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**Pender County North Carolina
Request for Proposals (RFP) # 201021-110
Emergency Watershed Protection-
Management/Consulting Services**



Proposal Timeline:

Date Issued: Wednesday, October 21, 2020

Pre-Proposal Conference: None

Deadline for Submittal of Questions: Wednesday, October 28, 2020

Answers to Questions: Friday, October 30, 2020

Deadline for Submittal of Proposals: Friday, November 6, 2020 at 3:00 p.m. EST

Selection and Award: Monday, December 7, 2020

Sole Point of Contact for Communications Regarding this RFP:

Travis Henley, Planning and Community Development Director

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SECTION 1: INTRODUCTION

SECTION 1: INTRODUCTION

A. PURPOSE

Pender County seeks to establish a contract with a qualified consultant to provide Emergency Watershed Protection (EWP) Management/Consulting Services. The selected Consultant will define and execute services necessary for managing the emergency watershed program for recovery of damages from Hurricane Florence and future declared disasters (both natural and human-caused). The primary responsibility of the Consultant will be to provide management support to the Planning and Community Development Department during implementation of the United States Department of Agriculture's (USDA) EWP Program. This includes implementing watershed management program goals, managing construction restoration and stabilization of identified funded projects to reduce imminent threat to life, and loss of property. These services may be expanded by the County, modified, or altered to encompass other County or Departmental needs for accomplishing emergency watershed protection or floodplain management goals.

There are several incorporated municipalities within the County including but not limited to: Burgaw, St. Helena, Atkinson, Wallace, Watha, Surf City and Topsail Beach. Any or all of the incorporated municipalities in the County may participate in the Terms and Conditions of the resulting contract. It is the intent of Pender County to allow local governments and other governmental agencies within its jurisdictional boundaries to utilize the contract by entering into a Cooperative Purchasing Agreement.

B. BACKGROUND

Pender County was formed in 1875 and now has a present land area of approximately 871 square miles. The County serves a population of approximately 61,000 citizens according to 2019 US Census data. Due to the geographic location of the County, natural disasters such as hurricanes and watershed flooding events occur periodically within the County.

The Pender County Planning and Community Development Department intends to select a qualified Consultant to help the Planning and Community Development Department respond to emergency, or non-emergency, work performed through the USDA-Natural Resources & Conservation Service (NRCS), Emergency Watershed Protection Program. Municipalities may receive assistance from the EWP Program when sudden watershed impairment occurs that creates an imminent threat to life or property. An eligible project sponsor must be a legal subdivision of State government of State Agency or Native American Tribe or Tribal Organization. The project sponsor must also have the legal capacity, or responsibility for the areas threatened by a watershed emergency. Pender County is identified as the sponsor of this contract and EWP program.

SECTION 1: INTRODUCTION

The EWP program provides recovery assistance for undertaking emergency measures for repair and restoration of eligible sites. This can include slope and streambank stabilization of eligible properties. Eligible recovery measures include practices that conform to all applicable statutes, regulations, and Executive Orders. The EWP Program helps project sponsors implement emergency recovery measures to relieve imminent hazard to life or property created by a natural disaster or man-made disaster. Such hazards often cause sudden impairment of a watershed. EWP technical and financial assistance may be available to sponsors when:

- 1.The President declares an emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act
- 2.The Secretary of Agriculture declares a drought emergency.
3. An appropriation of funding via other Federal or State Programs

Recovery from flooding and watershed disaster events may potentially be addressed by other federal programs such as the Federal Emergency Management Agency (FEMA) Public Assistance (PA) guidelines. The Planning and Community Development Department anticipates that the EWP contract may be implemented in concert with ongoing FEMA PA Grant reimbursement programs presently underway with the County. These two programs must not conflict with one another in the recovery process or result in simultaneous funding from both programs. It is essential that the Consultant selected for this contract has a thorough and demonstrated knowledge of the FEMA PA Grant process, and can provide the guidance to the County to prevent duplication of benefits from occurring by these programs.

C. GENERAL INFORMATION

The RFP may be advertised on one or more State Procurement websites so that it is open and competitive for all interested qualified firms. In addition, the RFP is advertised on the Pender County Government website at www.pendercountync.gov. To find this, select / *Want To – View All Open RFPs and Bids* from the ribbon on the top of the webpage, and then select the RFP for *Emergency Watershed Protection Management/Consulting Services*.

When responding to this RFP, please follow all instructions carefully and exactly as directed. Respondents should not deviate from required format, quantity, or content specified in the RFP. Please submit proposal contents according to the outline specified in Section 2.C Proposal Format Requirements. Also, interested parties should submit documents according to the instructions contained in Section 2.B, Proposal Submission Requirements, and elsewhere in this RFP. Failure to follow these instructions specifically as instructed, may result in a proposal being considered non-responsive and may be

SECTION 1: INTRODUCTION

eliminated from consideration. Respondents are also advised not to provide brochures, marketing, advertising, or any other unspecified promotional materials in addition to required information that is specified.

Negligence or error on the part of any offeror in preparing its proposal confers no right of withdrawal or modification of their bid after the designated submittal deadline.

Failure to return the required documents and information specified in this RFP may result in a determination that the proposal is non-responsive. All costs associated with preparing a proposal, including any mailing costs, publishing cost, etc will not be reimbursed by the County.

SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

A. GENERAL REQUIREMENTS

- Direct contact with any employee of the County regarding this contract, other than the designated individual, is expressly forbidden. Violation may result in a determination that your firm is ineligible for consideration for award.
- All proposals must be signed by an officer or employee having the authority to sign on behalf of the firm or bind the firm legally.
- Any interlineations, alterations, or erasures of submitted materials must be initialed by the signer of the proposal.
- The Terms and Conditions in this RFP shall supersede any Terms and Conditions offered. Any additional conditions or modifications to the Terms and Conditions that an offeror intends to be considered must be submitted as part of the proposal and be indicated on Attachment A: Proposal Form. Such exceptions may result in the proposal being determined non-responsive.
- Submission of a proposal by the offeror is not to be construed as an award or order.
- The firm must show evidence that it is registered, and in good standing with the North Carolina Board for Licensing of Professional Engineers.
- The firm must show capability and experience performing civil engineering, structural engineering, geological, and marine/coastal engineering. This experience should demonstrate expertise in: engineering evaluations, engineering design, construction administration, construction management, and construction materials testing, and construction documentation.
- The firm should demonstrate familiarity with geotechnical lab test methods, geotechnical field test methods, nuclear density test methods, and criteria for borrow evaluation of granular aggregate fill.

B. PROPOSAL SUBMISSION REQUIREMENTS

The County will receive proposals until Friday, November 6, 2020 at 3:00 PM, Eastern Standard Time, at the address below. At that time, the County will close the receipt of proposals and begin the evaluation process. Proposals received after the submittal deadline **will not be accepted or considered**. The time of receipt shall be determined by the time clock in the Pender County Planning and Community Development Department. The County will not be held responsible for the failure of any mail or delivery service to deliver a proposal package prior to the stated submittal deadline. Late submittals of RFPs will not be considered for any reason whatsoever.

SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

Submitting firms should submit one package containing: (1) original and four (4) exact copies of complete proposal packages along with one (1) electronic PDF version of the proposal in its entirety saved on a USB drive. All proposal packages must be submitted in a sealed package and clearly identified with: proposal name, RFP number; offerors name and address, and the date and time of the submittal deadline clearly marked on the outside of the package. Proposal packages shall be delivered (FedEx or UPS) to:

Pender County Planning and Community Development
805 S. Walker Street
Burgaw, NC 28425
Attn: Travis Henley, Director

It is solely the offeror's responsibility to ascertain that they have received all required and necessary information, documents, and addenda prior to submitting a response and to ensure that the response is received at the correct location on time.

C. PROPOSAL FORMAT REQUIREMENTS

To facilitate the analysis of proposals, offerors should prepare their proposals according to the instructions outlined in this RFP and in the order presented below. Proposals should be prepared as simply as possible with straightforward, concise narratives to demonstrate an understanding of the project and services required by the County. Proposals that provide innovative alternatives and creative approaches are encouraged. Any other information thought to be relevant but not applicable to the categories below may be provided as an appendix to the proposal.

Submitted proposals should be organized into the following sections:

1. Letter of Transmittal

The letter should, at a minimum, acknowledge the offeror's intent to provide timely and professional services to the County and identify the offeror's main point of contact for any communications regarding the submitted proposal.

2. Executive Summary

Provide a brief narrative that summarizes the proposal and addresses the key benefits, qualifications, and capabilities of the offeror.

3. Company Profile

Provide a description of the firm's history, ownership, business organization, financial status, overall qualifications, products or services offered, and any relevant licenses held, if applicable.

- Provide evidence of registration and good standing with the North Carolina Secretary of State and State Boards governing applicable professional services required. In the case of out-of-state corporation,

SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

provide a Certificate of Authority as evidence of ability to do business in North Carolina.

- Describe the overall capability of the offeror to fully perform the contract requirements and the moral and business integrity and reliability which will assure the County of good faith performance as required by these specifications.

4. Understanding and Approach

Provide a description of the offeror's understanding of the requirements contained in the Scope of Work described in this RFP. This section should, at a minimum, address the following:

- Expression of the offeror's understanding of the services requested and demonstrated knowledge working on slope restoration projects.
- Offeror's knowledge of the County physiographic differences and geographic features, and how these influences completing exigent civil-construction projects.
- A detailed description of the offeror's intended approach to providing the services identified in the Scope of Work.
- A list of all major tasks to be performed by the offeror and the deliverable products associated with each task. Also include information regarding the timelines associated with the delivery of required tasks.
- Ability and flexibility to meet the County's needs; responsiveness under short notice, and estimated response times to the Planning and Community Development Department office location when notified in emergency situations
- Understanding of the content of Damage Survey Reports (DSRs) used in the EWP planning process and experience preparing DSRs
- Experience obtaining right-of-entry, easements, and access agreements with private property owners, corporations, and non-profits.
- Understanding of federal/state environmental laws including but not limited to: Clean Water Act, 401 Water Quality Certification, US Army Corps Section 404, Identification of Endangered species, and Coastal Area Management Act.

5. Key Personnel

Identify all key personnel who will be assigned to the resulting contract and their role on the offeror's team. Describe each individual's experience history, relevant licenses and/or certifications, relevant association memberships, and overall credentials related to the requested services. Also identify all subcontractors/sub consultants who will support the work performed under the resulting contract and define their roles. Respondents must include an organization chart that clearly identifies personnel assigned to this project and their roles. The organization chart

SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

must clearly illustrate the proposed lines of communication between proposed team members and the County management.

The RFP should clearly identify personnel with EWP consulting/management experience, examples of their experience, and their proposed role for this contract. The RFP should clearly identify the office location that such personnel are stationed, and their estimated travel to the Pender County Administration Office, if emergency travel is required during execution of any task order.

6. Past Experience

Summarize the Respondent's overall past experience providing EWP consulting/management services, number of contracts (current and past); identify percent completed, NRCS EWP program familiarity, and detailed information regarding previously completed EWP projects. Related projects that were similar in size and scope completed for other government agencies with comparable requirements, may be submitted in lieu of EWP projects, but may be weighted less.

7. References

Submit a completed Attachment B: References Form. Offerors should include at least three references for similar services provided within the past 10 years, with at least one reference specific to performance and execution of an USDA-EWP contract for similar services.

8. Price Proposal

Submit a completed Attachment C: Price Proposal.

- Offeror shall provide the total cost to perform the services and a detailed cost breakdown. The cost breakdown shall identify separately the offeror's cost per hour, hours anticipated to accomplish each task, and the total cost associated with each service/task identified in the Scope of Work.
- The hourly cost shall be all-inclusive including subsistence, hotel and other cost(s) associated with housing staff for the project. Mobilization and de-mobilization cost will not be compensated and should be included in the hourly rate.
- Services provided during the response and recovery phase of a disaster event shall be paid based upon the hourly rate provided on Attachment C: Price Proposal, unless otherwise negotiated at the time of request.

SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

- The hourly rate provided on Attachment C: Price Proposal shall also be applicable to any additional work that may be requested beyond that which has been specified in this RFP.
- Travel time to the project work sites is not a billable period of time unless authorized by the contract terms and conditions.
- Offerors price should demonstrate how they will be able to execute the project within the confines of the EWP program with none to minimal cost to the County.

D.

1. Other Required Forms

Submit a completed and signed copy of the following forms (provided as part of this RFP):

- Attachment A: Proposal Form
- Attachment B: References
- Attachment C: Price Proposal
- Attachment D: Offeror's Certification Form
- Attachment E: Certification Regarding Lobbying
- Attachment F: Vendor Application Form and W-9 Form
- Attachment G: Sample Contract for the Provision of Services

E. SIGNATURES

An original signature by an authorized officer of the firm is required on each required form submitted in the required Original version of the proposal submittal package. Please include evidence of signatory's authority to bind the firm in the proposal.

F. ADDENDA

Changes or supplemental instructions to this RFP will be issued in the form of written addendum. All addenda will be posted online along with this RFP. It is the offeror's responsibility to check for addenda prior to the proposal submittal deadline to ensure that all addenda are received. The County posts all solicitations and related addenda on the Pender County website (<http://www.pendercountync.gov/public-notice/open-rfps-and-bids/>). All addenda issued in conjunction with this RFP must be acknowledged on Attachment A: Proposal Form.

G. PRE-PROPOSAL CONFERENCE

No pre-proposal conference is planned for this RFP.

H. EVALUATION OF PROPOSALS

Proposals will be evaluated by an appointed Selection Committee according to the evaluation criteria described in this section. Only submittals that are deemed responsive

SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

to these criteria from offerors deemed responsible will be evaluated and eligible for award.

The information provided in each proposal will be evaluated according to the following criteria:

- Demonstrated understanding of the project scope and approach to providing the requested services, and understanding of the USDA/NRCS EWP Program
- Unique capability of the firm to provide the requested services
- Demonstrated experience successfully providing similar services in the past to the USDA-NRCS EWP Program and staff
- Experience working with Planning and Community Development Departments, Emergency Management Departments, FEMA, USDA-NRCS staff, County, and municipal governments
- Specialized experience, qualifications, and demonstrated knowledge of the offeror's key personnel
- Availability and accessibility to respond on short notice to project sites in Pender County, and for face-to-face meetings on an as-needed basis
- Ability to respond quickly for emergency floodplain, watershed management, or civil construction issues
- Price and timeframe for completion of services and tasks
- Completeness of the proposal and inclusion of all requested information

The County may initiate discussions/interviews with all or selected offerors. Once discussions/interviews are complete, the County may again make a determination regarding whether an offeror is responsible. The County will conduct negotiations with offerors being considered for selection and may obtain Best and Final Offers (BFOs) prior to award.

I. AWARD OF CONTRACTS

The County will award a contract to one (1) offeror from all proposals submitted that is deemed to be fully qualified and best suited to provide the required services, as determined solely by the County, taking into consideration price and the evaluation factors set forth in Section 2.G, Evaluation of Proposals. No other factors or criteria shall be used in the evaluation of proposal or selection.

At the County's sole discretion, the County reserves the right to take the following actions in connection with this RFP:

- To request additional information from any or all offerors
- To judgmentally select the successful bidder and agreement that best meets the needs of the County

SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

- To reject any or all proposals if it determines that proposals are not responsive to the RFP
- To reject any or all proposals if it determines doing so to be in the best interest of the County
- To reconsider any proposal submitted at any phase of the procurement
- To meet with select offerors at any time to gather additional information
- To have discussions with those offerors that it deems to fall within a competitive range
- To enter into negotiations separately with offerors
- To award a contract, based on initial offers received, without discussion and without conducting further negotiations. Under such circumstance, the acceptance of a proposal by the County shall be deemed to be an acceptance of an offer and that such acceptance will be binding upon both parties.

The County shall not be deemed to have finally selected an offeror until a contract has been successfully negotiated and signed by both parties.

SECTION 3: SCOPE OF WORK

A. GENERAL REQUIREMENTS

To facilitate construction and complete exigent projects, the Consultant will serve as the primary consultant to the Planning Director or his assigned delegates. The Consultant will provide consultation, technical assistance, engineering and planning support, bid procurement, contractor selection, bid tabulations, contract award, scheduling contractors, coordination of contractors, monitoring/inspecting work in progress, inspection and certification of completed work, documentation of contractor progress, review of testing results, borrow evaluation, preparation of progress reports and final reports, management of payment request, determining consistency and adherence to project plans & specifications, certification of projects, and project close-out for EWP task orders. Duties/tasks will include but not be limited to the following:

1. Damage Survey Reports (DSR): Assist the Planning and Community Development Department with identifying eligible sites and preparing SDRs; conduct site visits and capture damages; interview property owners and provide programmatic description/details of the EWP Program; review available mapping (GIS, topographic, aerial) for providing site descriptions; discuss eligibility requirements and right-of-entry with owners; prepare SDRs and forward to NRCS; assist County Soil & Water Conservationist with preparation of grant requests and task authorizations.
2. Easement Assess/Right-of-Entry: Assist the Planning and Community Development Department with gaining access authorization to sites placed on the EWP Eligible Site Inventory list.
3. Title Searches/Land-Ownership: Assist County Soil & Water Conservationist and legal counsel with title searches and verification of land ownership; assist with identification/ location of easements, and other hindrances to title.
4. Contract Administration, Bid Solicitation, and Contractor Selection Support: Provide Planning Director with guidance on developing project Scopes of Work; assist NRCS as needed with technical support, engineering recommendations, RFP development, bid solicitations, bid advertisement, bid evaluation/tabulation, contractor procurement, bid award, and guidance with executing contracts that are compliant with NRCS and 2 Code of Federal Register (CFR) requirements.
5. Inspections/Construction Documentation: During construction on all exigent sites, the Consultant or County will provide a qualified construction inspector to document the construction process and to assure that the work performed is consistent with the project Plans & Specifications prepared by USDA; observe and

SECTION 3: SCOPE OF WORK

notate testing results and communicate with the Contractor CQC/CQA consultant; in the event of deviation from the project plans, the Consultant will notify NRCS and the County immediately.

6. Contract Management: The Consultant will assist the County with managing contract cost accounting. The Consultant will review task order budgets, monitor contractor invoicing, and track project costs to assure that budgets are maintained. The Consultant will provide the County and NRCS with authorization to release payment for work completed that is determined to be complete and performed in accordance with project plans and specifications.

7. Reports/Meetings:

Inspection reports will be prepared by the Consultant on a daily basis. A 5-Day Report will be prepared each week and submitted to the County and NRCS; deviations to scope of work, costs, or schedule will be noted in the 5-Day Report.

A Final Report will be prepared at the conclusion of each completed project and submitted to the NRCS within the time period prescribed by the contract.

Other reports and progress updates may be required by the County or NRCS as needed. Periodic meetings may be required by the County or NRCS to be held at office locations defined by the contract or Statement of Work developed for each project. The Consultant shall attend meetings as requested by the County or NRCS.

8. Engineering Support: The County or NRCS may require the Consultant to perform periodic review of project engineering plans and specifications that are prepared by NRCS. NRCS may request design input, recommendations, analysis, or guidance on project designs on an as needed basis.

9. Training/Preparedness Meetings with Civil Contractors: The Consultant will be expected to work closely with the County and NRCS to conduct meetings as required for safety, slope/streambank restoration techniques, scope or contract changes, contracting/payment specifications, dispute resolution, or other subjects.

10. New Technologies: The Consultant shall provide the County and NRCS advice, guidance, and recommendations on new technologies that may be, or may become available during the contract period that could be utilized during execution of exigent contract work.

SECTION 3: SCOPE OF WORK

- **Manpower Support**
 - Consultant must provide one individual to serve as Project Manager and function in the capacity described above. If the Respondent is selected based on an employee expected to be hired and that employee is not hired, the agreement may be null and void. Any changes in personnel by the Consultant must be approved by the Director of Planning.
 - Weekly coordination of work assignments will be required. While the Planning and Community Development Department is the place of daily duty to coordinate in person, work requirements will dictate the location of any actual in-person interaction.
 - During completion of exigent projects, the Consultant's Project Manager and/or staff may be required to be onsite full-time until the until the exigent project is stabilized or restored to functional order. Pender County will not reimburse the Consultant for such expenses or provide shelter or food during completion of the exigent projects.

While general insurance is required, the Consultant is also required to carry professional insurance or environmental liability insurance because of the nature of this work. Additional information regarding insurance requirements of the Contractor can be found in Attachment G: Sample Contract for the Provision of Services, Item I-15, Insurance. A Certificate of Insurance will be required of the awarded vendor that complies with the requirements outlined in Attachment G and names the County as an additional insured.

SECTION 4: GENERAL TERMS AND CONDITIONS

A. CONTRACTUAL REQUIREMENTS AND TERMS AND CONDITIONS

The following general Terms and Conditions apply to this RFP solicitation process and will be incorporated into the resulting contract. Any exceptions to the following requirements or other sections of this RFP should be addressed in the offeror's proposal.

B. ENTIRE AGREEMENT

This RFP, all attachments to this RFP, any additional or supplementary documents incorporated herein by reference, any resulting contract, and the selected offeror's submitted proposal contain all the Terms and Conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any of the parties hereto. This contract shall not be modified, altered, changed, or amended unless in writing and signed by the parties hereto.

C. CONFLICT BETWEEN DOCUMENTS

In the event of a conflict between the contract documents, including these Terms and Conditions and the terms of a purchase order or related document issued by the Office of Purchasing, the contract documents shall control.

D. AVAILABILITY OF FUNDS

A contract shall be deemed in force only to the extent of appropriations available to each department for the purchase of such goods and/or services. The County's extended obligations on contracts that include funding through successive fiscal periods shall be contingent upon actual appropriations for the successive periods (additional years).

E. COOPERATIVE PURCHASE

If authorized by the Consultant, the contract resulting from this RFP may be extended to other public bodies, public agencies, or institutions within the United States to purchase at contract prices and terms. Any public entity that uses the contract shall place its own order(s) directly with the Consultant. Pender County is not a party to such contracts and is not responsible for placement of orders, payment, or discrepancies of the participating jurisdictions. It is the Consultant's responsibility to notify the jurisdictions of the availability of contract(s). Offerors who do not wish to extend the terms, conditions, and prices to other public entities shall so indicate in the proposal.

F. NON-DISCRIMINATION

Consultant will take affirmative action not to discriminate against any employee or applicant for employment or otherwise illegally deny any person participation in or the

SECTION 4: GENERAL TERMS AND CONDITIONS

benefits of the program which is the subject of this agreement because of race, creed, color, sex, age, disability, or national origin. To the extent applicable, Contractor will comply with all provisions of Executive Order No. 11246 the Civil Rights Act of 1964, (P.L. 88-352) and 1968 (P.L. 90-284), and all applicable federal, state and local laws, ordinances, rules, regulations, orders, instructions, designations, and other directives promulgated to prohibit discrimination. Violation of this provision, after notice, shall be a material breach of this agreement and may result, at County's option, in a termination or suspension of this agreement in whole or in part.

G. INDEMNIFICATION

Consultant agrees to defend, indemnify, and hold harmless the County for all loss, liability, claims, or expense (including reasonable attorney's fees) arising from bodily injury, including death or property damage, to any person or persons caused in whole or in part by the negligence or misconduct of the Consultant, except to the extent same are caused by the negligence or willful misconduct of the County. It is the intent of this section to require Consultant to indemnify Pender County to the extent permitted under North Carolina law.

H. LAWS AND REGULATIONS

The Consultant shall keep fully informed of all federal, state, and local laws, ordinances, and regulations that in any manner affect the conduct of the work. The Consultant shall at all times observe and comply with all such laws, ordinances, and regulations.

I. RIGHTS UNDER ANTITRUST LAWS

The offeror assigns to the County any and all rights that it may have under the antitrust laws of the United States and the State of North Carolina in any way arising from or pertaining to this proposal. This provision is remedial in nature and is to be liberally construed by any court in favor of the County.

J. IMMIGRATION REFORM AND CONTROL ACT OF 1986

The offeror certifies that he/she does not and shall not during the performance of the contract for goods and services in the State of North Carolina, knowingly employ unauthorized aliens as defined in the Federal Immigration Reform and Control Act of 1986, as amended.

K. ASSIGNMENT OF CONTRACT

A contract shall not be assignable by the Consultant in whole or in part without the written consent of the County.

SECTION 4: GENERAL TERMS AND CONDITIONS

L. DEFAULT

In event of default by the Consultant, the County reserves the right to procure the goods and/or services and/or services from other sources and hold the Consultant liable for any excess cost occasioned thereby.

M. INDEPENDENT CONTRACTOR

The Consultant and any employees, agents, or other persons or entities acting on behalf of the Consultant shall act in an independent capacity and not as officers, employees, or agents of the County.

N. NON-EXCLUSIVE CONTRACT

Nothing herein is intended nor shall be construed as creating any exclusive arrangement with the selected Consultant. The contract shall not restrict the County from acquiring similar, equal, or like goods and/or services from other sources.

SECTION 5: SPECIFIC TERMS AND CONDITIONS

A. CONTRACT TERM

The initial contract period will begin on the date of contract execution and continue for two (2) years with the option to renew for four (2) additional one (1) year periods, if mutually agreed upon by both parties.

Written notice of intent to renew shall not be required. Issuance of a purchase order shall constitute exercise of the renewal option.

B. QUESTIONS

Questions regarding this RFP must be received prior to the deadline indicated on the cover page.

C. CONTRACTOR QUALIFICATIONS

Firms shall have the capability in all respects to fully perform the services or provide the goods specified and have the experience necessary to assure the County of good faith performance of the contract.

D. CONTRACT/AGREEMENT

Following award, a contract/agreement will be executed between the offeror and the County. A sample contract is included with this RFP as Attachment G: Sample Contract for the Provision of Services. Do not return the sample contract with the proposal; it is provided for informational purposes only.

E. PRICE ADJUSTMENT

Prices shall remain firm for the initial contract period. Should the County exercise the option to renew the contract for additional one-year periods, the Contractor may request a price increase prior to the end of the then current period. The price increase for each renewal period shall not exceed the change of the Consumer Price Index (CPI) for Emergency Management Directors Series ID 11-9161 not seasonally adjusted as published by the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

The new contract price(s) shall be calculated by applying the published index percentage change to the then current unit price(s). The newly adjusted price(s) will become effective as soon as possible but not prior the date of the renewal period, and will apply to goods or services requested on or after the effective date of the new price. The Consultant shall submit a written request for a price increase to the County. When applicable, evidence/proof of price change from the manufacturer or other relevant source shall accompany the price increase request. Price increases will not be automatic and are

SECTION 5: SPECIFIC TERMS AND CONDITIONS

subject to approval by the County. If approved by the County, price increases may be limited to a maximum of 3% for each one-year renewal period.

If a price decrease is provided, such price decrease shall be immediately passed on to the County.

The County reserves the right to request a reduction in price based on economic factors or market conditions during contract term according to changes in the specified index or other factors.

CPI information and detailed statistics including current percentage changes can be accessed at <http://www.bls.gov/cpi>.

F. METHOD OF ORDERING

The County will issue a purchase order to the Contractor as authorization to provide the goods or services specified on the order.

G. EXAMINATION OF CONDITIONS

Each offeror shall fully investigate site conditions and determine work conditions and take necessary measures to ensure a complete understanding of the specifications and work requirements. Failure to become familiar with the site conditions or work conditions will not relieve the offeror from furnishing all materials or performing the work in accordance with the plans, specifications, or Scope of Work.

H. SCHEDULING AND DELAYS

The parties to a contract resulting from this RFP acknowledge that all or part of the work to be performed hereunder may be delayed and extended at the option of the County. Such delays may be caused by delays, denials, and modifications of the various state or federal permits, or for other reasons. The County shall not be required to pay any of the Contractor's direct or indirect costs, or claims for compensation, extended overhead, or other damage or consequential damages arising out of or related to any delays or interruptions required or ordered by the County. If the County delays the project for any reason for a continuous period of ninety (90) days or more, the County and Contractor will negotiate a mutually agreeable adjustment to the Contractor's award amount.

I. COMPLIANCE WITH UNIFORM RULES FOR PROCUREMENT (SUPER CIRCULAR, 2 C.F.R.)

Contracts funded with federal grant funds must be procured in a manner that conforms with all applicable Federal laws, policies, and standards. The following additional Terms and Conditions are incorporated into this RFP and any resulting contract, as required by the Uniform Rules for procurement published by the U.S. Office of Management and

SECTION 5: SPECIFIC TERMS AND CONDITIONS

Budget's (OMB) Super Circular or the Code of Federal Regulations, Title 2, Chapter 200 (2 C.F.R. 200) as effective December 26, 2014.

i. Debarment and Suspension

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by Pender County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of North Carolina and Pender County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The Offeror agrees to comply with the requirements of 2 C.F.R. pt. 180, Subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Offeror further agrees to include a provision requiring such compliance in its lower tier covered transactions.

ii. Byrd Anti-Lobbying Amendment

Consultants who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

iii. Access to Records

- (1) The Contractor agrees to provide Pender County, the State of North Carolina, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Consultant which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

SECTION 5: SPECIFIC TERMS AND CONDITIONS

(2) The Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Consultant agrees to provide the NRCS Administrator or his authorized representative's access to construction or other work sites pertaining to the work being completed under the contract.

iv. **USDA Seal, Logo, and Flags**

The Consultant shall not use the USDA seal(s), logos, crests, or reproductions of flags or likenesses of USDA agency officials without specific USDA preapproval.

v. **Compliance with Federal Law, Regulations, and Executive Orders**

This is an acknowledgement that USDA financial assistance will be used to fund the contract only. The Consultant will comply with all applicable federal law, regulations, executive orders, USDA policies, procedures, and directives.

vi. **No Obligation by Federal Government**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Consultant, or any other party pertaining to any matter resulting from the contract.

vii. **Program Fraud and False or Fraudulent Statements or Related Acts**

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Consultant's actions pertaining to this contract.

viii. **Full and Open Competition**

This RFP is being solicited with the intent to provide full and open competition and no preferences will be assigned based on geographic location or socio-economic status of the offeror.

ix. **Disadvantaged Business Enterprises**

Qualified small businesses, minority-owned businesses, women-owned businesses and otherwise disadvantaged businesses are encouraged to submit offers in response to this RFP.

ATTACHMENT A: PROPOSAL FORM

ATTACHMENT A: PROPOSAL FORM – RFP # 201021-110

Completed, signed and notarized form shall be submitted with the proposal. Please attach a copy of your registration with the North Carolina Secretary of State.

A. OFFEROR INFORMATION:

Firm/Company Name (legal name): _____

Mailing Address: _____

Payment Address (if different from mailing address): _____

Firm Telephone Number: _____

Federal Employer Identification Number (FEIN): _____

Social Security Number (only if FEIN is NOT provided): _____

Representative Name/Title: _____

Representative Telephone Number: _____

Representative Email Address: _____

B. AUTHORIZATION TO TRANSACT BUSINESS IN NORTH CAROLINA

By signature of this form, I certify that the firm identified above in Item A is legally authorized to transact business in the State of North Carolina. *A copy of the Certification of Existence or registration is attached to this form.*

North Carolina Secretary of State Identification Number (SOSID): _____

- OR -

Firm/company is not required to have/maintain registration because: _____

ATTACHMENT A: PROPOSAL FORM

C. PAYMENT TERMS

- ☐ Net 30
- ☐ Other (Specify): _____

If payment terms are not specified above, then the terms shall be Net 30 Days.

D. ADDENDA

Offeror hereby acknowledges receipt of and incorporation of all requirements of any addenda issued for this RFP:

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

Addendum No. _____ Dated: _____

E. EXCEPTIONS

Indicate if exceptions are requested by acknowledging the appropriate statement below, as applicable:

- ☐ Offeror understands and agrees to all terms, conditions, requirements, and specifications stated herein.
- ☐ Offeror takes exception to terms, conditions, requirements, or specifications stated herein Offeror must itemize all exceptions below (attach additional pages if necessary):

[illegible]

ATTACHMENT A: PROPOSAL FORM

NOTE: Exceptions taken from the stated terms and/or specifications may be cause for proposals to be deemed "non-responsive".

F. COOPERATIVE PURCHASING

Offeror will extend term, conditions and prices to other jurisdictions.

☐ Yes

☐ No

G. PROPOSAL CHECKLIST

This checklist is provided to assist offerors in submitting proposals. The proposal should include the following information in the quantities specified in Section 2.B Proposal Submission Requirements.

- ☐ Proposals developed according to the outline specified in Section 2.C Proposal Format Requirements and according to the instructions in Section 2.B Proposal Submission Requirements and elsewhere in this RFP.
- ☐ Attachment A: Proposal Form
- ☐ Attachment B: References Form
- ☐ Attachment C: Price Proposal
- ☐ Attachment D: Offeror's Certification Form
- ☐ Attachment E: Certification Regarding Lobbying
- ☐ Attachment F: Pender County Vendor Form and Completed W-9 Form

H. CONFLICT OF INTEREST

The offeror certifies that their proposal has not been arrived at collusively or otherwise in violation of federal, state or local laws. Any purchase order, check requisition or contract from which any agent, officer or employee of the County or any relative thereof, will realize a financial gain, directly or indirectly, shall be void, except that before the execution of a purchase order, check requisition or contract, the County shall have the authority to waive compliance with this section when it finds such action to be in the best interest of the County.

ATTACHMENT A: PROPOSAL FORM

I. AUTHORIZATION

In accordance with the terms, conditions and specifications of this RFP, the undersigned agrees to furnish the items and/or services requested. The undersigned acknowledges that the proposal is valid for a period of 180 days from the due date and certifies he/she has read, understands, and agrees to all terms, conditions, and requirements of this RFP and is authorized to contract on behalf of firm named below.

Firm Name: _____

Print Name: _____

Title: _____

Signature: _____

Date: _____

Subscribed and sworn to before me this _____ day of _____, 2018.

Notary Public: _____

My Commission expires: _____

ATTACHMENT B: References

ATTACHMENT B: REFERENCES

*Completed form shall be submitted with the proposal. Provide at least three references.
References must be for similar services provided and must have been completed within the past 10 years.*

Offeror Name: _____

Reference 1:

Name of Entity or Business: _____

Street Address: _____

City, State and Zip Code: _____

Contact Name and Title: _____

Phone Number: _____

Email Address: _____

Contract Dates: _____

Contract Amount: _____

Description of Services Provided: _____

Reference 2:

Name of Entity or Business: _____

Street Address: _____

City, State and Zip Code: _____

Contact Name and Title: _____

Phone Number: _____

Email Address: _____

Contract Dates: _____

Contract Amount: _____

Description of Services Provided: _____

ATTACHMENT B: References

Offeror Name: _____

Reference 3:

Name of Entity or Business: _____

Street Address: _____

City, State and Zip Code: _____

Contact Name and Title: _____

Phone Number: _____

Email Address: _____

Contract Dates: _____

Contract Amount: _____

Description of Services Provided: _____

NOTE: Attach additional pages, as necessary.

ATTACHMENT C: PRICE PROPOSAL

ATTACHMENT C: PRICE PROPOSAL

Completed form shall be submitted with the proposal to RFP # 201021-110.

Offeror Name: _____

Hourly Rate: \$ _____ /hour

SOW Item	Description of Task/Service	Estimated Quantity (Hours)	Unit Price (Estimated Quantity x Hourly Rate)
1	Damage Survey Reports (DSR)		\$
2	Easement Access/Right-of-Entry		\$
3	Title Search/Identification of Land Owners		\$
4	Contract Administration, Bid Solicitation, Bid Tabulations, and Contractor Selection Support		\$
5	Contract Management		\$
6	Reports (Daily Reports, 5-Day and Final Report)/Meetings/Updates		\$
7	Engineering Support		\$
8	Training/Preparedness; Meeting w/ Contractors		\$
9	New Technologies Assessment		\$
TOTAL			\$

NOTE: All rates are to be inclusive of travel, mileage and per diem. No hourly rate or mobilization fee will be charged for travel to and from home office. If travel is directed by the County to a conference or other event outside the jurisdiction, reimbursement for such travel will be considered and will be in accordance with the Federal GSA per diem rates for travel.

ATTACHMENT D: OFFEROR'S CERTIFICATION FORM

ATTACHMENT D: OFFEROR'S CERTIFICATION FORM

Completed, signed and notarized form shall be submitted with the proposal.

To Whom It May Concern:

I have carefully examined the Request for Proposal (RFP) and any other documents accompanying or made a part of this RFP.

I hereby propose to perform the services as specified in the Scope of Work of this RFP at the rates described on the completed Attachment C: Proposal Form.

I certify that all information contained in this proposal is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this proposal on behalf of the firm as its act and deed and that the firm is ready, willing and able to perform if awarded a contract by Pender County.

I further certify, under oath, that this proposal is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a proposal for the same product or service; no officer employee or agent of the County of Pender or any other offeror is interested in said proposal; and that the undersigned executed this Offeror's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

It is distinctly understood that Pender County reserves the right to reject any or all proposals.

Name of Firm: _____

Federal Employer Identification Number (FEIN): _____

Mailing Address: _____

City, State, Zip Code: _____

Phone: _____ Email: _____

Name and Title: _____

Authorized Signature: _____

Date: _____

Subscribed and sworn to before me this _____ day of _____, 2018.

Notary Public: _____

My Commission expires: _____

ATTACHMENT E: CERTIFICATION REGARDING LOBBYING

Completed and signed form shall be submitted with each proposal offer exceeding \$100,000.

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned [Consultant] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Consultant, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Signature of Consultant's Authorized Official: _____

Name and Title of Consultant's Authorized Official: _____

Date: _____

ATTACHMENT F: W9

ATTACHMENT F: W9

A completed W-9 Form is required for submittals. Please find this form attached on the following pages.

ATTACHMENT F: W9

Form W-9 (Rev. November 2017) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification ▶ Go to www.irs.gov/FormW9 for instructions and the latest information.	Give Form to the requester. Do not send to the IRS.
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Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
	<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ▶ _____	Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <small>(Applies to accounts maintained outside the U.S.)</small>
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)																																																																							
Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> , later. Note: If the account is in more than one name, see the instructions for line 1. Also see <i>What Name and Number To Give the Requester</i> for guidelines on whose number to enter.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="10" style="text-align: center;">Social security number</td> </tr> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> <tr> <td colspan="4" style="text-align: center;">-</td> <td colspan="2" style="text-align: center;">-</td> <td colspan="4"></td> </tr> <tr> <td colspan="10" style="text-align: center;">or</td> </tr> <tr> <td colspan="10" style="text-align: center;">Employer identification number</td> </tr> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> <tr> <td colspan="4" style="text-align: center;">-</td> <td colspan="6"></td> </tr> </table>	Social security number																				-				-						or										Employer identification number																				-									
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Part II Certification			
Under penalties of perjury, I certify that:			
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and 3. I am a U.S. citizen or other U.S. person (defined below); and 4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.			
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.			
Sign Here	<table style="width: 100%;"> <tr> <td style="width: 60%;"> Signature of U.S. person ▶ _____ </td> <td style="width: 40%;"> Date ▶ _____ </td> </tr> </table>	Signature of U.S. person ▶ _____	Date ▶ _____
Signature of U.S. person ▶ _____	Date ▶ _____		

General Instructions Section references are to the Internal Revenue Code unless otherwise noted. Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9 . Purpose of Form An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following. <ul style="list-style-type: none"> • Form 1099-DIV (dividends, including those from stocks or mutual funds) • Form 1099-MISC (various types of income, prizes, awards, or gross proceeds) • Form 1099-B (stock or mutual fund sales and certain other transactions by brokers) • Form 1099-S (proceeds from real estate transactions) • Form 1099-K (merchant card and third party network transactions) • Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition) • Form 1099-C (canceled debt) • Form 1099-A (acquisition or abandonment of secured property) Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN. <i>If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.</i>	• Form 1099-DIV (dividends, including those from stocks or mutual funds) • Form 1099-MISC (various types of income, prizes, awards, or gross proceeds) • Form 1099-B (stock or mutual fund sales and certain other transactions by brokers) • Form 1099-S (proceeds from real estate transactions) • Form 1099-K (merchant card and third party network transactions) • Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition) • Form 1099-C (canceled debt) • Form 1099-A (acquisition or abandonment of secured property) Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN. <i>If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.</i>
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ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor ⁴

For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/identitytheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

Attachment G is provided for the review and reference of offerors only and does not need to be submitted with proposal offers. The selected Contractor will be expected to enter into an agreement based upon this sample contract. Any exceptions or deviations to the language contained in the sample contract or this RFP that the offeror wishes to propose for consideration must be noted on Attachment A: Proposal Form and submitted with the offeror's proposal.

Pender County Government
805 S. Walker Street
Burgaw, North Carolina 28425

PO # XXXX
October 23, 2020

This contract is entered into by and between Pender County Government, Burgaw, North Carolina 28560, hereinafter called the County and _____ hereinafter referred to as Consultant, to provide _____ to Pender County.

- 1. Contract Specifications:** These attachments will be incorporated into the basic contract. The parties hereto agree that contractor shall provide items and assume obligations set forth herein and in Attachments "A" through "C". In the event of any inconsistency between terms, conditions or provisions appearing in Attachment "A" through "C", and terms and conditions of the basic contract, the provisions of the basic contract shall apply. In addition to the terms set forth herein, this contract consists of:
 - Attachment (A) Pender County General Provisions
 - Attachment (B) Pender County Purchase Order (if applicable)
 - Attachment (C) Contractor Agreement (if applicable)
 - Attachment (D) RFP and Bid Response
- 2. Contractor Requirements:** Contractor will provide _____
- 3. Contract Period:** Contract will become effective on date signed by both parties for and conclude when services are complete on or before _____.
- 4. Payment:** As consideration for Pender County's receipt and delivery of services described in item "2" above, Pender County agrees to pay the contractor a payment of \$ _____. The date of issue of the Pender County check is the date of payment.
- 5. Place of Services:** All services that are the subject of this contract shall be delivered to the following address(es): _____.
- 6. Obligations:** Any claims or liabilities created by this contract are the exclusive responsibility of Pender County. This contract shall not be construed to obligate any other Pender County fund or monies.
- 7. Taxes:** This contract is subject to any applicable taxes. Pender County is not exempt from NC sales tax.
- 8. Inspection:** Inspection will be made after delivery at the destination specified. Any discrepancies with the services not in conformity with the specification of this contract will be addressed in accordance with the manufacturer's warranties.
- 9. Modifications/Changes:** This contract may be modified by written agreement of both parties. The contractor will not represent in any manner, expressly or by implication, that services purchased under this contract are approved or endorsed by any element of the local government. Any advertisement by the Contractor, which refers to Pender County activity, will contain a statement that the advertisement was neither paid for nor sponsored, in whole or in part, by the particular activity.
- 10. Entire Agreement:** This contract represents the final and entire agreement of the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. No additional agreements, term, or conditions may be implied. In the event of conflict between the North Carolina General Statutes, the provisions of the basic contract and the provisions of any attachment hereto, the N.C. General Statutes, followed by the provisions of the basic contract govern.

11. Choice of Law: Exclusive Venue. Notwithstanding the principles of conflicts of law, the internal laws of the State of North Carolina shall govern and control the validity, interpretation, performance, and enforcement of this Agreement. Exclusive venue for any action, whether at law or in equity, shall be Pender County.

Executed By:

For Pender County:

Signature: _____

Printed Name: _____

Title: Planning Director

Company: Pender County Govt

Address: _____

City: Burgaw

State: North Carolina

Zip Code 28425

Phone Number: _____

Date: _____

For Contractor:

Signature: _____

Printed Name: _____

Title: _____

Company Name: _____

Address: _____

City: _____

State: _____

Zip Code: _____

Phone Number: _____

Date: _____

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

Finance Officer

General Provisions
Attachment (A)

I-1.	Definitions	I-16.	Warranty
I-2.	E-Verify	I-17.	Item Substitution and Variation
I-3.	Gratuities and Contingent Fees	I-18.	Inspection and Acceptance
I-4.	Officials not to Benefit	I-19.	Availability of Funds
I-5.	Oral Representations	I-20.	Invoicing and Payment
I-6.	Non-Appropriation	I-21.	Withholding
I-7.	Representations	I-22.	Contractor Liability
I-8.	Advertisements	I-23.	Termination
I-9.	Subcontracting	I-24.	Requests for Monetary or other Relief
I-10.	Assignment	I-25.	Notification of Debarment or Suspension Status
I-11.	Iran Divestment Act	I-26.	Equal Employment Opportunity
I-12.	Permits and Licenses	I-27.	Drug-Free Work Place
I-13.	Non-Waiver or Defaults	I-28.	Accident Prevention, Fire Protection, and Sanitation
I-14.	Indemnity	I-29.	Standards
I-15.	Insurance	I-30.	Force Majeure
		I-31.	Federal Funds

- I-1. **Definitions:** As used throughout this contract, the following terms shall have the meaning set out below:
- A. "Pender County" refers to the Pender County Government activities and organizations.
 - B. "Contract" identifies this contract or any modification thereto.
 - C. "Finance Director" means a person authorized in writing to execute and administer the contract on behalf of Pender County or said Finance Director's successor or successors. (Note: Other Pender County and Government Officials, who by virtue of their positions are concerned with the administration and operation of this contract, may take certain administrative actions in behalf of the Finance Director. These Officials may conduct inspections, process and collect contract payments, make administrative decisions and perform other duties of an administrative nature. They may not waive or change contract terms; impose additional contract requirements; issue cure, showing cause, or termination notices; or render final decisions according to Contract terms. (Refer all questions concerning the authority of other Pender County or Government Officials to the Finance Director.)
 - D. "Contractor or vendor" means the individual, partnership, corporation, or other entity which is a party to this contract and who is responsible for all actions, performance and work there under, to include that of any subcontractor or vendor.
- I-2. **E-Verify:** As a condition of payment for services rendered under this agreement, Vendor or Contractor shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if Vendor or Contractor provides the services to the County utilizing a subcontractor, Vendor or Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes as well. Vendor or Contractor shall verify, by affidavit, compliance of the terms of this section upon request by the County.
- I-3. **Gratuities and Contingent Fees:** Contractor warrants that no person or selling agency has been employed or retained to secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial selling agencies retained by contractor or vendor for the purpose of securing business. Contractor warrants that no gratuities (Entertainment, gifts, etc.) were or will be offered or given by the Contractor or any person representing the Contractor to any Pender County Commissioner, employee, or spouse of an employee/Commissioner. For breach of either of the warranties, Pender County may terminate this and all other Pender County Contracts for default and deduct from amounts due under this or other contracts, or bill contractor or vendor for the total value of any contingent fee or gratuity.
- I-4. **Officials Not to Benefit:** No person or Commissioner involved in the purchasing process and/or contracting of this agreement, shall be admitted to any share or part of this contract, or to any benefit that may arise there from; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.
- I-5. **Oral Representations:** This written Contract includes the entire agreement between the parties. Pender County will not be bound by any oral or written representation not included in the written contract or a change or amendments thereto. Pender County will not be bound by any terms on contractor or vendor forms or letter unless such terms are specifically agreed to and incorporated in the contract and signed by the Finance Director.
- I-6. **Non-Appropriation:** All funds for payment by County under this Contract are subject to the availability of any annual appropriation for this purpose by the Board of Commissioners. In the event of non-appropriation of funds by the Board of Commissioners under the Contract, County will terminate the Contract, without termination charge or liability, on the last day of

the then-current fiscal year or when the appropriation made for then-current year for the services/items covered by this Contract is spent, whichever occurs first. If at any time funds are not appropriated for the continuance of this Contract, cancellation shall be accepted upon three (3) days prior written notice, but failure to give such notice shall be of no effect and County shall not be obligated under this Contract beyond the date of termination.

- I-7. **Representations:** The Contractor will not represent itself to be an agent or representative of Pender County or any other agency or instrumentality of the US Government.
- I-8. **Advertisements:** The Contractor will not represent in any manner, expressly or by implication, those items or services purchased or sold under this contract are approved or endorsed by any element of Pender County Government. Any advertisement, including cents off coupons, by the Contractor which refers to Pender County activity will contain a statement that the advertisement was neither paid for nor sponsored, in whole or in part, by the particular activity.
- I-9. **Subcontracting:** Contractor shall not subcontract any part of the work to be performed without the prior written consent of the Finance Director. Any subcontractor or vendor used in connection with this contract is the agent of the Finance Director.
- I-10. **Assignment:** Contractor may not assign its rights or delegate its obligations under this contract without the prior written consent of the Finance Director.
- I-11. **Iran Divestment Act:** Seller certifies that: (i) Seller is not listed on the Iran Divestment List created by the State Treasurer pursuant to N.C.G.S. § 147-86.58 (the "Final Divestment List"), and (ii) Seller will not utilize any subcontractor performing work under this Purchase Order which is listed on the Final Divestment List. The Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and should be updated every 180 days.
- I-12. **Permits and Licenses:** Contractor will, at his own expense, obtain all necessary permits, give all notices, pay all license fees and comply with all laws, rules, ordinances, and regulations relating to the preservation of the public health or applicable to the services or business carried on under this contract. The burden of determining applicability of licensing requirements, laws, ordinances, and regulations for Contractor and his employees rests with the Contractor.
- I-13. **Non-Waiver or Defaults:** Any failure by Pender County at any time to enforce or require strict performance of any terms or conditions of this contract will not constitute waiver thereof and will not affect or impair such terms and conditions in any way or Pender County's right at any time to avail itself of such remedies as it may have for breach or breaches of such terms and conditions.
- I-14. **Indemnity:**
- A. Contractor shall indemnify, hold harmless and defend Pender County, their agents, representatives, employees and customers from any and all suits, judgments and claims, including those established by or pursuant to court decisions, to international agreements, or duly promulgated regulations of the United States Government, and all charges and expenses incident thereto which arise out of or in connection with:
 - 1. The alleged or established violation or infringement of any patent, copyright or trademark rights asserted by any third party with regard to items or services provided by Contractor:
 - 2. Loss, death, damage or injury alleged or established to have arisen out of or in connection with products, services, or equipment provided by Contractor, unless such loss, death, damage, or injury was caused by Pender County, its representatives, or employees.
 - 3. Any loss, death, damage, or injury alleged or established to have arisen out of or in connection with any other acts or omissions of the Contractor, the Contractor's subcontractor or vendors, representatives, agents, or employees.
 - B. Pender County will give Contractor notice and an opportunity to defend.
- I-15. **Insurance:** During the term of the Contract, the Contractor or vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the Contractor or vendor shall provide and maintain the following coverage and limits.
- A. **Worker's Compensation** – The Contractor or vendor shall provide and maintain worker's compensation insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000, covering all of Contractor or vendor's employees who are engaged in any work under the contract. If any work is sublet, the Contractor or vendor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the contract.
 - B. **Commercial General Liability** – General Liability Coverage, on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 combined single limit (Defense cost shall be in excess of the limit of liability).

- C. Automobile – Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under-insured motorist; and \$1,000.00 medical payment.

I-16. **Warranty:** Contractor warrants that:

- A. The items furnished shall be merchantable, and fit and sufficient for the use intended and are not “seconds” as the term is normally understood in the trade. This warranty shall survive acceptance by Pender County of the items and is in addition to other warranties of additional scope given by the Contractor to Pender County.
- B. The items or services furnished under this contract are covered by the most favorable warranties the Contractor gives to any customer for such items or services and that the rights and remedies provided in the Contractor’s warranties are in addition to and do not limit any rights afforded to Pender County by any other clause of this contract.
- C. Where applicable, the items furnished under this contract have been manufactured in accordance with Underwriter’s Laboratories, Inc. (UL) standard, or if manufactured overseas, the overseas equivalent of UL and the applicable item and/or component items carry the appropriate UL or overseas equivalent seal of approval.
- D. Items, packing, and packaging provided will comply with all contract terms and with all laws, rules, and regulations applicable to delivery for domestic resale. Contractor shall comply with the Magnuson-Moss Warranty Act on all sales to Pender County.

I-17. **Item Substitution and Variation in Quantity:** No substitution or variation in the quantity of any item called for by this contract will be accepted unless authorized by the Finance Director.

I-18. **Inspection and Acceptance:** the government per the following shall make inspection and acceptance:

- A. The Contractor shall maintain an in process and end-item quantity control program to ensure shipments to Pender County activities do not include defective/non-conforming items.
- B. Inspection and acceptance shall not be conclusive with respect to latent defects or fraud, or with respect to Pender County rights under the warranty provisions contained herein.
- C. In case any supplies or services are defective in material or workmanship, or are otherwise not in conformity with the requirements of this contract, the Pender County shall have the right to reject such supplies or services, or to require replacement or correction. Rejected supplies shall be removed by and at the expense of the Contractor promptly after notice. When such rejection, correction or replacement requires transportation of the supplies or part thereof, all shipping and administrative costs to and from the Contractor’s plant shall also be borne by the Contractor.
- D. In case of refund, the Contractor shall be liable to the Pender County for the additional costs of re-procurement (if any). In no event will the liability of Contractor for cost and losses, and for re-procurement exceed an amount equal to the original purchase price of the defective item.
- E. The provisions of this clause do not affect the rights or obligations of either party, as they may be provided for in other portions of this contract or otherwise under applicable law.

I-19. **Availability of Funds:** Any and all payments to the Contractor or vendor are dependent upon and subject to the availability of funds to the County for the purposes set forth in this agreement.

I-20. **Invoice and Payment:**

- A. Invoicing Instructions. In order to be considered proper invoices, invoices must be submitted as follows:
 - 1. Contractor must prepare a separate numbered invoice for each order or part of an order. Do not consolidate multiple purchase orders on one invoice. Additionally, when partial shipments are authorized, use a separate invoice. Do not duplicate an invoice number used for prior billings:
 - 2. Invoices must be issued by the company whose name is on the contract/order (unless otherwise authorized by Finance Director) and must contain the following minimum information to enable timely payment:
 - (a) Name of Contractor.
 - (b) Invoice Date. This cannot be a date earlier than the ship date required by the contract or purchase/deliver order. In the event that the invoice date is a date earlier than the required ship date, Pender County retains the right either to return the improper invoice to the Contractor for correction or to change the invoice date to be the required ship date. In the event that an improper invoice is returned to a Contractor because the date on the invoice is earlier than the required ship date or because the invoice is improper for any other reason, the invoice date, will be considered to be the date of receipt of the corrected, proper invoice.
 - (c) Contract/Order Number.
 - (d) Item Description and Quantity Shipped/Delivered.
 - (e) Contract/Order Line Item Cost and Total
 - (f) Any applicable sales tax
 - (g) Shipping and Discount Terms, and special allowance(s) if included in the contract. Special allowances must be shown on the invoice using percentage figures only. Do not deduct any of these from the item cost or from the invoice total.

- (h) "Ship To" address as shown on order or contract.
- (i) Freight charges (on FOB origin shipments).
- (j) Name, title and phone number of Contractor's contact person.
- (k) Complete "Remit To" mailing address on the invoice to indicate where Contractor's payment is to be sent. This address must be the same address as on the contract unless otherwise communicated from the Accounts Payable office

3. Correcting invoices and credit memos must be marked as such and must cross-reference the corrected invoice.

B. Payment.

- 1. A proper invoice is an invoice which contains all of the information/documentation, specified in paragraph A. (2) above, and is sent to the address specified in the contract or purchase/delivery order for the designated Pender County paying office. Improper invoices may be returned without payment to the Contractor.
- 2. The next payment date for Pender County Contracts is established at 30 days after receipt of a proper invoice.
- 3. Payment is made:
 - (a) The date a check for payment is dated.
 - (b) The date an electronic fund transfer is submitted to the financial institution, regardless of the date the financial institution posts the transfer.
 - (c) The date a withholding authorized by the contract is initiated by Pender County.
- 4. Any questions or inquiries concerning invoice payments should be directed to the Pender County Finance Account Payable department designated on the contract or purchase/deliver order.

I-21. **Withholding:** Pender County may withhold payment for amounts due or creditable to Pender County under this contract, E.G., returns, damage.

I-22. Contractor Liability:

- A. Except as set out specifically elsewhere in the contract, Contractor shall be liable for cost to Pender County associated with termination for default, rejection of items, and breach of warranty, in addition to reimbursement of payment of the purchase price and re-procurement costs.
- B. Contractor will not be liable for damages if the failure to perform arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, Acts of God or the public enemy, Acts of the Government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

I-23. Termination:

- A. Mutual Termination. This contract may be terminated at any time upon the mutual agreement of both parties.
- B. Termination for Convenience. Pender County by written notice may terminate this contract in whole or in part when it is in the best interest of the Pender County. To the extent that this contract is for services and is so terminated, Pender County shall be liable for payment as set forth in the payment provisions of the contract for services rendered prior to the effective date of termination
- C. Termination for Default. Pender County by written notice may terminate this contract in whole or in part for failure of the Contractor to perform any of the provisions hereof. In such event, the Contractor shall be liable for damages including the excess costs of re-procuring similar supplies and services provided that if
 - 1. the Contractor was not in default; or
 - 2. the Contractor's failure to perform is without his/her or his/her Subcontractor or vendor's control or negligence; then the termination shall be deemed a "Termination for Convenience."
- D. The rights and remedies of Pender County provided in this clause are in addition to any other rights and remedies provided by law or under other clauses of this contract.

I-24. **Request for Monetary or Other Relief:** No request for monetary or other relief by Contractor shall be considered unless submitted in writing to the Finance Director within 90 days after termination or termination of performance under the contract, whichever comes first. This clause shall not extend any period for filing, which is further limited by another clause of the contract.

I-25. **Notification of Debarment or Suspension Status:** The Contractor or Vendor shall provide immediate notice to the Finance Director in the event of being suspended, debarred or declared ineligible by any state of NC or federal department or agency, or upon receipt of a notice of proposed debarment from another agency, during the performance of this contract.

I-26. **Equal Employment Opportunity:** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.

I-27. **Drug-Free Work Place:** The contractor or vendor agrees to make a good faith effort to establish and maintain a drug-free work place in connection with the performance of this contract. Consistent with the size and organization of its work force, contractor

or vendor may wish to consider taking the following or other appropriate actions in establishing a drug-free work place: Publicizing a drug-free work place policy; initiating an employee drug awareness program or encouraging participation in existing community programs; informing employees of the general availability of drug counseling programs; etc.

I-28. **Accident Prevention, Fire Protection, and Sanitation:** If this contract is performed in whole or in part on premises owned or under the control of the Pender County Government, the contractor or vendor shall conform to all safety regulations and requirements concerning such premises in effect any time during contract performance to prevent accidents. Any violations of safety regulations, unless immediately corrected as directed by the Finance Director, shall be grounds for termination of the contract under the "Termination for Default" Clause.

I-29. **Standards:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels;

The Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

All Codes, standards, and specifications such as the National Electrical Code, North Carolina State Building Code, ASTM specifications, etc. referred to in the project specification shall be the issue in effect on the date of the invitation for bid, request for quote, and/or award.

I-30. **Force Majeure:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

I-31. **Federal Funds:** The following federal provisions apply pursuant to 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II (as may be applicable):

- A. Equal Employment Opportunity (41 C.F.R. Part 60);
- B. Davis-Bacon Act (40 U.S.C. 3141-3148);
- C. Copeland "Anti-Kickback" Act (40 U.S.C. 3145);
- D. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708);
- E. Clean Air Act (42 U.S.C. 7401-76711q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387);
- F. Debarment and Suspension (Executive Orders 12549 and 12689);
- G. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352);
- H. Procurement of Recovered Materials (2 C.F.R. § 200.322); and
- I. Record Retention Requirements (2 C.F.R. § 200.324)

Further, to the extent any of the provisions of this Section I-31 conflicts with any other provisions of the Contract, the provisions of this Section I-31 shall control and take precedence.