC., hereinafter referred to as the “CONTRACTOR,” and also collectively referred to as the “Parties.”

W I T N E S S E T H:

WHEREAS, for the purpose and subject to the terms and conditions hereinafter set forth, the COUNTY hereby contracts for the items, goods, service or services of the CONTRACTOR and the CONTRACTOR agrees to provide the items, goods, service or services to the COUNTY in accordance with the terms of this Agreement.

WHEREAS, the COUNTY is in need of Countywide Vehicle Maintenance and Repair Services; and,

WHEREAS, the CONTRACTOR has submitted a proposal to provide such goods and/or services.

NOW, THEREFORE, in consideration of promises mutually exchanged the Parties agree as follows:

1. GOODS AND/OR SERVICES. The CONTRACTOR will provide the goods and/or services as set forth in the Specifications (Attachment A) and Proposal (Attachment B), attached hereto and incorporated herein by reference. All items and/or services shall be provided in a competent, workmanlike and professional manner acceptable to the COUNTY. Should there be any discrepancy between the CONTRACTOR'S Proposal (Attachment B) and the Specifications (Attachment A) and/or the first four (4) pages of this Contract, the first four (4) pages of this Contract and/or the Specifications (Attachment A) shall prevail and control.

2. PRICING AND PAYMENT. The COUNTY is not financially committed by this Contract to purchase any minimum amount of goods and/or services. The financial exposure to the COUNTY for the initial (3) year term is not expected to exceed \$600,000.00, and in any event payment will be made only from budgeted funds in accordance with N.C. Gen. Stat. §159. As full compensation for the CONTRACTOR'S delivery of the goods and/or services, the COUNTY agrees to pay the amounts for the goods and/or services as set out herein and in Attachment B, which is attached hereto and incorporated herein by reference. Payment will be made by the COUNTY to CONTRACTOR within thirty (30) days of receipt of a correct invoice and proper documentation that the goods and/or services have been delivered or provided in accordance with this Contract.

3. APPROPRIATION. This Contract is subject to annual appropriation of funds by the GUILFORD COUNTY Board of Commissioners or other funding source, pursuant to N.C. Gen. Stat. §153A-13.

4. TERM. This Contract shall be in effect for an initial term of three (3) years, beginning July 1, 2018, and ending June 30, 2021, with the option to extend for (2) additional (1) year renewals ending June 30, 2022, and June 30, 2023, at the same pricing and terms and conditions upon mutual written Agreement of both Parties.

5. ADDENDUM. The terms of this Agreement may only be modified or revised with a written Contract Agreement executed by both Parties.

6. TERMINATION. Either Party may terminate this Agreement for any reason and without penalty upon thirty (30) days written notice to the other Party. All goods and/or services provided and accepted as of the date of termination will be paid for; similarly, amounts paid in advance, if any, for which goods and/or services have not been provided and accepted by the COUNTY will be promptly refunded to the COUNTY by the CONTRACTOR within thirty (30) days of date of termination of this Contract.

7. NOTICES. All Notices pursuant to this Agreement shall be in writing and delivered personally or mailed by certified mail, registered mail, postage prepaid, with return receipt requested, at the addresses appearing below, but each Party may change such address by written Notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed Notices will be deemed communicated as of three (3) days after mailing.

Susan Crotts
Guilford County Purchasing Director
GUILFORD COUNTY
P.O. Box 3427 (zip code 27402)
301 West Market Street
Greensboro, NC 27401

CLARKE POWER SERVICES, INC.
8015 Piedmont Triad Parkway
Greensboro, NC 27409

8. INDEPENDENT CONTRACTOR/INDEMNIFICATION. The CONTRACTOR shall operate as an independent contractor for all purposes. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between the COUNTY and either the CONTRACTOR or any employee or agent of CONTRACTOR. CONTRACTOR is an independent contractor and not an employee, agent, joint venture or partner of the COUNTY. Additionally, the Parties agree to each be solely responsible for their own acts or omissions in the performance of each of their individual duties hereunder, and shall be financially and legally responsible for all liabilities, costs, damages, expenses and attorney fees resulting from, or attributable to any and all of their individual acts or omissions to the extent allowable by law.

9. GUILFORD COUNTY LIABILITY INSURANCE REQUIREMENTS. CONTRACTOR, upon execution of this Contract, shall furnish to the COUNTY a Certificate of Insurance reflecting the minimum limits stated herein. The Certificate shall provide for thirty (30) days' advance written notice in the event of a decrease, termination or cancellation of coverage. Providing and maintaining adequate insurance coverage is a material obligation of the CONTRACTOR. All such insurance shall comply with the laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The CONTRACTOR shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the CONTRACTOR shall not be interpreted as limiting the CONTRACTOR'S liability and obligations under the Contract. Additionally, CONTRACTOR shall procure and maintain, at its expense, liability insurance at a minimum level:

WORKERS COMPENSATION: CONTRACTOR agrees to maintain coverage to apply to all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include employer's liability with a limit of \$1,000,000 for each accident, \$1,000,000 for each employee, and with a \$1,000,000 aggregate policy limit.

COMMERCIAL GENERAL LIABILITY: CONTRACTOR does hereby agree to maintain minimum limits of \$1,000,000 per occurrence, per location, single limit for bodily injury liability and property damage liability, with a \$2,000,000 aggregate limit, per location. This shall include premises and/or operations, independent contractors, products and/or completed operations, broad form property damage and explosion, collapse and underground damage coverage, and a contractual liability endorsement.

BUSINESS AUTO POLICY: CONTRACTOR does hereby agree to maintain limits of \$1,000,000 per accident combined single limit for bodily injury liability and property damage liability. This shall include: owned vehicles plus hired and non-owned vehicles.

GUILFORD COUNTY at PO Box 3427, Greensboro, NC, 27402, shall be named as an additional insured on CONTRACTOR'S general liability insurance policy, which shall be primary and not contributory to any other insurance that may be available to the COUNTY. CONTRACTOR will also secure its general liability insurance from an A rated insurance company acceptable to the COUNTY.

Upon entering into this Contract, CONTRACTOR will provide Certificates of Insurance for meeting the required insurance provisions. The Certificate of Liability shall state, "Guilford County is added as an additional insured as evidenced by the endorsement attached to this Certificate."

Original insurance policies or certified copies of policies may be required by the COUNTY at any time. Current, valid insurance policies meeting the requirements stated herein shall be maintained for the duration of this Contract. Renewed policies shall be sent thirty (30) days prior to any expiration date.

(Language regarding insurance is also included in the Specifications, Attachment A hereto.)

10. ASSUMPTION. If CONTRACTOR should undergo merger, acquisition, bankruptcy or any change in their ownership or their name for any reason, CONTRACTOR must immediately notify GUILFORD COUNTY in writing of these changes and provide the COUNTY with legal documentation supporting these changes, such as an Assumption Agreement, Bill of Sale, Articles of Incorporation, Articles of Amendment, sales contract, merger documents, etc. Further, CONTRACTOR will submit the name and address of the assuming CONTRACTOR'S registered agent for service of process and/or all notices required under this Contract.

11. SEVERABILITY. If any provision of this Contract is held unenforceable, then such provision will be modified to reflect the Parties' intention. All remaining provisions of this Contract shall remain in full force and effect.

12. FORCE MAJEURE. Neither Party shall be liable to the other Party for any failure or delay caused by events beyond such Party's control and not due to its own negligence, provided that such Party uses commercially reasonable efforts to resume performance as soon as reasonably practicable. The non-performing Party shall notify the other Party of the force majeure event within twenty-four (24) hours of the onset thereof. In the event that a force majeure event precludes CONTRACTOR from performing services and/or providing goods for a period of ten (10) consecutive business days, the COUNTY shall have the right to: (a) procure replacement goods and/or services from an alternative source and/or (b) terminate the Contract or portion(s) of Contract upon written notice to CONTRACTOR.

13. HEADINGS/TITLES/WORDING. Inclusion of titles of paragraphs or section headings, capitalization of certain words or phrases and/or bold face typestyle of certain words or phrases in this Contract are for convenience purposes only and shall not be used to interpret or construe the provisions of this Agreement. The terms "Contract," "Agreement" and "Addendum" have the same meaning and may be used interchangeably throughout this document. The terms "Attachment" and "Exhibit" have the same meaning and may be used interchangeably throughout this document.

14. ENTIRE AGREEMENT. This Contract, including the Exhibits and/or Attachments, if any, sets forth the entire Agreement between the Parties. All prior conversations or writings between the Parties hereto or their representatives are merged within and extinguished. This Contract shall not be modified except by a writing subscribed to by all the Parties.

15. JURISDICTION. The Parties agree that this Contract is subject to the jurisdiction and laws of the State of North Carolina. The CONTRACTOR will comply with bid restrictions, if any, and applicable laws, including N.C. Gen. Stat. §143-129(j) regarding E-Verify. Any controversies arising out of this Contract shall be governed by and construed in accordance with the laws of the State of North Carolina. An Affidavit Regarding E-Verify is attached hereto and incorporated herein by reference as Exhibit 1.

(The remainder of this page is intentionally left blank.
This Contract continues with signatures on the following page.)

WITNESS the following signatures and seals all pursuant to authority duly granted, effective as of the day and year first above written.

Guilford County

ATTEST:

Marty K. Lawing
Guilford County Manager

Robin B. Keller
Guilford County Clerk to Board

Clarke Power Services, Inc.

ATTEST:

President	Date
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Corporate Secretary Date

Printed Name:

Printed Name: _____

(CORPORATE SEAL)

No Corporate Seal Exists ☐

This contract does not create an obligation to purchase and, therefore, has not been preaudited. Purchases under this contract shall only be made pursuant to purchase orders, each of which will contain a preaudit certificate.

Harley Will
Interim Guilford County Finance Director

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

EXHIBIT I

AFFIDAVIT REGARDING E-VERIFY

I, _____ (the individual attesting below), being duly authorized by and on behalf of

Clarke Power Services, Inc. (the entity doing business with Guilford County, hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
2. Employer understands that Employers Must Use E-Verify. Each employer, 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).
3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. Mark "Yes" or "No":
 - a. YES _____; or,
 - b. NO _____
4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.

This _____ day of _____, 2018.

Signature of Affiant
Print or Type Name: _____

State of North Carolina - County of Guilford

Signed and sworn to (or affirmed) before me, this the _____
day of _____, 2018.

My Commission Expires:

Notary Public

(Affix Official/Notarial Seal)