

# CITY OF HIGH POINT AGENDA ITEM



**Title:** United Systems-Itron 100W ERT's

**From:** Jeremy Coble-Customer Service Director

**Meeting Date:** March 21, 2022

**Public Hearing:** No

**Advertising Date:** N/A

**Advertised By:** N/A

**Attachments:** Attachment A – Quote  
Attachment B- Sole Source Request Form  
Attachment C- Sole Source Letter

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**PURPOSE:**

For the sole source purchase of Itron 100W ERT's ( Encoder Receiver Transmitter ) for the Customer Service Department.

**BACKGROUND:**

The Customer Service Department uses Itron software to collect both electric and water meter readings. Itron ERT's are a key component in the Cities AMI project. Itron ERT's are the only encoder compatible with our meter reading software. United Systems is the only distributor for Itron in North Carolina.

**BUDGET IMPACT:**

Funding is available in the 2021-2022 Budget.

**RECOMMENDATION / ACTION REQUESTED:**

City Council is requested to approve a sole source purchase of \$374,970 to United Systems.



Quotation March 2, 2022

For: High Point NC
Attn: Andy

Prepared By: Zach Polston, Account Manager
Territory Office:
Phone: +1 (864) 377-4397 - Email: zachp@united-systems.com

Table with 4 columns: Purchase Order Number, Shipping Method, Shipping Terms, Delivery Date. Values: TBD, Best, , ~120 Days

Main item table with 4 columns: Qty, Item # - Description, Unit Price - \$, Line Total - \$. Includes items ERW-1300-402 and CFG-1300-004, and a total of \$374,970.00.

General— Unless specifically stated to the contrary, prices do not include shipping and/or sales tax, if applicable. Likewise, this quotation does not include technical services related to setup, installation & configuration of proposed items unless specifically stated above.

TERMS AND CONDITIONS OF SALE ("Terms")

- 1. All references in this document to "Seller" shall include United Systems & Software, Inc. . . or "USS", whether or not performing any or all of the scope hereunder or specifically identified herein.
2. All sales to Buyer are subject to these Terms, which shall prevail over any inconsistent terms of Buyer's purchase order or other documents.
3. Prices on Seller website, catalogs or in Seller quotes are subject to change without notice, and all such prices expire and become invalid if not accepted within 10 calendar days from the date of issue.
4. Seller shall not be liable for delay or default in delivery resulting from any cause beyond Seller's reasonable control, including, but not limited to, governmental action, strikes or other labor troubles, fire, damage or destruction of goods, wars (declared or undeclared), acts of terrorism, manufacturers' shortages, availability or timeliness of transportation, materials, fuels, or supplies, and acts of God (each a "Force Majeure Event").
5. Seller is a reseller of goods only, and as such does not provide any warranty for the goods it supplies hereunder.

INTERPRETATION OF PLANS OR SPECIFICATIONS PROVIDED BY BUYER, AND BUYER'S ACCEPTANCE AND USE OF GOODS SUPPLIED HEREUNDER SHALL BE PREMISED ON FINAL APPROVAL BY BUYER OR BY BUYER'S RELIANCE ON ARCHITECTS, ENGINEERS, OR OTHER THIRD PARTIES RATHER THAN ON SELLER'S INTERPRETATION, TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT, WHETHER IN CONTRACT, WARRANTY, INDEMNITY, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, ARISING DIRECTLY OR INDIRECTLY OUT OF THE PERFORMANCE OR BREACH OF THESE TERMS, SHALL SELLER BE LIABLE FOR (a) ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL OR SIMILAR DAMAGES SUCH AS LOSS OF USE, LOST PROFITS, ATTORNEYS' FEES OR DELAY DAMAGES, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR CAUSED BY SELLER'S BREACH OF THIS AGREEMENT, (b) ANY CLAIM THAT PROPERLY IS A CLAIM AGAINST THE MANUFACTURER, OR (c) ANY AMOUNT EXCEEDING THE AMOUNT PAID TO SELLER FOR GOODS FURNISHED TO BUYER WHICH ARE THE SUBJECT OF SUCH CLAIM(S). ALL CLAIMS MUST BE BROUGHT WITHIN ONE YEAR OF ACCRUAL OF A CAUSE OF ACTION.

6. Buyer shall indemnify, defend, and hold Seller its officers, directors, employees and agents harmless from any and all costs (including attorneys' and accountants' fees and expenses), liabilities and damages resulting from or related to any third party (including Buyer's employees) claim, complaint and/or judgment arising from Buyer's use of any goods furnished hereunder, as well as any negligent, intentional, or tortious act or omission of Buyer or any material breach by Buyer of these Terms.

7. When goods are delivered to Buyer in Seller's own vehicles, the F.O.B. point shall be Buyer's designated delivery site. In all other cases the F.O.B. point shall be Seller's store or warehouse and all responsibility and costs of shipping and delivery beyond the applicable F.O.B. point shall be borne by Buyer. Title and risk of loss shall pass to Buyer at the applicable F.O.B. point, which for goods not delivered in Seller's own vehicles shall be when Seller delivers the goods to the common carrier. All claims for shortage of goods or for loss or damage to goods as to which Seller has the risk of loss shall be waived unless Buyer, within 10 calendar days after receipt of the short or damaged shipment, gives Seller written notice fully describing the alleged shortage or damage. Partial shipments are permitted at Seller's discretion.

8. Any change in product specifications, quantities, destinations, shipping schedules, or any other aspect of the scope of goods must be agreed to in writing by Seller, and may result in a price and delivery adjustment by Seller. No credit for goods returned by Buyer shall be given without Seller's written authorization. All returns are subject to a restocking charge.

9. Unless otherwise agreed in writing, payment terms are Net 10, payable in United States of America ("U.S.") dollars. Notwithstanding the foregoing, all orders are subject to Seller's continuing approval of Buyer's credit. If Buyer's credit is not approved or becomes unsatisfactory to Seller then Seller, in its sole discretion, may suspend or cancel performance, or require different payment terms, including but not limited to cash on delivery or in advance of shipment. In addition, Seller may in its discretion require an advance deposit of up to 100% of Seller's selling price for any specially manufactured goods ordered by Buyer hereunder. Payments due hereunder shall be made in the form of cash, check, or money order, or other tender approved in writing by Seller. Seller may, in its sole discretion, apply Buyer's payment against any open charges. Past due accounts bear interest at the lesser of 1.5% per month or the maximum rate permitted by applicable law, continuing after Seller obtains judgment against Buyer. Seller may exercise setoff or recoupment to apply to or satisfy Buyer's outstanding debt. Buyer shall have no right of setoff hereunder, the same being expressly waived hereby.

10. Buyer shall not export or re-export, directly or indirectly, all or any part of the goods or related technology obtained from Seller under these Terms except in accordance with applicable export laws and regulations of the U.S. Further, a Buyer that is a non-U.S. company or citizen shall similarly limit any export or re-export activity to that which would be deemed compliant with U.S. export laws and regulations if performed by a U.S. company or citizen.

11. Buyer shall pay Seller all costs and expenses of collection, suit, or other legal action brought as a result of the commercial relationship between them, including, but not limited to, all actual attorneys' and paralegals' fees, and collection costs, incurred pre-suit, through trial, on appeal, and in any administrative or bankruptcy proceedings. Any cause of action that Seller has against Buyer may be assigned without Buyer's consent to United Systems & Software, Inc.

12. This Agreement, Buyer's account, and the business relationship between Buyer and Seller shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. The Parties agree that any legal action arising under or related to this Agreement shall be brought in Marshall County, Kentucky, and any right to object to such venue or to assert the inconvenience of such forum is hereby waived.

13. If Buyer fails to comply with these Terms, Seller may terminate or restrict any order immediately upon notice to Buyer. Buyer certifies that it is solvent and that it will advise Seller immediately if it becomes insolvent. Buyer agrees to send Seller written notice of any changes in the form of ownership of Buyer's business within 5 days of such changes. Buyer and Seller are the only intended beneficiaries of this document, and there are no third party beneficiaries.

14. The invalidity or unenforceability of all or part of these Terms will not affect the validity or enforceability of the other terms. The parties agree to replace any void or unenforceable term with a new term that achieves substantially the same practical and economic effect and is valid and enforceable.

15. The following provisions shall survive termination, cancellation and completed performance of this Agreement as long as necessary to allow the aggrieved party to fully enforce such clauses: 5, 6, 9, 10, 11 and 12.

Purchase Authorization—Buyer further agrees that this is a complete and exclusive statement of Agreement between the parties, which supersedes all implied, oral, and written communications between the parties relating to this Agreement. This Agreement shall be effective as of this \_\_\_ day of \_\_\_\_\_, 2022.

Buyer Name & Title: \_\_\_\_\_

Purchase Order Number: \_\_\_\_\_



*Knowledge to Shape Your Future*

August 3, 2021

City of High Point, NC

Re: Itron AMR/AMI Modules & Itron Reading Equipment

This letter is to inform you that United Systems & Software is the only Water Distributor for Itron, Inc. in North Carolina. No other Itron Distributors are authorized to sell or quote Itron water metering products in the state of North Carolina.

From a product perspective, Itron is the only provider of mobile and handheld meter reading equipment which can read SCM+ messages and download interval data from compatible Itron endpoints such as 100W devices with Datalogging.

Please feel free to contact myself if you have any questions or require further information.  
Sincerely,

A handwritten signature in blue ink, appearing to read "Tracy Wright", is written over a light blue horizontal line.

Tracy Wright  
Portfolio Account Manager