

YADKIN COUNTY

AGREEMENT FOR SERVICES

NORTH CAROLINA

This Agreement is made and entered into this 16 day of  
October, 2015 ("Effective Date") between Yadkin County, North  
Carolina ("County") and Carolina Caterpillar ("Provider").

WHEREAS, the County and the Provider wish to enter into a contract under which the Provider will provide certain specified services and/or materials to the County in exchange for payment. NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, conditions, and agreements herein, the County and the Provider agree as follows:

1. Services To Be Performed. The Provider agrees to perform the services and to provide the materials (all collectively called the "Services") for the County as described in Section A of the attached Exhibit A (the "Contract Specifications"), which is incorporated into this Agreement by reference as if it were fully set forth herein. The Provider warrants that all materials it provides shall be of good quality and shall meet industry standards and the County's expectations and approval, and the Provider warrants that it shall perform all Services in a good and workmanlike manner, in accordance with industry standards and the County's expectations, and to the County's full satisfaction.

2. Term. The term of this Agreement shall be as provided in Section B of the attached Exhibit A, the Contract Specifications.

3. Payment. In accordance with Section C of the attached Exhibit A, the Contract Specifications, the County agrees to pay the Provider for Services satisfactorily performed in accordance with this Agreement. The County shall pay each properly submitted invoice within thirty (30) days of its submission. Each invoice shall document, to the County's satisfaction, the work performed and the basis for the amount of payment sought. If the Provider fails to perform in accordance with this Agreement, the County may, without penalty, withhold any payment(s) associated with Services not properly performed until and unless the Provider completes or corrects its performance, as applicable. The County's remedies under this Agreement are not exclusive and are in addition to all other rights and remedies provided by law.

4. Non-waiver. If the County at any time does not require the Provider to satisfy any of the Provider's obligations under this Agreement, or if the County fails at any time to exercise any right or privilege granted to it by this Agreement, that shall not waive or limit the County's ability to require the Provider to satisfy those obligations in the future or the County's ability to enforce its rights or privileges in the future. If the County waives any breach of this Agreement by the Provider, which shall not be deemed a waiver of any later breach by the Provider, nor shall it be deemed a waiver of this section of the Agreement.

5. Independent Contractor. For purposes of this Agreement, the Provider at all times shall be considered an independent contractor, and the County shall not be deemed the employer of the Provider or of any of the Provider's agents or employees, nor shall the County be

responsible for the actions or omissions of the Provider or its agents and employees. For purposes of this Agreement, the Provider and its agents and employees shall not be deemed an employee of the County for any purpose, including (by example only and not for purposes of limitation) federal or state income taxation, unemployment benefits, or worker's compensation benefits.

6. Insurance. For the term of this Agreement, the Provider shall maintain at its sole expense the insurance specified in Section D of the attached Exhibit A, the Contract Specifications. All insurance policies shall be issued by a company authorized to issue insurance in the State of North Carolina. Before beginning to perform under this Agreement, the Provider shall provide the County with a certificate of insurance showing that all insurance required by this Agreement is in effect, and the Provider shall keep that certificate current by submitting to the County updated certificates as the Provider's insurance policies are renewed or otherwise modified. The Provider shall notify the County immediately if any insurance required by this Agreement will be or has been cancelled or not renewed or if the amount of coverage of any such insurance will be or has been reduced.

7. Indemnity. The Provider agrees that it shall defend, indemnify, and hold harmless the County and its officials, employees, and agents from and against any and all losses, liabilities, claims, demands, suits, costs, damages, or expenses (including reasonable attorneys' fees) arising from or related to this Agreement and/or the Services, including (by example only and not for purposes of limitation) those for bodily injury, death, or property damage. The Provider's obligations under this section shall survive termination of this Agreement.

8. Termination. Notwithstanding any other provision of this Agreement (including any provision in the attached Exhibit A), this Agreement may be terminated at any time by mutual written agreement of the County and the Provider, or it may be terminated by the County upon ten (10) days' written notice to the Provider. Ten days' written notice for termination by the County is not required if the County is terminating because the Provider has breached the Agreement.

9. Entire Agreement. This Agreement (including the attached Exhibit A, the Contract Specifications) constitutes the complete and entire Agreement between the County and the Provider concerning the subject matter of the Agreement and supersedes any and all prior agreements, discussions, understandings, promises, or representations concerning that subject matter. This Agreement may be modified only by a writing signed by both the County and the Provider.

10. Governing Law and Forum for Disputes. This Agreement shall be governed by the laws of the State of North Carolina without regard to North Carolina's choice of law provisions. Any lawsuit or other legal proceeding concerning this Agreement and/or the Services must be filed in Yadkin County, North Carolina, unless it is properly filed in federal court, in which case it must be filed in the federal District Court for the Middle District of North Carolina.

11. Severance Clause. If any part of this Agreement is deemed unenforceable by a court of competent jurisdiction, then that part shall be enforced to the greatest extent legally possible, and the rest of this Agreement will remain in full force and effect.

12. Compliance With Laws. The Provider acknowledges and agrees that it will perform all Services and will satisfy all of its obligations under this Agreement in full compliance with all applicable federal, state, and local laws and regulations.

13. Repair of Damages. The Provider shall promptly and fully repair any damages that it or its employees or agents cause to the County's property. Alternatively, the County may choose in its discretion to require the Provider to fully compensate the County for any such damages rather than have the Provider repair them.

14. Titles and Headings. Titles and headings used in this Agreement are for convenience only and do not limit or modify the language within each section of this Agreement.

15. Non-Assignment. The Provider may not assign its rights or obligations under this Agreement, nor may it sub-contract any part of this Agreement, without written approval from the County.

16. Notices. Any notice or communication to the County or the Provider for purposes of this Agreement shall be delivered or shall be deposited in the United States Mail, first class, addressed to the addressee in Section E of the attached Exhibit A, the Contract Specifications.

17. Number and gender. This Agreement's use of singular, plural, masculine, feminine, and neuter pronouns shall include the others as the context may require.

18. Exhibit A. To the extent of a conflict between the above language of this Agreement and the attached Exhibit A (the Contract Specifications), the above language of this Agreement will control.

IN WITNESS WHEREOF, the County and the Provider have caused this Agreement to be executed as of the Effective Date.

THE COUNTY

BY: Rich Shuler

Name: LAWL. HUBERS

Title: COUNTY MANAGER

Gary Moore

THE PROVIDER

BY: Michael M. Melvin

Name: MICHAEL L. GOLOMBOWSKI

Title: GENERAL SERVICE MANAGER

POWER SYSTEMS  
CAROLINA CAT

This instrument has been pre-audited in the manner required  
by the Local Government Budget and Fiscal Control Act.

EXHIBIT A

CONTRACT SPECIFICATIONS

A. Services To Be Performed By The Provider. (The Services may also be described on one or more attached sheets, but each must be signed by the Provider and the County.)

Carolina Caterpillar will perform repairs on two county owned generators one at Lydall and one at Maranatha sewer pump locations. The scope of work is described on attached quote.

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B. Term of the Agreement. (Check the one provision that applies.)

This Agreement shall end on \_\_\_\_\_, 20\_\_\_\_.

This Agreement shall continue until the Provider has completed the Services to the County's satisfaction.

This Agreement shall continue until terminated in accordance with Section 8 of the Agreement.

C. Payment to the Provider. (Check the provision that applies.)

The County shall pay the Provider \$ \_\_\_\_\_ every \_\_\_\_\_.

The County shall pay the Provider a total of \$ 5200.00 not to exceed amount for all Services performed under this Agreement. The Provider will invoice the County for Services as they are performed, but no more frequently than monthly.

D. E-Verify. North Carolina General Statutes prohibit counties from entering into contract with contractors and subcontractors who have not complied with the requirement of Article 2 of Chapter 64 of the NC General Statutes. The Contractor must submit the E-Verify Affidavit with bid proposals and/or contracts.

E. Insurance. During this Agreement's term, the Provider shall maintain worker's compensation insurance as required by North Carolina law to cover all of the Provider's employees engaged in any work under the Agreement. The Provider shall also maintain the following insurance to cover its performance under this Agreement during the Agreement's term:

- General commercial liability in the amount of \$1,000,000 per occurrence / \$2,000,000 aggregate.
- Workers' Compensation in the amount of \$500,000 employer's liability
- Automobile liability covering all owned, hired, and non-owned vehicles used in connection with this Agreement. The minimum combined single limit shall be \$1,000,000 for bodily injury and property damage; and, \$1,000,000 uninsured/underinsured motorist coverage.

E. Contact Information.

THE COUNTY

Yadkin County / David Trivette

PO Box 220 / 217 E Willow St.

Yadkinville NC, 27055

336-849-7512

THE PROVIDER

Carolina Caterpillar / Tom Wommack

9000 Statesville Rd.

Charlotte NC, 28269

1-800-277-6010

These Contract Specifications are hereby acknowledged and agreed to by:

THE COUNTY

BY:

Dale Hughes  
Name: LISA L. HUGHES  
Title: COUNTY MANAGER

THE PROVIDER

BY:

Michael J. Galusha -  
Name: MICHAEL L. GOLOMBOWSKI  
Title: GENERAL SERVICE MANAGER  
POWERSYSTEMS  
CAROLINA CAT

(Signature of County Finance Officer)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

# CAROLINA CATERPILLAR

9000 Statesville Road, Charlotte, NC 28269

Phone: 1-800-277-6010 FAX: 1-704-597-7875

Customer: Yadkin County	Account #
Address: Yadkinville NC	Phone: 336-679-4200
Attention: David	David Trivette < <a href="mailto:dttrivette@yadkincountync.gov">dttrivette@yadkincountync.gov</a> >
Reference: Generator repairs	Date: 10-14-2105

YOUR CATERPILLAR DEALER IS PLEASED TO OFFER THIS ESTIMATION FOR YOUR CONSIDERATION

Model	Serial Number	Scope and Price	Location
8155140100 150 KW		Perform cooling system updates to include belts, hoses, coolant cap, engine thermostat, and airfilters \$1684.26	Lydall Generator
8155100100 150 KW		Perform cooling system updates to include belts, hoses, coolant cap, engine thermostat, and airfilters **Water pump replacement and also repair to jacket water heater. \$3,360.73	Maranatha Lift Station

Thank you for the opportunity to provide Yadkin County with our estimate for your consideration.

Prices are guaranteed for 60 days

Applicable state and local taxes are not included

Carolina Tractors standard terms & conditions apply

OFFERED BY CAROLINA ENGINE, A DIVISION OF CAROLINA TRACTOR & EQUIPMENT CO., PO BOX 1095, CHARLOTTE, NC 28201.

Submitted by: Tim Womack Ext. 2035

Carolina Engine, Div. Of Carolina Tractor

Signed by: \_\_\_\_\_ Title: \_\_\_\_\_  
Date: \_\_\_\_\_ PO: \_\_\_\_\_