

**Pender County North Carolina  
Request for Proposals (RFP)  
Emergency Watershed Protection-  
Streambank Stabilization Projects  
RFP No. 5038-Round 2  
DSR-489/269 Lake Rd. and DSR-494/Site 4-Holly Shelter  
Wildlife Depot**

**March 14, 2022**



**RFP/Proposal Timeline:**

**Date Issued: Monday, March 14th, 2022**

**Pre-Proposal Conference/Site Walk: Tuesday, March 22nd, 2022 at 9:00 AM-Burgaw**

**Deadline for Submittal of Questions: Thursday, March 24th, 2022 at 4:30 PM**

**Response to Questions: Monday, March 28th, 2022**

**Deadline for Submittal of Proposals: Thursday, March 31st, 2022@ at 4:00PM**

**Sole Point of Contact for Communications Regarding this RFP:**

**Daniel Adams, CFM- Floodplain Administrator**

**Phone: 910-259-0231 | Fax: 910-259-1295 | Email: dadams@pendercountync.gov**

## TABLE OF CONTENTS

SECTION 1: INTRODUCTION .....	3
SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION .....	5
SECTION 3: SCOPE OF WORK .....	15
SECTION 4: GENERAL TERMS AND CONDITIONS .....	28
SECTION 5: SPECIFIC TERMS AND CONDITIONS .....	31
ATTACHMENT A: PROPOSAL FORM .....	39
ATTACHMENT B: REFERENCES .....	43
ATTACHMENT C: BID SCHEDULE .....	42
ATTACHMENT D: OFFEROR'S CERTIFICATION FORM .....	49
ATTACHMENT E: CERTIFICATION REGARDING LOBBYING .....	50
ATTACHMENT F: PENDER COUNTY VENDOR FORM AND W9 .....	51
ATTACHMENT G: SAMPLE PENDER COUNTY CONTRACT FOR THE PROVISION OF SERVICES .....	58

## SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

### SECTION 1: INTRODUCTION

#### A. PURPOSE

The Pender County Planning & Community Development Department (Pender County) seeks to establish a contract with an experienced contractor, or contractors, to provide Streambank Stabilization Services in two designated locations in Pender County. The primary responsibility of the Contractor will be to construct streambank stabilization measures for damaged channel bank segments at two project locations in the County watershed. The proposed work will be conducted under the supervision of the Pender County Planning & Community Development Department and their designated Construction Field Representatives (CFRs). The general purpose of the proposed work is to repair heavily eroded streambank channel side slopes located on a private and public property caused by Hurricane Florence in September of 2018. The contractor(s) will be tasked with implementing the proposed scope of work and meeting the contract requirements of a grant developed under the US Department of Agriculture (USDA) Emergency Watershed Protection (EWP) Program. The proposed work shall be funded in part by the US Department of Agriculture and Natural Resources and Conservation Service (NRCS) in a grant identified as Contract 37-07-18-5038. The EWP grant awarded to the County enables the proposed work to be performed such that it will reduce imminent threat to loss of affected properties, or life in Pender County. The services described in this Request for Proposal (RFP) may be expanded, modified, or altered by the County in order to accomplish the USDA emergency watershed protection contract requirements or floodplain management goals defined in the grant. Any contract issued by the County as a result of this RFP will be a “contract of convenience” administered for the sole benefit of Pender County. The County may at anytime modify, add, or delete the scope or work and/or schedule in order to meet the grant requirements. The County may also select one or more contractors to perform tasks specified in this RFP and may distribute the workload among contractors as they deem to be in the best interest of the County.

The stabilization and streambank slope repair work is described below and in greater detail in the Plans & Specifications that are included as part of this RFP:

#### **Work Task: Streambank Stabilization for Two Sites**

This task covers proposed repairs for two project sites described by USDA Disaster Survey Reports (DSRs) and discussed in more detail below, and in Section 3-Scope of Work of this RFP. Streambank restoration and stabilization will be performed at two different sites located in different parts of Pender County. The two streambank repair sites that will be addressed by this RFP are identified as follows:

## SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

**Site 1-DSR-5038-489/Horse Branch Creek Outlet Structure/269 Lake Rd., Willard, NC**

**Site 2-DSR-5038-494/NE Cape Fear River Channel Bank/Holly Shelter Wildlife Depot/7471 Shaw Highway, Rocky Point, NC**

Details of the damages caused to channel banks located at these two sites from Hurricane Florence are described in the attached DSRs. The proposed repairs for stabilizing each of these two sites are further detailed in the Plans & Specifications attached to this RFP.

### GENERAL INFORMATION

This RFP has been advertised via one or more public procurement websites, including the North Carolina Interactive Purchasing System (IPS), and the Pender County Website. This procurement is open and competitive for public bidding by all interested qualified firms. To find the details of the RFP on the Pender County Government website, go to: ([www.pendercountync.gov](http://www.pendercountync.gov)). Select *Open RFPs and Bids* from the ribbon on the top of the webpage, and then select the RFP for “*Emergency Watershed Protection Streambank Stabilization Projects*”.

To find this RFP on the North Carolina Interactive Purchasing System (IPS), go to: [www.ips.state.us](http://www.ips.state.us) and search by category, department, open bids, or by bid number.

When responding to this RFP, please follow all instructions carefully and exactly as directed. Bidders must not modify or deviate the format, quantity, or content of the Bid Schedule in any way. Any modification including notations, deletions or additions to the Bid Schedule may result in rejection of the contractor’s bid. Please submit bids according to the outline specified in Section 2.C Proposal Format Requirements. Also, interested bidders 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 the contractor’s bid being considered as non-responsive or non-conforming and shall be eliminated from consideration. Please do not provide brochures, advertising, or any other un-required attachments or promotional materials in addition to the required bid information 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

**All questions pertaining to this RFP must be submitted in writing no later than Thursday, March 24th, 2022 by 4:30 PM.** Only written questions will be considered as formal. Any questions the County determines are pertinent to all bidders, will be published in a public forum as part of the RFP. Fax or emailed questions will be treated as written questions. All questions or inquiries concerning this RFP should be directed to:

Daniel Adams, CFM- Floodplain Administrator  
Pender County Planning and Community Development Department  
Burgaw, NC  
Phone: 910-259-0231  
Fax: 910-259-1295  
Email: dadams@pendercountync.gov

## SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

### GENERAL REQUIREMENTS

- Contractors shall not make direct contact with any County employee or member of the Selection Committee, or any person that may be involved with review, evaluation, or award of a contract resulting from this RFP. Only contact with the designated individual listed in this RFP is permissible. Violation of this requirement **will** result in a determination by the County that your firm is ineligible for award of this contract.
- All bids/proposals must be signed by an officer or employee of the contractor having the authority to sign on behalf of the company. Bid bonds shall accompany all RFP responses using the appropriate forms and is discussed in more detail below.
- Any interlineations, alterations, or erasures must be initialed by the signer of the proposal.
- The Pender County Terms and Conditions provided in this RFP shall supersede any Terms and Conditions offered by any party. 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 clearly indicated on Attachment A: Proposal Form. Such exceptions may result in the proposal being determined non-responsive.
- Submission of a bid by the contractor is not to be construed as an award or issuance of a purchase order.
- The contractor must show evidence that it is in good standing with any North Carolina Board for Licensing or agency that governs the advertised services requested in this RFP.

## SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

- For any portion of work scope proposed by the successful bidder to be completed by a sub-contractor, the County reserves the right to approve any such vendor or subcontractor prior to the prime contractor proceeding with work. The County may reject the prime contractors use of any subcontractor.
- The contractor must show capability and experience performing streambank restoration, buttresses, slope stabilization, earthfill embankment repairs, and heavy civil construction practices preferably with other USDA/NRCS EWP funded projects. Examples of at least 3 relevant projects and references within the last 5 years should be submitted with the contractor's bid by the bid opening deadline.
- Selection of the contractor will be based foremost on costs (lowest responsible, responsive bid) and secondly by the low bidder demonstrating they possess all the required experience and qualifications necessary to perform the work advertised. It will be at Pender County's discretion to determine the contractor who has offered both the lowest responsible, responsive bid and the most relevant qualifications and experience to perform the work advertised.
- A proposed timeline and forecasted completion date for performing all requested work scope should be submitted by each bidder in response to this RFP. The timeline shall illustrate or indicate the number of days/months projected to perform all work scope requested in this RFP. The proposed timeline will be considered by the County in the evaluation of the bids received for this RFP (see G. Evaluation of Proposals, Additional Factors). Failure to include the timeline will result in a deduction of at least one point in the selection evaluation.
- **INSURANCE:** The Contractor shall not commence work until they have obtained **all** insurance coverage required by the County or by Federal or State requirements for performing the type of work requested in this RFP. Work must not commence until proof of all such insurance coverage has been submitted to, and approved by the County, nor shall the contractor allow any subcontractor to commence work until all insurance required of the subcontractor has been obtained and submitted for approval to the County. The contractor shall provide and maintain during the life of this contract, Workman's Compensation Insurance for all employees employed at the site of the projects under their contract in compliance with North Carolina requirements. Note that work performed on navigable waters defined by 33 CFR, Part 329, or on Federal or State waters, or other public trust waterways may require specific maritime insurance to comply with the requirements of the Jones Act, and/or the Longshoreman and Harbor Workers Compensation Act. If these maritime Acts are applicable, the Contractor shall provide proof of insurance coverage and compliance with both Acts prior to commencement of work.

## SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

Minimum insurance requirement limits for this contract are as follows:

\*Public Liability Insurance-not less than \$1,000,000 for injuries and accidental death; \$500,000 subject to same limit for each person

\*Property Damage-not less than \$500,000

\*Motor vehicle insurance-not less than State statutory limits

- **BID BOND:** For any proposal to be considered or accepted by the County, the proposal must include at the time of filing, a bid bond in the amount of five percent (5%) of the total bid price. The bid bond must be executed by a corporate surety licensed under the laws of North Carolina to execute such bonds, conditioned that the surety will upon demand forthwith make payment to the obligee upon said bond if bidder fails to execute the contract in accordance with the bid bond. This deposit shall be retained if the successful bidder fails to execute the contract within ten (10) days after award or fails to give satisfactory surety as required herein. Bid bonds shall be submitted to the County using AIA Document A310.
- **PERFORMANCE and PAYMENT BOND:** Selected Contractor(s) will be required to post a Performance and Payment Bond in the amount of 100% of an event's estimated contract cost. The County reserves the right to establish the amount of Performance and Payment Bond based on the estimated contract price, in the Bid Schedule, at the time of the event. The estimated cost to complete the project will be based on the size, severity and type of debris generating event. The bond shall continue throughout the contract execution period, from when the County issues a Notice to Proceed and Task Order, until such time as the scope of work contained in the contract is completed as determined by the County. Performance and Payment bonds shall be submitted on the County using AIA Document A312.

Bonds shall remain in effect at least one (1) year after the date when final payment becomes due for a County Task Order initiated project or until the County determines the bond may be reduced or is no longer required. The Performance Bond and the Payment Bond shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina and shall become effective upon the execution of the Task Order. The surety bonds must be in the form as provided by Surety Association of America, the American Institute of Architects (AIA-A312), Associated General Contractors of America, Engineers Joint Contract Documents Committee, American Consulting Engineers Council, American Society of Civil Engineers, and the Construction Specification Institute without any variations in the standard forms, or in any other forms authorized by North Carolina General Statute.

## SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

### PROPOSAL SUBMISSION REQUIREMENTS

The County will receive bids until **Thursday, March 31st, 2022 at 4:00 PM, Eastern Standard Time**, at the address shown below. At that time, the County will close the receipt of bids and begin the evaluation and bid tabulation process. Bids received after the submittal deadline time **will not be accepted or considered by the County**. Packages **MUST** be sent using one of the following delivery methods: (1) FedEx; (2) UPS; or (3) hand delivered. **Note that United States Postal Service (USPS) does not deliver to the Administrative Building.** The time of receipt shall be determined by the time clock in the Pender County Planning Department's office and the County's designated recipient who will be accepting the bids. The County will not be responsible for the failure of any mail system or delivery service to deliver a proposal package by the stated submittal deadline. Late submittals of RFPs will not be considered for any reason whatsoever.

Interested contractors may submit one hard copy package containing: (1) original hardcopy of the complete bid package **along with** one (1) electronic copy submitted/saved on a USB drive included in the hardcopy bid submittal. All bid packages must be submitted in a sealed package and clearly identified with the following: proposal/project 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 to:

Pender County Administration Building  
Attn: Mr. Daniel Adams, CFM-Asst. Director of Planning  
Pender County Planning & Inspections Department  
805 South Walker Street  
Burgaw, NC 28425

**\*\*Electronic copies of submittals to this RFP will not be accepted by the County.**

To submit questions concerning required submittal information, please send to the following email address:

**Email: [dadams@pendercountync.gov](mailto:dadams@pendercountync.gov)**

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



## SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

### BID FORMAT REQUIREMENTS

To enable equitable analysis of bids, offerors should prepare the Bid Schedule and other required documents according to the instructions outlined in this RFP. Bids should be prepared as simply as possible with straightforward, concise pricing to demonstrate an understanding of the project and services requested by the County. **Bids that deviate from the content/format requested in the RFP, Bid Schedule, or modifications to any Bid Schedule form in any way, may result in a bidders response not being considered by the County. Only the quantities of work and materials requested for each project listed in the Bid Schedule will be considered during RFP evaluation.**

Bids provide in the Bid Schedules shall include (1) unit rate costs and (2) lump sum costs for the following task:

- The pricing requested in the attached Bid Schedules is for completing **Task: Streambank Stabilization for DSR-489 and DSR-494/Site 4**. Pricing shall be provided on a “unit rate” basis or with a “lump sum total” where shown for each DSR item of work. The unit rates and lump sum cost offered by the contractor in the Bid Schedule for this Task shall be an “all-inclusive rate,” and shall not be increased or changed for any reason other than changes that may be requested or approved by the County. For Bid items indicated in the Bid Schedules as “lump sum”, the Contractor shall include a spreadsheet in addition to the Bid Schedule identifying the components, units, and cost for any items that are covered by the Lump Sum bid.
- The unit rates offered in the Bid Schedule shall not be increased or changed for any reason by the Contractor. Changes may be requested or approved by the County, if a justifiable reason is determined by the County to do so. The unit rate shall include, but is not limited to the following items: mobilization/demobilization; labor; labor wages; taxes; federal/state withholdings; materials; equipment; specialized tools; rental equipment, general tools, or goods of any kind; waste disposal: fuel/oils; expendables; subsistence; hotels, housing, or any other lodging costs; any insurance costs or premiums; performance or bid bonds; licensing/registrations; medical services; hospitalization; emergency services; environmental fees; permitting fees; inspection costs; or vehicle use or costs; boats; barges; ladders; mats and matting; erosion control devices, specialized tools or equipment, delays or stand-by time, escalation, inflation, product/materials cost increases, or purchase and cost for any other items than those shown in the Bid Schedules. Mobilization and de-mobilization cost will not be compensated as a direct cost and should be included in the all-inclusive unit rates prescribed by the Bid Schedule.

## SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

- Contractors shall provide the total lump costs to perform the services where requested in the Bid Schedule, inclusive of, but not limited to all aforementioned cost shown above. Any reference given in the USDA/NRCS DSRs regarding anticipated quantities (or costs) should be disregarded and not considered by bidders. **Only those quantities specified in the Bid Schedules found in Attachment C: Bid Schedules will be considered during bid evaluation. Bidders shall disregard any reference to quantities or costs that may be mentioned in any NRCS Field Assessment Reports or USDA Disaster Survey Reports related to these projects.**
- Services provided in response to the requested services of this RFP shall be paid only per the unit rate costs and lump sum costs shown in the Bid Schedules contained in Attachment C: Bid Schedule.
- The unit rates provided by Contractors in Attachment C: Bid Schedule shall also be applicable to any additional work that may be requested by the County beyond the scope of work specified in this RFP. If the County reduces scope or removes any of the work scope items from the anticipated Scope of Work advertised for this bid, such unit rate costs identified will be deducted from payment at the same unit rate described in Attachment C: Bid Schedule from the contract award.
- The County does not guaranty any specific minimum or maximum quantity of work to be awarded resulting from issuance of a contract. The County may alter, add, delete, remove, or modify the Scope of Work, or the number of projects being advertised, and may award to one or more contractors in any manner that is determined to be in the best interest of the County. The contractor shall be authorized to perform work based on issuance of a Task Order for a specific scope of work at a specific not-to exceed cost. More than one contractor may be selected by the County to perform the work scope described in this RFP. It is at the sole discretion of the County to select more than just one contractor if there is a benefit to County such as cost savings or acceleration of the project schedule.
- **Other Required Forms**  
Contractors must submit completed and signed copies of the following forms provided as part of this RFP:
  - Attachment A: Proposal Form-Addendum Acknowledgement
  - Attachment B: References/Experience (Provide 3 examples)

## SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

- Attachment C: Bid Schedules (One Each: DSR-494 and DSR-489)
- Attachment D: Offeror's Certification Form (executed)
- Attachment E: Certification Regarding Lobbying (executed)
- Attachment F: Vendor Application Form and W-9 Form
- Attachment G: Sample Contract for the Provision of Services

### SIGNATURES

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

### 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 contractor'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 ([www.pendercountync.gov](http://www.pendercountync.gov)).

NOTE: All addenda issued in conjunction with this RFP **must be** acknowledged on Attachment A: Proposal For-Addendum Acknowledgement.

### PRE-PROPOSAL CONFERENCE

A mandatory pre-proposal conference is planned for this RFP to be held on **Tuesday March 22nd, 2022** for a site walk and briefing. Contractors are advised to meet at 9:00 AM in Burgaw, NC at the following location:

Pender County Administration Building  
Attn: Mr. Daniel Adams, CFM-Asst. Director of Planning  
Pender County Planning & Inspections Department  
805 South Walker Street  
Burgaw, NC 28425

Contractors (or their representative) will meet in the parking lot with the County delegates on this date and time for a required sign-in, and will then be escorted to the proposed project sites to conduct site inspections. The County will accompany bidders to each site during this pre-proposal conference. **Contractors are encouraged to pre-register for this pre-proposal site conference/site walk by calling 910-259-0231 on or before March 21st, 2022 4:00 PM.**

The County delegates will leave the parking area by caravan to travel to each of the two proposed work sites. **The caravan will leave at 9:15 AM sharp on Tuesday March 22<sup>nd</sup>, 2022 without exceptions.** Contractors that are late or who are not present when the

## SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION

caravan leaves, will not be included in the caravan or escorted to the work sites at an alternate date/time.

Contractors are cautioned **not to trespass** across any private or properties, fenced public properties, or any easements or points of entry that are not part of the subject project or on sites where owners have not submitted executed Right-of-Entry and Hold-Harmless Agreements to Pender County. Any contractor or person visiting the referenced project sites un-escorted without an authorized County representative, will be entering at their own risk, will be trespassing, and will be subject to any legal consequences that may ensue.

### 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 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:

1. Lowest Responsible, Responsive Bid (85% weight)
2. Qualifications/Experience (10% weight)
3. Additional Factors-shown below (5% weight: 1.0 point for each factor listed below)

Additional Factors include the five items listed below. These factors will also be considered during evaluation of each response to this RFP. Failure to submit any of the additional factors listed below will result in a one point deduction for each factor not addressed.

- Completeness of Bid Schedule- identify unit rates and total cost for each DSR
- Demonstrated understanding of the project scope to provide the requested services, and understanding of the USDA/NRCS EWP Program
- Alterations/changes or modification to Bid Schedules
- Completeness of the proposal including all requested information and forms
- A timeline/schedule forecasting the contractors anticipated progress, schedule with milestones, and completion date for the advertised scope of work

The County may initiate discussions/interviews with any or all contractors selected from the review process to discuss work scope, costs, schedule, or resources possessed by the Contractor. Once discussions/interviews are complete, the County may again decide whether an offeror is qualified to perform the work, and capable to perform the advertised work expeditiously, and within the specified USDA contract performance

## **SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION**

period. The County may conduct negotiations with offerors being considered for final selection and may obtain Best and Final Offers (BFOs) prior to contract award.

### **AWARD OF CONTRACTS**

The County may award a contract to one or more bidders from all proposals submitted. The County will determine the lowest apparent bidder who is deemed to be the most qualified and best suited to provide the requested services. This determination is at the sole discretion of 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 considered in the evaluation of bids during selection.

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

- To request additional information from any or all offerors
- To use judgment in selecting the successful bidder that the County determines to provide the greatest benefit to the County
- To disregard minor omissions, errors, or imperfections in the submittals or the RFP if they are determined to have no material adverse impact on the overall selection, budget, or project schedule
- To reject any or all proposals if it determines that bids are not responsive to the RFP
- To reject any or all bids if it determines doing so to be in the best interest of the County
- To reconsider any bid 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 consider the proposed timeline/schedule for completing all work requested
- To award a contract, based on initial bids received, without discussion and without conducting further negotiations. Under such circumstance, the acceptance of a bid by the County shall be deemed to be acceptance of an offer and such acceptance will be binding upon both parties.

The County does not guaranty any specific minimum or maximum quantity of work to be awarded to any contractor as a result of issuance of a contract. The County may alter, add, delete, remove, or modify the Scope of Work in any manner that is determined to be in the best interest of the County. Contractor(s) shall be authorized to perform work based on issuance of a Task Order for a specific scope of work at a specific not-to exceed cost.

## **SECTION 2: SUBMISSION REQUIREMENTS AND EVALUATION**

The County shall not be deemed to have made final selection of an offeror or a bid, until a contract has been successfully negotiated and executed by both parties.

## SECTION 3: SCOPE OF WORK

### GENERAL REQUIREMENTS

#### 1. SCOPE OF WORK

The general scope of work may consist of repairs inclusive of the following: earthwork, grading, shaping, filling and providing armor to stream banks, slopes, or eroded channels identified in the Plans & Specifications associated with this RFP. The scope of work shall include locations in the Plans & Specifications where streambanks or slopes have been severely eroded by floodwaters from Hurricane Florence. The specified streambanks/sites that will be repaired under this work scope are identified in this RFP by location, stream length, and DSR number. Maps, cross-sections, and construction details are included in the Plans & Specifications. This information shows the approximate stream alignments, segments, elevations, heights, existing channel conditions, and locations that are scheduled to be repaired under this contract. The two DSRs pertinent to this RFP are shown below. A general summary of the proposed scope of work for each project follows, but may not be comprehensive, or may vary from the Plans & Specifications.

#### **Site I- Site Name: DSR-489**

269 Lake Road- Willard, NC

Horse Branch Creek (downstream of NCDOT outlet structure on SR 1333)

Lat/Long: 34.6265 N/-77.9933 W

**General Scope:** Grade/Shape/Stabilize 100LF of Eroded Channel Bank w/ Class I Rip-Rap Armor (South Bank)

#### General Scope Summary:

1. Clear and grub only selected trees/vegetation shown in Construction Limits- ~200 CYS
2. Place/compact ~100 CYS of earthfill in scour void (25ftWx16ftLx13ftH)
3. Grade/shape/fill ~100LF of channel bank to a 1.5H/1V slope (13ftH-existing)
4. Install erosion control measures to prevent offsite siltation
5. Install non-woven geotextile fabric beneath Class I rip-rap segments ~2100SF
6. Install Triaxial Geogrid™ geotextile mat beneath Class I rip-rap ~2100SF
7. Install ~230 tons of Class I rip-rap to stabilized shaped channel bank
8. Install Class I rip-rap coffer dam at toe of slope (1.5ft W x 1.5ft H x 25.0ft L)
9. Provide vegetative groundcover to disturbed areas as specified
10. Add additional Class I rip-rap to existing 20LF roadside swale ~25 tons
11. Geotechnical Testing-as specified in Plans & Specifications
12. Pre and Post Construction Survey-as specified in Plans & Specifications; (requires NC Professional Engineers seal)

## SECTION 3: SCOPE OF WORK

### **II. Site Name: DSR-494/Site 4**

7471 Shaw Highway-Rocky Point, NC

NE Cape Fear River (east bank adjacent to NC Wildlife Comm. Depot)

Lat/Long: 34.5522 N/-77.8127

**General Scope:** (1) Grade/Shape and stabilize 70LF W X 60LF L of specified eroded channel bank from STA 70+00 to STA 130+00; (2) Stabilize 1.5H/1V graded slope with placement of Flexamat™ PLUS Erosion Control Blanket including Curlex II 4-Layer underlayment

#### **General Scope Summary:**

1. Clear and grub selected trees/scrub vegetation only in the defined Construction Limits shown on Sheet 3 (~200 CYS of debris). Dispose offsite or as designated onsite.
2. Place/compact up to ~100 CYS of earthfill in scour area (25ftWx16ftLx13ftH) if needed to build access ramp down to the scour zone at STA 100+00.
3. Grade/shape the main "Repair Area" on existing slope face between STA 70+00 to STA 130+00 (Sheet 3); Grade/shape ~70LF Wide bank section X 60LF Long; Compact and place sub-grade soils on a 1.5H/1V finished grade.
4. Install erosion control measures including silt fencing and/or other measures to contain graded soil and prevent offsite siltation beyond the HWL of the NE Cape Fear River.
5. Install a geotextile composite 4-Layer underlayment beneath Flexamat™ PLUS that includes: a bi-axial geogrid; 5-Pick Leno weave, Recyclex TRM, and Curlex wood excelsior mat ~3600SF total installation.
6. Install ~3600SF of FlexaMat™PLUS Tied Re-enforced Tied Concrete Block Armor onto the 4-Layer underlayment and anchor per Sheet 7, 8, and 9 and "*Flexamat Installation Guidelines.*"
7. Install ~ 230 tons of Class I rip-rap as needed to stabilize two lateral banks bordering Flexamat™PLUS mat
8. Seed/mulch and provide vegetative groundcover to all graded areas and the graded sub-base **before** installing FlexaMat™PLUS and 4-Layer composite mat.; apply seed/mulch to all disturbed soil surfaces in and adjacent to Grading Limits.
9. Install two shallow trapezoid lateral swales parallel and on top of Top of Bank parallel to the 30ft wide mouth of FlexaMat™PLUS channel. Place swale on ~2% grade; Swale dimensions ~350ft L X 8ft W X 1.5ft D; apply Class I Rip-Rap at outlet of swale as shown in Plans.
10. Stabilize all cut or graded areas and slopes, with specified seeding/mulch and jute mat at specified application rates
11. Install rip-rap apron at the Toe of Bank at the outlet area of Flexamat™ PLUS channel. Install as specified in Plans & Specifications (~70ft. W X ~10ft. L)



### SECTION 3: SCOPE OF WORK

12. Install ~110LF of silt fence and/or other temporary erosion control measures around Construction/Grading Limits (60LF across Toe of Bank X 25LF up each of two side slopes).
  13. Geotechnical Testing-as specified in Plans & Specifications
  14. Pre-Post Construction Survey-as specified in Plans & Specifications; (requires NC Professional Engineers seal)
- 

**Note:** The above described general scopes of work are not comprehensive. **Refer to the project Plans & Specifications and Bid Schedules for relevant details and quantities pertinent to each project location.** All work shall be performed in strict accordance with the project Plans & Specifications. In addition, specifications outlined in the following documents shall also be adhered to by the Contractor at all times during construction:

- (1) Natural Resources Conservation Service, Conservation Practice Standard, Streambank and Shoreline Protection, Code 580, January 2020
- (2) Title 210, USDA/NRCS National Engineering Manual, Part 642, *Specifications for Construction Contracts*, Rev January 2009. This document was relied upon to address the work scopes anticipated for performing stabilization repair work to each property referenced in Section 1: Introduction, A. Purpose.

#### 2. ACCESS

Access to each DSR site shall be performed **ONLY** by the routes or access points designated by the County or the County's Field Representative (CFR) or Planning Department representative. If the Contractor identifies potential alternate routes or access points, they should notify the CFR of the proposed alternative routes for approval by the CFR in writing. Alternative routes may be only be utilized when written approval from the County is granted. Use of un-approved access routes by the contractor for any reason will be grounds for dismissal and termination of contract.

#### 3. LIMITS OF WORK

The limits of work (or Construction Limits) for the proposed work on each DSR site is indicated in a set of Plans & Specifications prepared for DSR-489 and DSR-494. Grading, clearing limits, or fill-sections shown in the Plans **shall not** exceed the lengths, widths, and geographic points shown in the project drawings/plans. The work scope shown in the Plans & Specifications shall not be expanded or modified by the Contractor in any way, without written authorization from the Sponsor **The maximum quantity of vegetative debris anticipated for removal is specified and shown in the Plans & Specifications for removal from each project site.** Contractors must avoid placing any debris, earthfill, or any other type of fill material in State or Federal Waters governed under the Clean Water Act, US Army Corps of Engineers-Section 404, or waters defined as navigable waters by the US Army Corps of Engineers. **Contractors will be paid on**

### SECTION 3: SCOPE OF WORK

**actual quantities of cleared vegetative debris supported by weigh tickets, manifest from disposal facility documenting volume, OR as determined in the field by the Sponsor's CFR while observing daily construction activities.** The Construction Limits of work shall be first marked in the field by the Contractor, and approved by the Sponsor or CFR prior to clearing, grading or construction commencement.

#### 4. CLEARING AND GRUBBING/DEBRIS REMOVAL

Clearing and grubbing shall include vegetation and debris within the Grading/Construction Limits only. This includes fallen trees, limbs, dislodged stumps, dislodged brush, rubbish, and any foreign debris within or across the marked construction limits. Such vegetation/debris shall be removed and disposed offsite as described below. Denoted trees shown in the Plans & Specifications plan sheets that have been severely undercut by stream bank erosion shall be cleared and removed from within the denoted Construction Limits. Trees and vegetation shall be marked by the Contractor in the field and approved by CFR, prior to removal. Also, no trees adjacent to the marked Construction Limits shall be removed unless there is an imminent threat to fall, as determined by the Sponsor or CFR. Excavation of unsuitable soils or removal of sediment deposits from waterways shall not be performed under this work scope of the contract, unless otherwise identified by the Sponsor and approved in the field by the Sponsor's CFR.

No disturbance of any channel bottom or waterway adjacent to the construction limits shall be undertaken at all times. Trees or vegetative debris shall be felled or cleared in such a manner to avoid damage to adjacent trees left standing, adjacent earth banks, existing structures, or utilities and with due regard for the safety of persons and property. Refer to Plans & Specifications for the vegetation clearing, grubbing, and debris removal details.

#### 5. DISPOSAL

Woody waste, and other vegetative debris shall be disposed offsite at an approved and permitted facility described below. **Other alternate locations may be identified and approved by the County at a later date, but none exist at the time of this RFP.** The offsite disposal method shall apply for all work areas except in locations where the County may indicate other disposal alternatives to be available. Debris shall also not be placed on any slope banks, nature or hiking trails, lawns or grassed areas, sewer line corridors, or railroad rights-of-way, natural gas easements, power line easements, private properties, watercourse, streambank, or any kind of utility or access easement. Debris shall not be placed in tributaries or side ditches of any watercourses covered by this contract. Woody debris generated from any DSR location shall not be temporarily placed or stored onsite, or any private property, nor "piled up" in a staging area that is not an approved storage corridor designated by the County as an acceptable temporary storage facility, for haul-off or removal at a later date.

### SECTION 3: SCOPE OF WORK

Debris shall be removed in such a manner to prevent potential movement of other adjacent woody materials or sediment back into or onto the channel or floodway by future highwater conditions. Any temporary area cleared by the contractor shall be immediately provided with silt fencing or other approved erosion control measures to contain siltation, and in all cases, re-vegetated graded or denuded areas within 14 days of disturbance. Any alternative disposal methods or locations proposed by the contractor that deviate from this specification must be presented to the Sponsor or CFR, and pre-approved in writing by the Sponsor prior to implementation.

Vegetative debris transported and disposed offsite must occur only at a permitted North Carolina Division of Waste Management (NCDWM) permitted Land Clearing and Inert Debris (LCID) or Construction and Demolition Landfill (CDLF) unless otherwise authorized in writing by the Sponsor. Only permitted LCID's or CDLF's in good standing with the NCDWM located in neighboring counties including Pender, Onslow, Jones, Brunswick, Columbus, Sampson, Duplin, New Hanover County, or other locations approved by the County. Only permitted disposal sites that are currently operating without administrative constraints, active violations, or administrative orders will be considered. No vegetative waste shall be removed and/or disposed at any location without prior written approval from Pender County. Approval of any debris waste disposal site proposed by the Contractor, shall be submitted to the Sponsor at least 7 working days prior to undertaking debris removal at any project site.

#### 6. ENVIRONMENTAL REQUIREMENTS

In areas of any DSR site under repair, where heavy equipment is used, the equipment shall not enter or operate in the wetted surface of any adjacent stream. Crossing a stream to gain access to the opposite bank is not permissible or requested in this RFP; also, no earthfill material may be placed either directly or indirectly into a stream or waterway.

The Contractor shall check equipment daily and maintain routinely as described by the manufacturer to prevent fuel, oil, and other types of lubricant spills. Refueling, repairs, and lubrication shall be performed at safe distances in upland areas at least 50 ft. away from the stream. Refueling stations should be positioned in such a manner topographically that in the event of a spill, petroleum will not flow down gradient and into the nearby watercourse. Temporary containment shall be implemented by the contractor to contain any fuel or petroleum release. Should fuel leaks, oil leaks or hydraulic pipe rupture occur during debris removal operations, the Contractor shall immediately remove the equipment to a safe area (greater than 50 ft. away from stream) and take prompt action to minimize damage and safeguard the site. The contractor shall immediately report the discharge to the CFR and in accordance with the Special Provisions of this contract shall comply with all provisions and requirements of the North Carolina Oil Pollution and Hazardous Substances Control Act. The NC Department of Environmental Quality (DEQ) shall be notified immediately of all reportable spills in public trust waters regulated by State and Federal agencies.

### SECTION 3: SCOPE OF WORK

The Contractor shall perform all heavy equipment maintenance and repairs offsite of the DSR project sites. No project site shall be used for storage and/or disposal of deleterious substances or chemical pollutants such as hydraulic oils, drained lubricants, transmission oils, greases, gasoline or other petroleum fuels, solvents, cleaning agents, surfactants, acids, etc. or products produced from a by-product of performing this work. Washing, fueling, or servicing of equipment shall be avoided to prevent spillage or wash water from entering any nearby watercourse.

The contractor shall also comply with the Clean Water Act (amended in 1972) and US Army Corps of Engineers policies, laws, regulations, and requirements governing removal, filling, destruction, or adverse impacts to jurisdictional wetlands or Federal waters. These waters include but are not limited to waters defined under Section 404, 401 and Section 10 of the Clean Water Act. Any activity performed by the contractor during the implementation of this work scope that constitutes "dredging and/or filling" shall be prohibited during work performed under this RFP.

#### 7. SPECIAL REQUIREMENTS

The Contractor shall exercise extreme care while working in the areas of sheds, buildings, fenced compounds, existing lawns, driveways, private or public roads, structures, utilities, railroads, drainage ditches, any other improvements, and cropland. The Contractor shall be responsible for the prompt repair or replacement of any such improvements damaged by their operations or any activity performed to complete this work scope.

In the event that fences on private or public property must be temporarily removed for access, the contractor shall first consult with the CFR for approval. If approval is granted by the CFR, the contractor shall remove the fence with care and the no damage to the fence. The fence shall be reinstalled back to the original condition and location immediately after construction access is no longer needed from this access point of the DSR site.

For sites where the Contractor will be operating on or adjacent to a North Carolina State maintained road or public right-of-way, the Contractor shall be responsible for complying with all applicable requirements of the North Carolina Department of Transportation's (NCDOT) Manual on Uniform Traffic Control Devices (MUTCD). In such cases, A MUTCD Traffic Control Plan shall be submitted to the Sponsor at least 7 working days in advance of commencement. The Contractor shall also contact/notify the Division I Engineer (Jeff Garrett) in Hampstead, NC to gain NCDOT approval before operating and/or performing any work on any NCDOT highway or right-of-way. When equipment or personnel are operating on public right-of-way, flag men shall be stationed to warn oncoming traffic of imminent road hazard or congestion. Proper use and construction of warning and road signs shall be in place at all times during debris removal operations on or adjacent to NCDOT roadways. Any debris or sediment placed on NCDOT right-of-ways as a result of debris removal operations must be removed from roadways or property within 24 hours. Residue deposited on roadways may be removed by mechanical sweeping

### SECTION 3: SCOPE OF WORK

machines, air blowers, or by manual sweeping methods. Any damage to a NCDOT vegetated right-of-way, ditch/swale, drainage structure, or paved roadway **must** be repaired immediately by the Contractor, at their expense. The CFR **must** be notified immediately if damage to any NCDOT asset occurs. The Contractor shall be responsible for implementation of all measures required in this section and any other requirement imposed by NCDOT.

#### 8. REVEGETATION

For areas where groundcover surfaces are denuded due to earthfill grading, shaping, debris removal operations, or equipment access into work sites, revegetation shall be performed. Prior to revegetating, any ruts or other surface irregularities resulting from this operation shall be smoothed and the ground surface shall be returned to its original elevation and degree of uniformity as directed by the CFR. Addition of soil fill volume may be required by the Contractor where the existing surface has been compacted to restore ground surface to its original condition. Seeding and mulching shall be performed on a weekly basis during active construction until the channel bank restoration work is completed. If any work area is re-disturbed by the Contractor after it has been previously seeded and mulched, the contractor shall be responsible for patching ruts and gulleys by reseeding and remulching the disturbed areas until a permanent vegetative groundcover has been established.

Seed, fertilizer, and mulch shall be uniformly applied at the following rates per 1,000 square feet. The below seeding schedule shall be used on all disturbed or denuded areas unless otherwise specified in the project Plans & Specifications. This specification is subject to change based on recommendations from the local USDA/NRCS Field Representatives prior to the time of project commencement. Unless noted in the Plans & Specifications, the following general specifications will be followed:

#### **General Specifications/Establishing Vegetation To All Graded/Cut or Disturbed Areas**

Seeding date: September 1 - March 31

- 1.7 lbs. Kentucky 31 Tall Fescue
- 1.1 lbs. Pensacola Bahia Grass
- 12 lbs. 10-20-20 Fertilizer
- 70 lbs. Hay or Small Grain Straw Mulch

Seeding date: April 1- August 31

- 1.1 lbs. Kentucky 31 Tall Fescue
- 1.7 lbs. Pensacola Bahia Grass
- 12.0 lbs. 10-20-20 Fertilizer
- 70.0 lbs. Hay or Small Grain Straw Mulch

Should locality, climate and/or ground conditions warrant, the CFR may alter the planting dates to an earlier or later period, seed mix and quantity, or mulch requirements from those shown

### SECTION 3: SCOPE OF WORK

above. Any change to the seeding-mulching specifications is subject to the approval of the County or the CFR. Also, the above proposed seeding specifications could be changed upon the recommendations of the USDA/NRCS contract personnel providing construction oversight of these projects.

The contractor shall install the USDA/NRCS recommended final seeding specification if that specification deviates from the schedule shown above.

#### 9. EQUIPMENT REQUIREMENTS

For work in locations that requires heavy equipment, hydraulic excavators shall be low ground pressure (LGP) machines, and equipped with a stationary or mechanical thumb attachment or grapple attachment. Rubber tire skidders shall be equipped with low ground pressure, high floatation tires.

All equipment used by the contractor should be in good working condition and inspected daily to determine if maintenance is needed. Daily checks/inspections should be performed to determine whether there are any leaks of petroleum or other deleterious substances from equipment used onsite. An equipment log should be maintained by the contractor and daily entries of equipment condition or repairs should be noted.

The CFR may require periodic field review of the equipment maintenance log. Equipment must be in good working condition upon arrival to commence work and prior to mobilization to any project site

#### 10. MEASUREMENT AND PAYMENT

Payment for completed work shall be made by the following method:

##### **Method 1**

Measurement and Payment shall be made for each project in accordance with the line item pricing and unit rates shown in the Bid Schedules. Measurement and Payment for Lump Sum Items shown in the Bid Schedules for each DSR found under *Bid Item 3. General Grading/Shaping/Filling and Earthwork (Includes All Scope Included per Plan)* and *Bid Item 13. Geotechnical Testing* shall be paid upon completion of the task in a Lump Sum payment based on the final negotiated rate specified in the Task Order and Contract. Bidders shall include a spreadsheet for describing Lump Sum Bid Items including all components, items, and units, and prices that comprise the Lump Sum bid. Lump Sum bids shall be further described in the below paragraphs.

Measurement for stabilization work and channel armor will begin and end at the Station Locations (STA) shown in the project Plans & Specifications for each project. The actual end point will be determined and approved in the field by the CFR and may vary slightly from the

### SECTION 3: SCOPE OF WORK

Plans & Specification. Distances shown on the drawings are estimates only and will not be used for the purpose of determining payment; the actual square footage, weights, or volumes used for applying ECB matting, RTCBM matting, Class I-rip rap, seeding/mulching, etc. will be used to determine payment and will be determined by the Sponsor or the CFR. Distances for armor and stabilization shall be continuous from each beginning point to each end point, and must be staked in the field by the contractor for CFR approval prior to commencement of work. Measurement and payment is made to the nearest linear foot for each segment of bank stabilization and per the unit rates indicated in the executed contract with Pender County.

Any Bid awarded and approved by the County to perform work under the specifications found in this RFP, Plans & Specifications, and identified in a Bid Schedule as **“Lump Sum”** for Earth work shall include grading/shaping, grade cut, fill, placement, compaction of earthfill, and other specified earthwork. Payment for Lump Sum work shall represent full compensation for the Lump Sum Item and will include, but is not limited to the following items: all labor, all materials, all supplies, all equipment, all insurance, all bonds, overhead, profit, all subcontractor costs, taxes, safety measures, all supplies, training, permits, licenses, travel, lodging, subsistence, rentals, subcontracted services or labor, contract administration costs, penalties, delay costs, stand-by costs, escalation costs, incidental expenses, cost increases caused by COVID-19, inflation, or for any other reasons. The contractor shall be responsible for any other costs that is not specifically listed above but which is normal and customary for performing earthwork operations as described in II. Scope of Work (pages 14 through 25) and Attachment C: Bid Schedules in this RFP, and in the project Plans & Specifications, and bid as Lump Sum in the Bid Schedule. **Unit Rates** identified in the offeror’s Bid Schedule may also not be changed for any reason after a contract has been awarded.

Quantities shown in the Bid Schedules are only estimates and have been based on Pender County’s anticipated scope of work for these projects. Actual quantities and lengths of materials used may vary from that shown in the Bid Schedules. Contractor(s) are advised to make their own determination of the quantities they anticipate or will need to accomplish the work scope described in this RFP and Plans & Specifications. Contractor(s) shall be paid based on the actual quantities of approved materials provided or supplied for each project, whether more or less than those quantities shown in the Bid Schedule. In no case shall the Contractor(s) provide more quantities than shown in the Bid Schedules without first obtaining written authorization or direction from the Sponsor or project CFR. For Contractor(s) to assure payment of any materials used per the quantities shown in the Bid Schedules, they must also provide along with an invoice, adequate documentation to support that such quantities were provided **and** proof of payment to demonstrate that the materials claimed for payment were used on the proposed projects. Proof may include one or more of the following: certified time stamped quarry weigh tickets for aggregate; load tickets for debris disposal from the LCID or CDLF, purchase receipts for any unit rate materials used and claimed for payment, certified statements/invoice from subcontractors supplying materials; cancelled checks, or paid receipts, or other acceptable forms of proof determined by the County. For earthfill material (cut and/or fill) surveys, measurements, statements, or technical reports prepared and sealed by a

### SECTION 3: SCOPE OF WORK

Registered Land Surveyor or Professional Engineer to verify applicable quantities used, may also be submitted to support any Contractor payment request, so long as it adequately describes the methods and unit of measurements that were provided by the Contractor. All invoices submitted to the County for payment must also include written and justifiable proof that such quantities or types of materials were first approved by the County, prior to providing these goods. If such quantities are not specifically shown in the Bid Schedules **OR** exceed any quantity shown in the Bid Schedules, proof must accompany any invoice submitted for payment. For any quantity provided that is less than the quantity shown in the Bid Schedules, proof must also be included with invoices containing the same documentation/proof as stated above, regardless of whether such quantities are more or less than that specified in the Bid Schedules. Contractor(s) shall be paid for actual authorized quantities used or furnished for a completed project only and when adequate documentation, proof of payment, and receipts are provided with the payment request. It is at the Town's sole discretion to determine the adequacy, validity, and authenticity of any documentation provided by Contractor(s) in support of any payment request.

#### 11. HEALTH & SAFETY/OSHA

Prior to commencing work, the contractor must prepare and submit a Health & Safety Plan (HASP) describing all measures that will be implemented on EWP projects to ensure worker health and safety. The HASP shall describe the minimum needed protective clothing, gear, and wares (i.e. hand protection, hearing protection, head protection, clothing, eye protection, foot protection, etc.) and other protective outfitting needed by workers while undertaking specific tasks onsite. The HASP shall identify each critical work task that is anticipated by the contractor to be conducted on each work site, the equipment to be used, and the safety/risk management measures that will be implemented by the contractor to prevent accident or injury to workers. Since the proposed work is anticipated to be performed in or adjacent to State or Federal waters, safeguards shall be identified in the HASP to ensure worker safety in or around open waters.

The HASP shall be reviewed and acknowledged by signature of each site employee of the contractor, subcontractors, vendors, and any other entity or person that will work or enter onto the proposed work sites to show all are informed of HASP provisions and requirements. Any person entering upon the work site must review the HASP and sign off with their acknowledgement and understanding of its content. The proposed HASP must be submitted to the Sponsor for review and approval, at least 10 days prior to mobilization or commencement of work on any site. The contractor shall include provisions in the HASP for conducting mandatory daily tailgate safety meetings prior to beginning work each day. The safety meetings shall be conducted by a qualified contractor designated Health & Safety Officer (HSO). The contractor shall identify their designated HSO who will be onsite and in responsible-charge of Health & Safety each day of work. All employees, subcontractors, vendors, or any other party present onsite on behalf of the contractor shall attend the H&S safety meeting each day, or receive a safety briefing before entering the site. The daily safety meetings shall be



### **SECTION 3: SCOPE OF WORK**

documented by written record with a signature by every person attending including meeting start and stop time, and topic/points discussed. A Sponsor representative shall also be in attendance at each daily safety tailgate meeting. A copy of the meeting attendees list shall be provided to the Sponsor daily. The contractor shall keep a copy of the HASP onsite for review for the duration of each project. The contractor shall make the plan available for review (and written acknowledgment) for anyone entering the site.

#### **OSHA Compliance**

The contractor is required to perform all work activities in compliance with all OSHA standards and provisions in order to provide and maintain safe working conditions for all workers at all times on each EWP site. Contractors shall perform their work in accordance with OSHA regulations, and the Contract Work Hours and Safety Standards Act (40USC 327-330) as supplemented by Department of Labor Regulations cited in Title 29 CFR Part 5. Any work to be conducted on any site that is governed under Title 29 CFR 1926, Subpart P, Appendix A pertaining to Selection of Protective Systems; Sloping; Shoring; and Benching rules and regulations including OSHA 1926.652, Subpart P, Excavations (a) through 1926.652(g) shall be identified in writing to the Sponsor prior to commencement. The proposed measures to comply with these requirements shall be included in the notice to the Sponsor for review. Notice to the Sponsor shall include a description of the anticipated tasks to be undertaken to comply with these OSHA requirements, the measures, timeframe, and duration that the tasks taken to comply will be ongoing during the project.

#### **12. OTHER PLANS AND SUBMITTALS**

The County may require the contractor to submit other plans, submittals, daily reports, logs, or documentation that is deemed necessary for complying with all USDA contract terms and conditions for payment or program adherence. The contractor agrees to provide the County with any submittals required by the USDA, or any regulatory agency that may not be identified in this RFP.

#### **13. ITEMS OF WORK AND CONSTRUCTION DETAILS**

##### **TASK -Streambank Stabilization**

Streambank stabilization shall be performed at the two designated DSR locations identified in this RFP. The stabilization measures anticipated for each proposed site varies depending on the preliminary scope of work developed by USDA during their site assessments/inspections which were are identified in the Disaster Survey Reports.

The scope of work and quantities of materials are specified in the following descriptions of each project. Bidders should base their pricing on the scope and estimated quantities shown in the following sections. The cost to perform the work should be offered as a "not to exceed" costs.

### SECTION 3: SCOPE OF WORK

Additional quantities or scope is not anticipated above or beyond those shown in the following description since these projects have been cost estimated by USDA. Contractor should include only one mobilization and demobilization for each of the two projects. Only one mobilization and demobilization should be included to cover both Task 1. The County will not pay for additional mob/demobs, stand-by, delays, or down time when the contractor is unable to work, for any reason.

The two sites requiring streambank stabilization in the Scope of Work are:

#### **Site 1**

DSR-5039-489/SR 1333 Outlet Structure  
289 Lake Road  
Willard, NC

**Project Description:** Shape and Armor Channel at Outlet Structure per Plans & Specific.

#### **Site 2**

DSR-5038-494/Site 4-Holley Shelter Wildlife Depot  
7421 Shaw Hwy Rocky Point, NC  
Rocky, Point NC

**Project Description:** Shape and Armor Channel Bank Adjacent to NE Cape Fear River per Plans & Specifications.

Refer to the project Plans & Specifications for details, quantities, etc for each of the above proposed projects.

Measurement and payment for each project (DSR) shall be by Method 1 (stated in pgs. 22 through 24 above) for Lump Sum Bid Items and Unit Rates, for actual units used or provided and authorized by the Sponsor, where specified. Payment shall not exceed the awarded/contracted cost for each site above, unless the Sponsor authorized an increase in the lump sum scope of work at an agreed upon price, or number of units increased from the specified units, and were authorized by the Sponsor. The Sponsor may elect to award a single contract for both sites to one selected contractor, or multiple contracts to more than one contractor, and shall determine what is in the best interest of the County, solely at their discretion. **No guaranty is implied or expressed that both sites will be awarded to only one contractor.**

#### **SPECIFIC REQUIREMENTS**

- During execution of work under an emergency event, personnel provided by the Contractor must come prepared to work in adverse conditions and may be required to temporarily lodging locally, until all projects are completed and the

### SECTION 3: SCOPE OF WORK

affected streams and channels are restored to functional order. Pender County will not provide temporary or permanent lodging, food, or any form of subsistence to any contractor, his employees, or his subcontractor's during completion of work performed under this contract with the County. The direct cost for travel to and from the work sites will not be reimbursed and shall be included in the contractor's unit rate. Lodging and subsistence shall also not be reimbursed as a direct cost and must be included in the proposed unit rates.

- General liability insurance is required, however the Contractor is not required to carry Professional insurance or Environmental liability insurance due to the conditions and nature of this work: should conditions change, so may the required insurances needed for the Contractor to perform such work activities.

Additional insurance requirements required by the Contractor are referenced in:

(1) Page 6 of 67, Insurance-RFP

(2) Attachment G: Sample Contract for the Provision of Services, Item I-15, Insurance (may also require Longshoreman's Act and Jones Act insurance)

A Certificate of Insurance (COI) will be required of the awarded vendor that complies with the requirements outlined in (1) through (3) above and shall include the name the County as an "additional insured". Other insurance coverages such as Maritime Insurance may be required depending on the type of work and specifics of the work scope being performed by the Vendor on behalf of the County. Insurance coverage required by Longshoreman's Workers Compensation Act and Jones Act may be required for work on or upon open or navigable waters may be required. Contractors must demonstrate they are adequately insured to perform the scope of work specified in this RFP and if additional coverages are required, such cost will be the responsibility of the Contractor.

## **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, Plans & Specifications, and 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 Contractor, 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 Contractor. 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 Contractor'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.

## **SECTION 4: GENERAL TERMS AND CONDITIONS**

### **F. NON-DISCRIMINATION**

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

Contractor 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 Contractor, 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 Contractor to indemnify Pender County to the extent permitted under North Carolina law.

### **H. LAWS AND REGULATIONS**

The Contractor 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 Contractor 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 Contractor 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 Contractor, the County reserves the right to procure the goods and/or services and/or services from other sources and hold the Contractor liable for any excess cost occasioned thereby.

### **M. INDEPENDENT CONTRACTOR**

The Contractor and any employees, agents, or other persons or entities acting on behalf of the Contractor 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 Contractor. 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

### SECTION 5: SPECIFIC TERMS AND CONDITIONS

Below is an example of the Pender County Terms and Conditions that will be presented to the contractor(s) prior to award for executing to perform the EWP projects. The contractor shall review and accept the Pender County Terms and Conditions subject to award:

#### **Pender County Terms and Conditions**

In entering this Contract with Pender County North Carolina (the "County"), your company (the "Vendor"), acknowledges and agrees to abide by the Terms and Conditions set forth below, which shall supersede any conflicting terms and conditions.

- 1. COUNTY RIGHT TO CANCEL OR RESCIND** – The County reserves the right to cancel or otherwise rescind a Purchase Order based on the County's best interest.
- 2. PURCHASE ORDER REQUIRED** – The County will not be responsible for any equipment, supplies, and/or services delivered without a Purchase Order and assumes no obligation for products or services shipped or delivered in excess of the quantity ordered. Any unauthorized products or services are subject to the County's rejection and shall be returned at the Vendor's expense.
- 3. VENDOR FAILURE TO DELIVER** – In the event of Vendor's failure to deliver as and when specified, or to perform as and when specified, the County reserves the right to cancel this order, or any part thereof, without prejudice to its other rights, and Vendor agrees that the County may return part of any shipment so made and may charge Vendor with any loss expense sustained as a result of such failure to deliver or perform.
- 4. CHANGES** – If Vendor refuses to accept this purchase order exactly as written, Vendor will return it at once with explanation. Any changes to this Purchase Order will be considered a 'Change Order' and requires the written acceptance of both parties to become effective. This will include product or service substitutions, cost changes, and delivery schedule changes.
- 5. INVOICES** – Vendor will deliver invoices to the County at the address or electronically at website shown on the face of this Purchase Order. Vendor will send separate invoices for each purchase order number and invoices must be itemized in accordance with the items listed on the Purchase Order.
- 6. PRICE** – The itemized price listed for products and services on the Vendor invoice must match that specified on the Purchase Order. No boxing, packing, cartage, or shipping charges will be allowed by the County unless specifically authorized on the face of this Purchase Order. Any

## SECTION 5: SPECIFIC TERMS AND CONDITIONS

cash discount period to County will date from County's receipt of the invoice or from the date of the receipt of goods, whichever is later.

**7. TAXES** – Vendor shall pay all sales or use taxes that are or become due in connection with any products or services provided hereunder and shall indemnify and save harmless the County from any damages, costs, fees, expenses, or penalties on account of such taxes. Vendor is required to list all applicable taxes as separate lines on the face of the invoice.

**8. DELIVERY/TITLE** – Unless otherwise agreed, delivery shall be f.o.b. point of destination and title shall pass to County upon acceptance at the final delivery point. Risk of damages or loss following shipment and prior to acceptance by County shall be the responsibility of Vendor.

**9. RIGHT OF INSPECTION AND REJECTION** – Equipment, supplies, and services supplied by Vendor shall be received subject to the County's inspection and approval either during manufacturing or delivery (with prior arrangement), or within a reasonable time after delivery, notwithstanding prior payment. If specifications or warranties are not met, material and equipment may be returned at Vendor's expense. No material or equipment returned to Vendor as defective shall be replaced except upon the County's formal authorization.

**10. ASSIGNMENT** – Neither this Purchase Order nor any interest therein nor shall any claim arising hereunder be transferred or assigned by Vendor without the prior written consent of the County. Vendor may transfer or assign the benefits of this agreement, in whole or in part, including without limitation the County's warranty, without the approval of County.

**11. WARRANTY/PERFORMANCE** – Vendor warrants that the products and services furnished pursuant to this Purchase Order shall: (a) comply with all federal, state and local laws applicable thereto; (b) satisfy all requirements set forth on the face of this purchase order and any applicable documentation incorporated herein; (c) meet industry standards and be suitable for the purpose intended; (d) be of merchantable quality; and (e) be free from defects in title, labor, material or fabrication.

**12. INDEMNIFICATION - INFRINGEMENT** – Vendor will defend, indemnify, and save the County harmless from any and all loss, damages, costs, fees, and expenses incurred on account of any and all claims, suits, or judgments alleging that any product or service provided under this purchase order violates any patent, copyright, trade secret, trade name, or any other intellectual property right of any nature.

**13. INDEMNIFICATION – DAMAGES** – If any product provided hereunder is defective in any respect whatsoever, Vendor will defend, indemnify, and save County harmless from all loss, damages, costs, fees, and expenses incurred by reason of such defect, including without limitation all liability arising from any accidents, injuries, or damages to persons or property that may result in whole or in part from such product.



## SECTION 5: SPECIFIC TERMS AND CONDITIONS

**14. INDEMNIFICATION – CONSEQUENCES OF ACTIONS** - If Vendor performs services or constructs, erects, inspects, or delivers hereunder, Vendor will indemnify and save harmless the County from all loss, damages, costs, fees, or expenses incurred in connection with any accidents, injuries, or damages to persons or property that may result in whole or in part from the performance thereof.

**15. USE OF COUNTY NAME OR LOGO** – Vendor agrees not to release any advertising or other materials using the County’s trademark, quoting the opinion of any County employee, or implying in any way that the County indorses Vendor or its products or services.

**16. FEDERAL OR STATE STATUTE** – Vendor represents and warrants that no federal or state statute or regulation or municipal ordinance has been or will be violated in the manufacture, sale, or delivery of any product or service sold and delivered hereunder and if such violation has or does occur, Vendor will indemnify and save the County harmless from all loss, penalties, fees, costs, and expenses resulting in whole or in part from such violation.

**17. E-VERIFY REQUIREMENTS** – As a condition for payment under this purchase order, Vendor shall: (i) comply with N.C. Gen. Stat. Sections 64-25 et seq. (the “EVerify Requirements”); and (ii) cause each subcontractor hereunder to comply with such requirements. Vendor will indemnify and save harmless the County from all losses, damages, fees, costs, expenses, fines, and other liabilities resulting from any failure by Vendor or any subcontractor to comply with the E-Verify Requirements.

**18. INSURANCE** –The Vendor shall not commence work until they provide proof of all insurance coverage required to perform the type of work specified in the RFP and project Plans & Specifications. Vendor shall secure, before delivery of any goods or services hereunder, Commercial General Liability insurance in an amount not less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate, with the County as additional insured. Vendor shall produce an insurance certificate evidencing such coverage upon request by the County. The Vendor shall provide and maintain during the life of this contract Workman’s Compensation Insurance for all employees employed at the site of the projects under their contract in compliance with North Carolina requirements.

The County may require additional insurance coverage, if such work involves the Vendor operating on State, Federal, navigable, or open waters. The contractor shall provide and maintain insurance if the work performed is on navigable waters defined by 33 CFR, Part 329, Federal or State waters, or other waterways may require insurance to comply with the requirements of the Jones Act, and/or the Longshoreman and Harbor Workers Compensation Act. If applicable, the Contractor shall provide proof of insurance coverage and compliance with the insurances specified by both of the above Acts.

## SECTION 5: SPECIFIC TERMS AND CONDITIONS

**19. STRICT COMPLIANCE** – The County may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous custom, practice, or course of dealing.

**20. MATERIAL SAFETY DATA SHEETS** – Current Material Safety Data Sheets, when applicable to the order, shall be provided by Vendor in accordance with all regulations.

**21. VENUE FOR LEGAL ACTIONS** – This purchase order is governed by North Carolina law without regard to its conflicts of law principles. Any legal actions arising from this purchase order shall be brought in Pender County, North Carolina.

### OTHER TERMS AND CONDITIONS:

#### CONTRACT TERM

The initial contract period will begin on the date of contract issuance by the County and continue for one (1) year with the option to renew for one additional one (1) year period, 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.

#### QUESTIONS

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

#### CONTRACTOR QUALIFICATIONS

Contractors 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. Three examples of relevant qualifications and experience with similar projects are required to be submitted with this RFP.

#### 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.

#### 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 period, the Contractor may request a price increase prior to the end of the then current period, but no guaranty is implied that a price increase will be granted. The price increase, if any, for the renewal period shall not exceed the change of the Consumer Price Index (CPI) for Emergency

## **SECTION 5: SPECIFIC TERMS AND CONDITIONS**

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 Contractor 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 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>.

### **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.

### **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.

### **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

## **SECTION 5: SPECIFIC TERMS AND CONDITIONS**

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.

### **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 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 Contractor 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**

Contractors 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

## SECTION 5: SPECIFIC TERMS AND CONDITIONS

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 Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor 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 Contractor agrees to provide the FEMA Administrator or his authorized representative's access to construction or other work sites pertaining to the work being completed under the contract.

### iv. DHS Seal, Logo, and Flags

The Contractor shall not use Department of Homeland Security (DHS) seals, logos, crests, banners, or reproductions of flags or likenesses of the DHS agency officials without specific FEMA preapproval. Pender County logos or seals are also prohibited from use at any time or on any site during the project implementation.

### 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 Contractor 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, Contractor, 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 Contractor'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.

## **SECTION 5: SPECIFIC TERMS AND CONDITIONS**

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. The contractor is encouraged to seek and solicit disadvantaged business enterprises for any work scopes where such businesses could provide services and/or wares.

ATTACHMENT A: PROPOSAL FORM

**ATTACHMENT A: PROPOSAL FORM**

*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.*

**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: \_\_\_\_\_

**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**

**PAYMENT TERMS**

- ☐ Net 30
- ☐ Other (Specify): \_\_\_\_\_

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

**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: \_\_\_\_\_

**EXCEPTIONS**

Indicate if the Bidder notes exceptions to the RFP by acknowledging the appropriate statement below, as applicable, and explain if so:

- ☐ 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):

The following exceptions to this RFP are noted (attach additional sheets if necessary): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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## ATTACHMENT A: PROPOSAL FORM

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

### COOPERATIVE PURCHASING

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

☐ Yes

☐ No

### 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: Bid Schedule
- ☐ Attachment D: Offeror's Certification Form
- ☐ Attachment E: Certification Regarding Lobbying
- ☐ Attachment F: Pender County Vendor Form and Completed W-9 Form
- ☐ Other: FS 25-Bid, Payment, and Performance Bond Form

### 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

## ATTACHMENT A: PROPOSAL FORM

compliance with this section when it finds such action to be in the best interest of the County.

### 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 \_\_\_\_\_, 2022.

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 5 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 and Date 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 and Date 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 and Date of Services Provided: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

*NOTE: Do not include or attach additional pages.*

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**SEE BID SCHEDULES ON FOLLOWING PAGES (pgs 46 and 47)**

**\*(disregard page header showing "Attachment B: References" at top of pg 46 and 47-Attachment C:  
Bid Schedule)**

ATTACHMENT B: References

**ATTACHMENT C: BID SCHEDULE\***

Pender County-Emergency Watershed Project

USDA/NRCS Stabilization Projects

Feb. 14, 2022

**DSR-494//Site 4-Holly Shelter Wildlife Depot-NE Cape Fear River**

**SCOPE OF WORK: Stabilize Slope w/ Flexamat™PLUS ECB Armor Between STA 130+00 and 70+00**

Item No.	Description of Work	Quantity	Units	Unit Price(\$)	Extended Amount (\$)
1	Mobilization/Demobilization (paid 50% each)	1	NA		
2	Clearing & Grubbing Veg. Debris (by volume)	100	CYS		
2-A	Alternate-Clearing & Grubbing Veg. Debris (by weight)	25	TONS		
3	General Grading/Shaping/Filling and Earthwork Operations (Includes All Scope In Plans)	1	LS		
4	Flexamat Plus-RTCB Mat® or Equivalent RTCB (+ 4-Layer underlayment mat); 60ftW X 60ft L)	3600	SF		
5	Flexamat 18"-U-Anchor #3 rebar® on Seams	189	EACH		
6	Gripple 9ft.Percussion Anchors® TL6CRS-TLA4-9ft-6MM per Anchor Plan-Sheet 8 and 9	72	EACH		
7	Earthfill -Imported Structural Fill (SC,Sp,SW)	100	CYS		
8	Undercut/Disposal of Unsuitable Soils/Material	100	CYS		
9	Class I-NC DOT Rip Rap	350	TONS		
10	Non-woven Geotextile Underlayment	2000	SF		
11	Seeding/Mulching-All Disturbed Areas/Slopes	4200	SF		
12	Pre-Construction/Post-Construction Survey (sealed by a Professional Engineer)	2	EACH		
13	Geotechnical Testing (specify no. of tests/cost)	1	LS		

SF-Square Ft.; LS=Lump Sum; NA=Not Applicable

Total=

Submitted By: \_\_\_\_\_

Company: \_\_\_\_\_

**ATTACHMENT B: References**

Date: \_\_\_\_\_

**ATTACHMENT C: BID SCHEDULE\***

**Pender County-Emergency Watershed Project**

**USDA/NRCS Stabilization Projects**

**Feb. 14, 2022**

**DSR-489/Lake Road-Horse Branch Creek**

**SCOPE OF WORK: Stabilize Slope w/ Class I Rip-Rap Armor Between STA 20+00 and STA 120+00**

Item No.	Description of Work	Quantity	Units	Unit Price(\$)	Extended Amount (\$)
1	Mobilization/Demobilization (paid 50% each)	1	NA		
2	Clearing & Grubbing (by volume)	200	CYS		
2-A	Alternate-Clearing & Grubbing (by weight)	50	TONS		
3	General Grading/Shaping/Filling and Earthwork Operations (All Scope per Plans)	1	LS		
4	Earthfill (Imported Structural Fill)	100	CYS		
5	Undercut/Disposal of Unsuitable Soils/Material	50	CYS		
6	Class I Rip-Rap-Slope (100'X20'X1.5')	250	TONS		
7	Coffer Dam (25'X1.5'X1.5')	10	TONS		
8	Rip-Rap Swale-STA 15+00 (5'WX20'L)	20	TONS		
9	Non-woven Geotextile Underlayment	2100	SF		
10	Tri-Axial Geogrid	2100	SF		
11	Seeding/Mulching-All Disturbed Areas/Slopes	1000	SF		
12	Pre-Construction/Post-Construction Survey (sealed by a Professional Engineer)	2	EACH		
13	Geotechnical Testing (specify no. of tests/cost)	1	LS		

SF-Square Ft.; LS=Lump Sum; NA=Not Applicable

**Total=**

**Submitted By:** \_\_\_\_\_

**Company:** \_\_\_\_\_

**ATTACHMENT B: References**

Date: \_\_\_\_\_

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**ATTACHMENT D: OFFEROR'S CERTIFICATION FORM**

**ATTACHMENT D: OFFEROR'S CERTIFICATION FORM**

*A 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 including Plans & Specifications, and Construction Notes.

I hereby propose to perform the services as specified in the Scope of Work of this RFP and Plans & Specifications at the Lump Sum and Unit Rates described on the completed Attachment C: Bid Schedule for Streambank Stabilization Services for DSR- 489 and DSR-494.

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, 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

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

### **Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned [Contractor] 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 Contractor, \_\_\_\_\_, 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 Contractor's Authorized Official: \_\_\_\_\_

Name and Title of Contractor's Authorized Official: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT F: PENDER COUNTY VENDOR FORM AND W9**

**ATTACHMENT F: PENDER COUNTY VENDOR FORM AND W9**

*A completed and signed Pender County Vendor Form shall be submitted with each proposal offer along with a completed W-9 Form. Please find these forms attached on the following pages.*

**Pender County Vendor Form Not Required by Vendor for This Project**

**Only Submit W-9**

## Request for Taxpayer Identification Number and Certification

► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Give Form to the  
requester. Do not  
send to the IRS.

Print or type.  
See Specific Instructions on page 3.

<b>1</b> Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
<b>2</b> Business name/disregarded entity name, if different from above	
<b>3</b> Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.  <input type="checkbox"/> Individual/sole proprietor or single-member LLC  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ <b>Note:</b> 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 <b>not</b> 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) ► _____	<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <small>(Applies to accounts maintained outside the U.S.)</small>
<b>5</b> Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
<b>6</b> City, state, and ZIP code	
<b>7</b> 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 *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

<b>Social security number</b>									
				-					
<b>or</b>									
<b>Employer identification number</b>									
				-					

### Part II Certification

Under penalties of perjury, I certify that:

- 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
- 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
- I am a U.S. citizen or other U.S. person (defined below); and
- 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**

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](http://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.

- Form 1099-INT (interest earned or paid)

- 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.

*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.*

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.

**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

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 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> 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](http://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](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://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](http://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.

**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 <sup>1</sup>
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 <sup>2</sup>
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 <sup>1</sup> The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
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 <sup>4</sup>
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

<sup>1</sup> 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.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> 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.

<sup>4</sup> 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.



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](mailto: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](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://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 PENDER COUNTY 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  
SAMPLE CONTRACT**

PO # XXXX  
March 13, 2022

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): \_\_\_\_\_.

## ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

- 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: \_\_\_\_\_

**For Contractor:**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES**

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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

\_\_\_\_\_  
Finance Officer

## ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

### 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 on 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.

## ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

- 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](http://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 employee's 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:

## ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

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

## ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

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.



## ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

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 Workplace:** The contractor or vendor agrees to make a good faith effort to establish and maintain a drug-free workplace 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 workplace: Publicizing a drug-free workplace 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

## ATTACHMENT G: SAMPLE CONTRACT FOR THE PROVISION OF SERVICES

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.

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END OF SAMPLE CONTRACT

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## END OF RFP

