



FLORENCE COUNTY
SOUTH CAROLINA

INVITATION-TO-BID NO. 24-20/21

Kelly Farm Road – Ditch Cleaning

BID OPENING: May 7, 2021 at 10:05 a.m. (EST)

TABLE OF CONTENTS

<u>DESCRIPTION</u>	<u>PAGE NUMBER</u>
INVITATION-TO-BID	3
BID SPECIFICATIONS/SCOPE OF WORK	4
MINIMUM MANDATORY REQUIREMENTS.....	5
INSTRUCTIONS TO BIDDERS	5
VENDOR AGREEMENTS	10
BID SURETY REQUIREMENTS	13
SAMPLE BID BOND.....	14
PAYMENT BOND REQUIREMENT	15
PERFORMANCE BOND REQUIREMENT	16
INSURANCE REQUIREMENTS	17
BID FORMS	18-20
SAMPLE CONTRACT DOCUMENT.....	21-31
SITE MAPS.....	ATTACHMENT 1

INVITATION TO BID – Kelly Farm Rd – Ditch Cleaning (BID NO. 24-20/21)

Florence County, South Carolina (Owner) is accepting bids from licensed and qualified Contractors to perform ditch cleaning on Kelly Farm Road in Florence County.

Each of the bidders shall fully familiarize itself with the conditions relating to the bid to insure complete understanding of all the details involved. The bidder shall satisfy itself as to the actual requirements of the bid by personal examination of its location or other means, so as to enable the bidder to make an informed bid. Failure to do so shall not relieve the successful bidder of its obligation to furnish all materials, products, and/or labor necessary to complete the provision of the awarded contract, and failure to do so may result in the claims against bonds. No allowance will be made for any claims that a bid and/or response were based on incomplete information as to the nature and character of the sites and of the work involved.

In order to be considered, all bids must be hand carried or mailed in a sealed envelope to the Florence County Procurement Office, Florence County Complex, 180 N. Irby Street – MSC-R, Rm. B-5, Florence, SC 29501-3431 no later than **May 7, 2021 at 10:00 a.m. (EST)**.

The sealed bids will then be opened and read aloud in room 213 of the County Complex at 10:05 a.m. (ET) on May 7, 2021. The bid opening will also be streamed live on ZOOM via link <https://us04web.zoom.us/j/5444511250?pwd=MGhPRmtKcmFDM2thVVQwMWNMUVJQQT09>. Meeting ID: 544 451 1250. Passcode: 997329.

Bids must be clearly marked, “Bid No. 24-20/21”. Contractors mailing bids should allow delivery time to ensure timely receipt of their bid. The responsibility for getting the bid to Florence County on or before the specified time and date is solely and strictly the responsibility of the proposing firm. Any bids received later than the submission deadline will not be accepted/considered. Electronic bids will not be accepted. Directions may be obtained by calling (843) 665-3018. Florence County will in no way be responsible for delays caused by any occurrence.

Florence County under Title VI of the Civil Rights Act of 1964 and related statutes ensures that no person shall on the grounds of race, color, national origin, sex, disability, and age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity it administers.

Minority Business Owners (minority or woman owned businesses) will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, creed, sex or national origin in consideration for an award. It is the policy of the County that minority business and women owned business enterprises (MBE/WBE) have an opportunity to participate at all levels of contracting in the performance of County projects to the extent practical and consistent with the efficient performance of the contract.

In accordance with the requirements of the Title II of the Americans with Disabilities Act of 1990 (“ADA”), the County of Florence, South Carolina will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs or activities.

This request for bids does not commit Florence County to award a contract; to pay any cost incurred in the preparation of a bid; or, to procure or contract for the services. Florence County reserves the right to accept or reject any or all bids received as a result of this request; to negotiate with any or all qualified proposers; or, to cancel in part or in its entirety this bid invitation, if it is in the best interest of the County to do so.

SPECIFICATIONS/SCOPE OF WORK

Kelly farm Rd – Ditch Cleaning

<u>Item Description</u>	<u>Quantity</u>
Clean Ditch	275 LF
Temporary pipe	40 LF
Temporary Fill	1 LS
Final Stabilization/grassing	1 LS

Project must be completed within 30 calendar days after notice of award.

Project involves clearing all debris, trees, and other organic growth/materials in and along the section of ditch identified in the project location map.

Site is to be accessed and work shall be performed from the West side of the ditch.

Contractor shall be responsible for all cost associated with clearing, removing, hauling, and disposing of removed material. Contractor shall also be responsible for any dumping permits if necessary.

Contractor should assume installation of a temporary pipe to cross an existing ditch.

After work has been completed, the work area should be restored to its existing condition and all pipe and fill material should be removed and the area should be stabilized with grassing.

If existing asphalt roadway is damaged by equipment, Contractor shall be responsible for repairs to those areas as defined by Florence County.

MINIMUM MANDATORY REQUIREMENTS

The following minimum mandatory requirements shall be met and documented:

1. In business for at least the past five (5) years under the current business name without declaring bankruptcy. A letter on company letterhead declaring that the company has been in business for five (5) years + and has not declared bankruptcy can be included with the bid form in lieu of a bid bond. (Include with bid).
2. A minimum of four (4) similar project references with contact names and contact information (including a current e-mail address) that are past customers within the last three (3) years. Provide a brief project description, project budget, start and completion dates, and contact information. (Include with bid).
3. Copy of Worker’s Compensation and General Liability Insurance with Florence listed as additional insured supplied to the Procurement Office prior to contract execution or commencement of any work. (Must be provided prior to execution of a contract).
4. The successful vendor must be able to meet all Federal, State, and local regulations required for this project. To be acceptable to the Owner, bidders must be skilled and/or licensed, if applicable, in the class of work on which they respond, and no bid will be considered from any bidder who is unable to show that he has actually performed considerable work of similar character to that on which he is bidding.

INSTRUCTIONS TO BIDDERS

1) TAXES:

- a) Florence County pays SC Sales Taxes in the amount of 8%. **INCLUDE SC SALES TAX WITH YOUR BID.**

2) NON-RESIDENT TAXPAYER REGISTRATION AFFIDAVIT Nonresident proposers receiving income from business conducted in South Carolina are required to pay taxes to the state on that income. To facilitate this requirement, a nonresident proposer must register with the South Carolina Secretary of State or the South Carolina Department of Revenue. In compliance with South Carolina Code Section 12-8-540 and 12-8-550, a proposer located outside of South Carolina that receives a contract from the County, must furnish Form 1-312 (Rev.10/5/07), Nonresident Taxpayer Registration Affidavit Income Tax Withholding, properly executed and signed.

- a) If your firm is not presently registered with the appropriate state office, you may indicate the intent to do so should your firm be awarded a contract. Questions concerning this form may be directed to the South Carolina Department of Revenue.

3) EMPLOYEE VERIFICATION PER THE SOUTH CAROLINA ILLEGAL IMMIGRATION REFORM ACT By entering into this Agreement, the Design Team hereby certifies to County that it will verify the employment status of any new employees, and require any consultants or sub-consultants performing services hereunder to verify any new employees status, per the terms of the South Carolina

Illegal Immigration Reform Act, and as set out in Title 41, Chapter 8 of the Code of Laws of South Carolina, 1976.

4) RECEIPT AND OPENING OF SEALED BIDS:

- a) Sealed bids will be received and opened as specified in this Invitation-To-Bid document.
- b) The Owner will consider as non-responsive any bid not prepared and submitted in accordance with the provisions hereof and may waive any informality or reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within 120 days after the actual date of the opening thereof or as provided for the in the bid documents whichever is later.

5) PREPARATION OF BID:

- a) All bids will be evaluated in accordance with procedures and specifications contained herein and Florence County Code. The responsiveness to same determined in accordance to the instructions and criteria in this document. Any bid not providing sufficient information and documentation to comply with the Invitation-To-Bid Evaluation requirements will be considered non-responsive and removed from further consideration.
- b) A bid shall be made in the official name of the firm or individual under which business is conducted (showing the official business address) and must be signed in ink by a person duly authorized to legally bind the person, partnership, company, or corporation submitting the bid.
- c) All information requested of the bidder shall be entered in the appropriate spaces on the provided forms. If additional space is required, attach additional pages as needed within the sealed bid response.
- d) Bidders mailing their bid must allow a sufficient mail delivery period to insure timely receipt of their bid. Florence County is not responsible for bids delayed by mail and/or delivery services of any nature. It is the bidder's sole responsibility to insure that all documents are received by person (or office) at the time indicated in the bid document. No facsimile or email submissions.
- e) Bidders must clearly mark as "Confidential" each part of their offer which they consider to be proprietary information that could be exempt from disclosure under Section 30-4-40, Code of Laws of South Carolina, 1976 as amended (Freedom of Information Act). If any part is designated as "confidential", there must be attached to that part an explanation of how this information fits within one or more categories listed in Section 30-4-40. Florence County reserves the right to determine whether this information should be exempt from disclosure and no legal action may be brought against Florence County or his agents for its determination in this regard.
- f) All information shall be entered in ink or typewritten.
- g) All proposed costs shall be for all licenses, permits, taxes, labor, material, transportation, equipment and any other components/services that are required to complete the work embraced herein this Invitation-To-Bid document.
- h) If applicable, each bidder shall show the names, address and license number of any subcontractors and the scope of their work, which he may employ on the Project.

Subcontractors will be required to comply with all applicable requirements of the Specifications. If applicable, each bid shall include the bidder's name, address and South Carolina Contractor's License Number. In South Carolina, where a contract amounts to \$17,500 or more, the name and license number of the subcontractor, where bid is issued, shall also be shown. The license numbers shall be shown on the bid form bid which will be enclosed in the sealed bid.

- i) Each bid must be submitted in a sealed envelope, addressed to the Owner along with the name of the project for which the bid is submitted. The bidder shall also show his name and address, on the outside of the envelope. Failure to show the required information may result in rejection of the response and removal from further consideration. If forwarded by mail or carrier, the sealed envelope containing the bid must be enclosed in another outer envelope. Florence County shall not be responsible for unidentified bids.
- j) Each bidder must be registered with Vendor Registry to receive all addendums in conjunction with this project via e-mail. It shall be each bidder's responsibility to assure that all addenda have been received. No claim for failure to receive addenda will be considered. All addendums issued in accordance with this bid request can also be obtained from the Florence County Procurement Office located at the County Complex, 180 N. Irby Street; Room B-5, Florence, SC 29501, by e-mailing pfletcher@florenceco.org.

6) BIDDER QUALIFICATIONS:

- a) To be acceptable to the Owner, bidders must be skilled and/or licensed, if applicable, in the class of work on which they respond, and no bid will be considered from any bidder who is unable to show that he has actually performed considerable work of similar character to that on which he is bidding.

7) BID BOND (SURETY) REQUIREMENTS:

- a) As discussed in the Bid Surety Requirement document contained herein, Bid Surety must accompany any and all responses submitted that contain estimated project costs exceeding thirty thousand dollars (\$30,000.00) Failure to satisfy this Bid Surety requirement will result in your bid being considered non-responsive and removed from further consideration for award of the subject contract. Bid Surety can be provided as discussed below.
- b) Bid Surety will not be required from Contractors that have been in business for five (5) consecutive years without filing for bankruptcy. A statement on the company's letterhead from the firm stating this qualification will replace the bid bond and must accompany the bid.
- c) For all bidders not meeting the criteria of "b" above, a deposit in the amount of five percent (5%) of the proposed total contract price shall accompany the bid. These deposits shall take the form of certified check, cashier's check or bond executed by a corporate surety licensed under the laws of this state. The cashier's check or certified check shall be deposited to the County's account if the successful bidder fails to enter into the proposed contract within ten (10) days after the award. Bid deposits of unsuccessful bidders will be returned as soon as the contract is awarded.
- d) **One of the above requirements must be met for your response to be considered.**

8) EXECUTION OF CONTRACT:

- a) The bidder to whom an award is made shall deliver to the County a certificate of insurance as discussed in **Item 10 below**. The County's issuance of a purchase order and/or verbal notification of such execution may serve as the official "Notice to Proceed". Bidders failing to enter the proposed contract may be subject to Debarment and Suspension, as prescribed under Section 11-

102 of the Florence County Code, from future consideration for award of contracts. Bidders failing to enter the proposed contract may result in claims against bonds.

9) LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT:

- a) The successful bidder, upon his failure or refusal to execute and deliver the contract required within twenty one (21) calendar days after he has received "Notice of Award", shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his bid. Forfeiture of guaranty under this section may result in the bidder being subjected to Debarment or Suspension, as prescribed under Section 11.5-61 of the Florence County Code, from future consideration for award of contracts.

10) TERM OF CONTRACT AND CONTRACT DOCUMENTS:

- a) The contract documents that will form the contract shall include:
 - The Complete Bid Document
 - All Addenda
 - The Successful Bidder's Submitted Bid Document
 - Notice of Award (Verbal or Written)
 - Purchase Order/Agreement/Contract
 - Insurance Certification

11) ORDER OF PRECEDENCE

- a) In the event of inconsistent or conflicting provision of this contract and referenced documents, the following descending order of precedence shall prevail: (1) Florence County Procurement Ordinance, as amended (2) Bid Announcement/Advertisement (3) Special Terms and Conditions, (4) Instructions to Responders and Vendor Agreements (5) Other provisions of the contract whether incorporated by reference or otherwise, and (6) the Specifications.

12) INSURANCE AND BONDS:

- a) Upon award of the contract or Purchase Order, the bidder shall maintain, throughout the performance of its obligations a policy of Worker's Compensation insurance with such limits as may be required by SC law, and a policy or policies of general liability insurance insuring against liability for injury to, and death of, persons and damage to, destruction of, property arising out of, or based upon, any act or omission of the bidder or any of its subcontractors of their respective officers, directors employees or agents. Such liability insurance shall have limits sufficient to cover any loss or potential loss resulting from this contract. Florence County must be listed as additional insured. The certificate must allow a minimum of a 30 day written notice of cancellation. Bidder shall provide a Certificate of Insurance to the Florence County Procurement offices prior to start of work.

13) EXAMINATION OF PROJECT'S WORK SITES:

- a) Each of the bidders shall fully familiarize itself with the conditions relating to the bid to insure complete understanding of all the details involved. The bidder shall satisfy itself as to the actual requirements of the bid by personal examination of its location or other means, so as to enable the bidder to make an informed bid. Failure to do so shall not relieve the successful bidder of its obligation to furnish all materials, products, and/or labor necessary to complete the provision of the awarded contract and failure to do so may result in the claims against bonds. No allowance will be made for any claims that a bid and/or response was based on incomplete information as to the nature and character of the sites and of the work involved.

14) INTERPRETATIONS OF PLANS AND SPECIFICATIONS:

- a) No binding interpretation of the meaning of the documents or any questions relating to the bid will be made to any bidder orally prior to the receipt of bids. Any request for such interpretation or

questions shall be made in writing via e-mail the Florence County Procurement Director (pfletcher@florenceco.org) or his designee. To be given consideration, such requests must be received by 4:00 p.m. Wednesday, November 27, 2019. Any such interpretations or supplemental instructions will be issued in the form of addendum(s) which will be posted via Vendor Registry or emailed to persons receiving a set of bid documents, not later than three days prior to the date for opening of bids. Failure of any bidder to receive such addendum(s) shall not relieve the successful bidder of any obligation under the awarded contract and this Document.

15) RIGHT TO INCREASE OR DECREASE THE AMOUNT OF WORK:

- a) The Owner reserves the right to increase or decrease the amount of work under the Contract at the unit prices quoted in the bid received from the successful bidder.

16) POWER OF ATTORNEY:

- a) Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power-of-attorney

17) LAW AND REGULATIONS:

- a) The bidder's attention is directed to the fact that all applicable Federal, State (including SCDHEC), and Local laws, statutes, ordinances, and the rules and regulations of all authorities having jurisdiction over the project shall apply to the contract and the project throughout, and they will be deemed to be included in the contract the same as though herein written out in full.
- b) The bidder's attention is directed to the fact that all bids will comply as prescribed under the most current Florence County Code.

18) METHOD OF AWARD:

- a) Contracts will be awarded to the bidder whose bid appears to serve the best interest of the owner. The successful bidder will be determined as prescribed herein this Document.
- b) Florence County reserves the right to accept or reject, in whole, in part, together or separately, any and all responses as appears in its judgment to be in the best interests of the County, or to waive any and all technicalities and informalities in determining the action of each bid.

19) OBLIGATION OF BIDDER:

- a) At the time of the opening of bids, each bidder will be presumed to have inspected the site, if applicable, and to have read and to be thoroughly familiar with the Documents (including all addenda). The failure or omission of any bidder to examine any form, instruction or document shall in no way relieve any bidder from any obligation in respect to this Invitation-To-Bid.

20) LOCAL PREFERENCE

- a) During the bid evaluation process, any vendor who meets the criteria for Local Preference will have their bid price reduced by Five percent (5%), not to exceed a maximum consideration of \$10,000 total. If after application of the Local Vendor Preference, the vendor is determined to be the low responsive/responsible bidder, they will receive the award. The local vendor will be required to match the bid submitted by the non-local low responsive/responsible bidder.
- b) A vendor shall be deemed to be a resident of this County if such vendor is an individual, partnership, association or corporation that is authorized to transact business within the State, maintains an office in Florence County, and maintains within the County a representative inventory or commodities on which the bid is submitted and has paid all taxes duly assessed.

VENDOR AGREEMENTS

- 1) IRAN DIVESTMENT ACT- CERTIFICATION (JAN 2015)
 - a) The Iran Divestment Act List is a list published by the Board pursuant to Section 11-57-310 that identifies persons engaged in investment activities in Iran. Currently, the list is available at the following URL: <http://procurement.sc.gov/PS/PS-iran-divestment.phtm> Section 11-57-310 requires the government to provide a person ninety days written notice before he is included on the list. The following representation, which is required by Section 11-57-330(A), is a material inducement for the State to award a contract to you.
 - b) By signing your Offer, you certify that, as of the date you sign, you are not on the then-current version of the Iran Divestment Act List. (c) You must notify the Procurement Officer immediately if, at any time before posting of a final statement of award, you are added to the Iran Divestment Act List. [02-2A077-1]
- 2) STATEMENT OF RIGHTS
 - a) Florence County reserves the right to obtain clarification or additional information necessary to properly evaluate a bid. Vendors may be asked to give a verbal presentation of their bid after submission. Failure of vendor to respond to a request for additional information or clarification could result in rejection of that vendor's bid. Florence County reserves the right to accept or reject any and all bids, in whole or in part, separately or together, with or without cause; to waive technicalities in submissions, to secure a project that is deemed to be in the best interest of the County. Florence County also reserves the right to make purchases outside of the awarded contracts where it is deemed in the best interest of the County.
- 3) GENERAL TERMS:
 - a) Each bidder by submitting a response to Florence County as a result of this Invitation-To-Bid, agrees to and acknowledges its acceptance of and agreement with the procedures outlined below and the terms, conditions and requirements of the applicable Florence County Invitation-To-Bid document. Agreement is evident by the submission of a response to Florence County. If a vendor cannot agree to these terms, or violates these procedures, the response will be judged non-responsive and not considered. If the procedures are violated during the evaluation process or prior to the issuance of a contract by Florence County, the offer of the firm in question will be void and Florence County will procure the goods/services in question from other eligible vendors.
- 4) SPECIFIC TERMS:
 - a) Products offered shall meet all requirements of the Uniform Commercial Code, if applicable.
 - b) Responses submitted are final and complete offers by the vendor. No additions, corrections, modifications, changes or interpretations will be allowed. In the event questions arise on what is meant by an offer, the Procurement Officer will make a determination as to the county interpretation of the vendor's offer. If, after informing the vendor of the county's opinion, disagreement as to scope of the offer is present, the offer will be declared VOID.
 - c) Florence County reserves the right to award bids received on the basis of individual items, groups of items, or the entire list of items; to reject any and all bids; and to waive any technicalities. In every case, Florence County reserves the right to make awards deemed to be in the best interest of the County and to negotiate further the offer determined by the County to be in the best interest of the County.

- d) Unit prices will govern over extended prices. Prices must be stated per unit and extended for the total quantity.
- e) Florence County is not exempt from sales tax, if applicable. Sales, use, or excise tax, as well as any handling and shipping charges, must be shown as separate items.
- f) Florence County has a local preference of 5%, which may be applied in bid award determination.
- g) Any deviation from specifications in the bid must be clearly pointed out; otherwise, it will be considered that the items offered are in strict compliance with these specifications, and the successful bidder will be held responsible therefore. Unless otherwise stated, it is understood and agreed that any item offered or shipped on this bid shall be new and suitable for storage or shipment, and that prices include standard commercial packaging and handling.
- h) Any attempt by a vendor to influence the opinion of the county staff, or County Council, by discussion, promotion, advertising or any procedure to promote their offer, will constitute grounds to judge such an offer non-responsive. All offers presented to Florence County will be evaluated based on the current County Code and the offer as presented to the county on the date/time specified in the given bid.
- i) In the event of inconsistent or conflicting provision of this contract and referenced documents, the following descending order of precedence shall prevail: (1) Florence County Procurement Ordinance, as amended (2) Bid Announcement/Advertisement (3) Special Terms and Conditions, (4) Instructions to Responders and Vendor Agreements (5) Other provisions of the contract whether incorporated by reference or otherwise, and (6) the Specifications.
- j) Florence County reserves the right to make periodic inspections of the manner and means the service is performed or the goods are supplied.
- k) All vendors are informed that the Procurement Officer may exercise the County's option to extend the contract, (purchase order) under the provisions of County Code should such extension be mutually agreeable between the County and the selected vendor.
- l) The Bidder agrees to secure at Bidder's own expense all personnel necessary to carry out Bidder's obligations under this Bid. Such personnel shall not be deemed to be employees of the County nor shall they or any of them have or is deemed to have any direct contractual relationship with the County. The County shall not be responsible for withholding taxes with respect to the Bidder's compensation hereunder. Bidder shall not hold himself out as an employee of the County, and shall have no power or authority to bind or obligate the County in any manner, except County shall make payment to Bidder for services as herein provided. Bidder shall obtain and maintain all licenses and permits required by law for performance of this contract by him. The Bidder shall have no claim against the County hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. State or Federal governments, including but not limited to Social Security, workmen's compensation, Employment Security, sales or use tax and any other taxes and licenses or insurance premiums required by law. The County shall pay no employee benefits or insurance premiums of any kind to or for the benefit of Bidder or his employees, agents, and servants by reason of this contract. The Bidder will carry liability insurance relative to any service that he performs for the County. A certificate of insurance must be submitted to the procurement office prior to services performed, with the requested coverage and limits per the County, with Florence County listed as additional insured.

- m) The vendor will act in an independent capacity and not as officers or employees of the County. The vendor shall indemnify, defend and hold harmless Florence County, its officers, agents and employees from liability and any claims, suits, judgments, and damages of any nature brought because of, arising out of, or due to breach of the agreement by Vendor, its subcontractors, suppliers, agents, or employees or due to any negligent act or occurrence or any omission or commission of Vendor, its subcontractors, suppliers, agents, or employees.
- n) The successful vendor shall indemnify and hold harmless the Florence County, its officers, agents and employees from all suits or claims of any character resulting from patent, trademark or copyright infringement or accidents/injury at any point in the delivery of goods/services.
- o) It is the responsibility of the prospective bidder to review the entire invitation for bids packet and to notify the Procurement Department if the specifications are formulated in a manner that would unnecessarily restrict competition. Any such protest or question regarding the specifications or bidding procedures must be received by the Procurement Department not less than five (5) days prior to the time set for bid opening. These requirements also apply to specifications or instructions that are ambiguous.
- p) Should any vendor fail to perform or comply with any provision or terms and conditions of any documents referenced and made part hereof, Florence County may terminate this contract, in whole or in part, and may consider such failure or non-compliance a breach/default of contract. The County, the County reserves the right to purchase any/all items or service in default on the open market. By submittal of a response all vendors agree to this provision. No additional responses will be considered from a firm in default until the default expenses are paid. No principals of a defaulting firm may submit a response under another organization or individual name until their previous default is settled.
- q) Florence County may terminate this agreement with or without cause at any time. In the event of termination by either party, fees due for services satisfactorily performed or goods accepted prior to the termination shall be paid.
- r) Unless specifically requested, submit one (1) copy of your response.
- s) In the event no funds are appropriated by Florence County for the goods or services in any fiscal year or insufficient funds exist to purchase goods or services, then the Contract shall expire upon the expenditure of previously appropriated funds or the end of the current fiscal year, whichever occurs first, with no further obligations owed to or by either party.
- t) All submittals become the property of Florence County.
- u) All bids (and supporting documents) will be retained by Florence County for a period of one hundred twenty (120) days from the date the bids are opened, and no bid shall be received nor shall any bidder be allowed to withdraw a bid after the opening hour commences.
- v) Brand names and numbers, when used, are for reference only to indicate character or quality desired and do not indicate a preference. Equal items will be considered; equal items shall state the brand name or quality; and Florence County's determination of what shall constitute equality shall be final and conclusive.
- w) S.C. LAW CLAUSE: Upon award of a contract or Purchase Order under this bid, the person, partnership, association, or corporation to whom the award is made must comply with the laws of South Carolina, which require such person or entity to be authorized and/or licensed to do business

in this state. Notwithstanding the fact that applicable statutes may exempt or exclude the successful bidder from requirements that it be authorized and/or licensed to do business in this state, by submission of this signed bid, the bidder agrees to subject itself to the jurisdiction and process of the courts of the State of South Carolina, to all matters and disputes arising or to arise under the contract and performance thereof, including any questions as to the liability for taxes, licenses, or fees levied by the State.

- 5) **LIQUIDATED DAMAGES:** The time limit that is set for this project is thirty (30) calendar days. In order to ensure a sincere and reasonable effort on the Contractor's part to accomplish the work in a timely fashion, delay damages due to inconveniences to the owner for work not being accomplished on time will be at the rate of five hundred dollars (\$500.00) per day. The Contractor should realize that delays due to bad weather, materials, and such, not under the control of the Contractor will be considered by the Engineer for time extension.

BID BOND (SURETY) REQUIREMENT

Bid Surety acts to protect the County from delays and expenses incurred in the lengthy competitive sealed bidding and competitive sealed bid processes, and provides the County with some financial assurance that should the bidder be awarded the project, the successful bidder will enter into the contract with the County. The successful bidder forfeits its Bid Surety in the event it cannot perform the work required by the invitations-for-bid or request-for-bids.

For all responses submitted with estimated project costs exceeding thirty thousand dollars (\$30,000.00), Bid Surety in the amount of at least five percent (5%) of the proposed project costs must be submitted with the response. Failure to satisfy this Bid Surety requirement will result in your bid being considered non-responsive and removed from further consideration for award of the subject contract. Bid Surety can be provided as discussed below.

BID SURETY OPTIONS:

Option A:

Bid Surety will not be required from Contractors that have been in business for five (5) consecutive years without filing for bankruptcy. A certificate or statement on business letterhead from the firm stating it meets this qualification will replace the bid surety and must accompany the bid. Bidders not meeting this requirement must furnish Bid Surety as discussed in Option B below.

Option B:

For all bidders not meeting the criteria of "Option A" above, a deposit in the amount of five percent (5%) of the proposed contract price must accompany the bid. These deposits shall take the form of a certified check, cashier's check or a surety bond executed by a corporate surety licensed under the laws of this state. **PERSONAL OR COMPANY CHECKS DO NOT MEET THIS REQUIRMENT.** The cashier's check or certified check shall be deposited to the County's account if the successful bidder fails to enter into the proposed contract. Bid deposits of unsuccessful bidders will be returned as soon as the contract is awarded.

One of the above requirements must be met and submitted with for your response. Failure to satisfy this Bid Surety requirement will result in your response being considered non-responsive and removed from further consideration for award of the subject project's contract.

BID BOND (SAMPLE)

KNOW ALL MEN BY THESE PRESENTS, THAT WE, the undersigned, _____, as Principal, and _____, as Surety, are hereby held and firmly bound unto, As Owner, in the penal sum of _____ (\$_____), for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Signed, this _____ day of _____, 20_____.

The condition of the above obligation is such that whereas the Principal has submitted to _____ a certain Bid, attached hereto and hereby made a part hereof into a contract in writing, for the _____.

NOW, THEREFORE,

- (a) If said Bid shall be rejected, or in the alternate,
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall in all other respects perform the agreement caused by the acceptance of said Bid, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____(L. S.)
PRINCIPAL

SURETY

By: _____
(SEAL)

PAYMENT BOND REQUIREMENT

A Payment Bond must be submitted to the County by the successful responder (“Contractor”) once it has been awarded the contract. Payment Bonds encompass the prime Contractor’s obligation to pay subcontractor and others for material and labor used in the project. A Payment Bond guarantees that the Contractor will pay certain bills for labor and materials (including those from subcontractors and suppliers), which are associated with the subject contract. The Payment Bond requirement helps assure that the Contractor provides suitable evidence of its financial condition and ability to complete the project without financial difficulty.

For all contracts submitted with costs exceeding thirty thousand dollars (\$30,000.00), a Payment Bond in the amount of one hundred percent (100%) of the contract price must be submitted by the Contractor with the proposed contract to the County. Failure to satisfy this Payment Bond requirement will result in the Contractor being considered non-responsive and possibly removed from consideration for award of future County contracts. Payment Bond guaranty options are discussed below.

PAYMENT BOND GUARANTY OPTIONS:

For all contracts submitted with costs exceeding thirty thousand dollars (\$30,000.00), a Payment Bond guaranty in the amount of one hundred percent (100%) of the contract price must be submitted by the Contractor with the proposed contract to the County. This Payment Bond requirement can be satisfied utilizing one of the two options below:

(1) Option A:

The Contractor with the executed contract must submit a Payment Bond in the required amount discussed above and executed by a corporate surety licensed under the laws of this state. Contractors not meeting this requirement must furnish an alternative Payment Bond Guaranty as discussed in Option B below.

(2) Option B:

For all Contractors not meeting the criteria of “Option A” above, a deposit in the amount of one hundred percent (100%) of the contract price must be submitted by the Contractor with the proposed contract to the County. This deposit shall take the form of a certified check or a cashier’s check deposited with the County. An irrevocable standby letter of credit issued by the bank is an acceptable alternate. **PERSONAL OR COMPANY CHECKS DO NOT MEET THIS REQUIREMENT.** Failure of the Contractor to satisfactorily fulfill its obligations under the subject contract shall result in the forfeiture of this deposit.

One of the above requirements must be met and submitted by the successful Contractor with its proposed contract to the County. Failure to satisfactorily fulfill its obligations under the subject contract shall result in the forfeiture of the Payment Bond guaranty.

Responders failing to enter the proposed contract and also post the required Payment Bond may be subject to Debarment or Suspension, as prescribed under Section 11-102 of the Florence County Code, from future consideration for award of contracts.

PERFORMANCE BOND REQUIREMENT

A Performance Bond must be submitted to the County by the successful responder (“Contractor”) once it has been awarded the contract. The Performance Bond insures that the project will be completed even if the prime Contractor defaults or abandons the project. A Performance Bond guarantees contract performance by the Contractor, according to the contract specifications, terms and conditions. The Performance Bond requirement helps assure that the Contractor provides suitable evidence of its financial condition and ability to complete the project without financial difficulty.

For all contracts submitted with costs exceeding thirty thousand dollars (\$30,000.00), a Performance Bond in the amount of one hundred percent (100%) of the contract price must be submitted by the Contractor with the proposed contract to the County. Failure to satisfy this Performance Bond requirement will result in the Contractor being considered non-responsive and possibly removed from consideration for award of future County contracts. Performance Bond guaranty options are discussed below.

PERFORMANCE BOND GUARANTY OPTIONS:

For all contracts submitted with costs exceeding thirty thousand dollars (\$30,000.00), a Performance Bond Guaranty in the amount of one hundred percent (100%) of the contract price must be submitted by the Contractor with the proposed contract to the County. This Performance Bond guaranty requirement can be satisfied utilizing one of the two options below:

(3) Option A:

The Contractor with the executed contract must submit a Performance Bond in the required amount discussed above and executed by a corporate surety licensed under the laws of this state. Contractors not meeting this requirement must furnish an alternative Performance Bond Guaranty as discussed in Option B below.

(4) Option B:

For all Contractors not meeting the criteria of “Option A” above, a deposit in the amount of one hundred percent (100%) of the contract price must be submitted by the Contractor with the proposed contract to the County. This deposit shall take the form of a certified check or a cashier's check deposited with the County. An irrevocable standby letter of credit issued by the bank is an acceptable alternate. **PERSONAL OR COMPANY CHECKS DO NOT MEET THIS REQUIREMENT.** Failure of the Contractor to satisfactorily fulfill its obligations under the subject contract shall result in the forfeiture of this deposit.

One of the above requirements must be met and submitted by the successful Contractor with its proposed contract to the County. Failure to satisfactorily fulfill its obligations under the subject contract shall result in the forfeiture of the Performance Bond Guaranty.

Responders failing to enter the proposed contract and also post the required Performance Bond may be subject to Debarment or Suspension, as prescribed under Section 11-102 of the Florence County Code, from future consideration for award of contracts.

INSURANCE REQUIREMENTS

The contractor shall agree to hold harmless, indemnify and defend Florence County, its agents and employees from any claims for property damage or personal injury (including death resulting therefrom). Such claims include, but are not limited to, actual, consequential, incidental or punitive damages. The contractor shall agree to maintain sufficient comprehensive general liability insurance, naming Florence County as additional insured in the amounts of \$1,000,000.00 per occurrence and \$1,000,000.00 per person. Proof of such insurance shall be given to the Florence County Procurement Office by an appropriate certificate-of-insurance issued by the contractor's insurance agent.


Further, the contractor shall agree to insure prior to commencement of work on the project (job), all subcontractors, agents, assigns or employees of prime contractor and subcontractor shall agree to hold harmless, indemnify and defend the Florence County, South Carolina, its agents and employees from any claims for property damage or personal injury (including death resulting therefrom). Such claims include but are not limited to, actual, consequential, incidental or punitive damages. Further, prior to commencement of work on the project (job), the contractor shall insure that all subcontractors, agents or assigns of the contractor, maintain sufficient comprehensive general liability insurance, naming the Florence County, South Carolina, as additional insured, in the amounts of \$1,000,000.00 per occurrence and \$1,000,000.00 per person. Proof of such insurance shall be given to the Procurement Officer by an appropriate certificate-of-insurance issued by applicable entity's insurance agent.

With regards to comprehensive general liability insurance, claims may be made during or after the term or terms of the contract agreement.

Vehicle liability insurance with minimum combined single limits of \$1,000,000.00 per occurrence shall be maintained by the contractor.

The contractor shall obtain and maintain, during the life of the contract agreement, workers' compensation and employer's liability insurance for all employees to be engaged in services on this project under this agreement in an amount not less than the minimum allowed by South Carolina law, and in case any such services are sublet, the contractor shall require the subcontractor(s) similarly to provide workers' compensation and employer's liability insurance for all of the subcontractor's employees to be engaged in such services.

INVITATION TO BID – Kelly Farm Rd – Ditch Cleaning (BID NO. 24-20/21)

FLORENCE COUNTY, SOUTH CAROLINA , a Body Politic and Corporate and a Political Subdivision of the State of SC	MAIL TO: Florence County Procurement 180 N. Irby Street County Complex MSC-R Florence, SC 29501	
SEALED BID #24-20/21, <u>Kelly Farm Rd – Ditch Cleaning</u>	HAND CARRY TO: Procurement Office, Room B-5 County Complex, 180 N. Irby Street Florence, South Carolina 29501	
Bids will be received at the Procurement Office at 180 N. Irby Street, Rm. B-5 until May 7, 2021 at 10:00 a.m. (EST).	TELEPHONE NO. (843) 665-3018	
Then Publicly Opened in Rm. 213 at 10:05 a.m. (EST).		

LEGAL COMPANY NAME: _____

D/B/A IF APPLICABLE: _____

MAILING ADDRESS: _____

PHYSICAL ADDRESS: _____

CITY-STATE-ZIP: _____

TELEPHONE NO: _____ **FAX NO:** _____

FEDERAL ID (TAX ID) NO: _____ **E-MAIL:** _____

AUTHORIZED SIGNATURE : _____

PRINTED NAME: _____

SC CONTRACTOR’S LICENSE # _____

Total cost, including all taxes and expenses needed for Kelly Farm Rd – Ditch Cleaning

<u>Item Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>
Clean Ditch	275 LF	_____	_____
Temporary Pipe	40 LF	_____	_____
Temporary Fill	1 LS	_____	_____
Final Stabilization/grassing	1 LS	_____	_____
TOTAL BID PRICE		_____	_____

Total Project Bid Amount in Words _____

The contractor has thirty (30) calendar days from the date of the Notice to Proceed letter to complete the project.

The Bidder declares their Bid Response is made without any connection with any other individual that may be submitting a Bid Response to this IFB and their Bid Response, in all respects, is fair and in good faith, without collusion or fraud, with another Bidder, representative or agent.

By submission of a response to this Invitation for Bid, the bidder agrees and certifies, to deliver all required services and perform all required work with the strictest conformance to meet or exceed the scope of services, specifications and minimum requirements contained within this Invitation to Bid.

All pricing is firm and will remain firm for at least ninety (90) calendar days from the time and date of the IFB submittal and opening. During this period, the Bidder may only withdraw their Bid Response by submitting a written request to Florence County and Florence County approving said written request.

The bidder agrees to abide by all conditions of this bid and verifies that he is authorized to sign this bid for the offerer. The bidder further states that the company affiliated with this bid currently complies with all applicable federal and state laws and directives relative to non-discriminatory practices in employment.

The Bidder, in compliance with the Invitation-To-Bid, and having examined the Project Documents, and being familiar with all of the conditions surrounding the proposed project, including the availability of materials, labor, and work site environmental conditions, hereby proposes to furnish all permits, labor, materials, supplies, and equipment and to perform the duties in accordance with the contract documents of which this Bid Form is a part.

The Bidder declares that he has read, understands, and accepts the Vendor Agreements and Instructions to Responders which are part of the bid documents.

The Bidder further proposes and agrees, if this Bid is accepted, to contract with Florence County, to furnish all permits, materials, equipment, tools, apparatus, means of transportation, and labor necessary hereto, and to complete the proposed project in full and complete accordance with the Project Documents, to the full and entire satisfaction of the Owner, at the prices listed in the Bid Schedule. The amounts listed on the Bid

Schedule section of this Bid Form also include all costs associated with the compliance of all applicable State laws, local ordinances, and the rules and regulations of all authorities and professional association standards having jurisdiction over the project or the materials used throughout, and they will be deemed to be included in the contract the same as though herein written out in full. Unit prices and/or lump sums are shown in the Bid Schedule section below. In case of error in extension, the Unit Price shall govern rather than the Amount. Where Lump Sum Amounts are bid, the amount for each bid item shall govern rather than the total of any several items.

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)
SAMPLE CONTRACT)

CONTRACT NO. XX-20/21

THIS AGREEMENT (hereinafter the “Agreement” or “Contract”) entered into this _____ day of _____, 2021 by and between the **COUNTY OF FLORENCE**, South Carolina, a body politic and corporate under the State of South Carolina (hereinafter the “County”) and _____XXXXXXXXXXXXXXXXXX, a Corporation, the address of which is: XXXXXXXXXXXXXXXXXXXX (hereinafter the “Contractor”), for and in consideration of the mutual covenants herein set forth, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1

DOCUMENTS INCORPORATED BY REFERENCE

- 1.1 This Contract includes the County’s invitation to bid no. XX-18/19, all addenda thereto, the Contractor’s bid submission, and all forms required in the Bid Documents. All these documents specified in this Article 1 are hereby incorporated herein by reference and made a part hereof (hereinafter collectively referred to as the “Contract” or “Contract Documents”). Change orders issued hereafter and any other amendments properly executed by the County and the Contractor shall become and be a part of this Contract. Documents not included or expressly contemplated in this Article 1 do not, and shall not, form any part of this Contract. The Contract Documents are intended to be complementary, and a requirement in one document shall be deemed to be required in all documents.

- 1.2 Contractor shall comply with all applicable Federal, State, and Local laws which may be applicable to any aspect of its activities under this Contract. By entering into this Contract, Contractor affirmatively warrants that the Contractor, to the best of its knowledge, information, and belief, is currently in compliance with all applicable Federal, State, and Local laws and further warrants that during the term of this Contract, Contractor shall remain in compliance therewith.

- 1.3 In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the County of Florence, South Carolina will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities.

ARTICLE 2

REPRESENTATIONS OF THE CONTRACTOR

In order to induce the County to execute this Contract and recognizing that the County is relying thereon, the Contractor, by executing this Contract, makes the following express representations to the County:

- 2.1 The Contractor is fully qualified to act as the general contractor for the Project and has, and shall maintain throughout the effective term of this Contract, any and all licenses, permits, and other authorizations necessary to act as the general contractor for, and to construct, the Project.
- 2.2 The Contractor has become familiar with the Project site and the local conditions under which the Project is to be constructed and operated.
- 2.3 The Contractor has received, reviewed and examined all the documents which make up the Contract, including, but not limited to, all plans and specifications, and has found them, to the best of its knowledge, to be complete, accurate, adequate, consistent, coordinated and sufficient to complete the Project.

ARTICLE 3

SPECIFICATIONS/SCOPE OF WORK

The Contractor shall perform the work as outlined in the XX-18/19 invitation to bid document, bid plans, and all addendums thereto (if any). All work required, implied, or reasonably inferable from this Contract includes, but is not limited to, the following::

- 3.1 The Contractor will complete the entire services described in the contract documents, in accordance with the terms herein, and the Scope of Work, all as may be amended from time to time.
- 3.2 Contractor shall furnish any and all required insurance certificate(s) and endorsement(s) as requested by the County.
- 3.3 Contractor agrees to furnish all labor, supervision, materials, equipment, transportation and supplies necessary for the XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX as stated in the specifications/scope of work of Bid No. XX-18/19 and the Contractor’s response to Bid No. XX-18/19
- 3.4 Coordination of the Work and administration of this Agreement shall be by the Florence County Program Manager or his designee.

ARTICLE 4

INTENT AND INTERPRETATION

With respect to the intent and interpretation of this Contract, the County and the Contractor agree as follows:

- 4.1 This Contract (along with its exhibits and all documents incorporated herein by reference), together with the Contractor’s and Surety’s performance and payment bonds for the Project, constitute the entire and exclusive agreements between the parties with reference to the project, and said Contract supersedes any and all prior discussions, communications, representations, understanding, negotiations, or agreement.
- 4.2 Anything that may be required or reasonably inferred by the documents which make up this Contract, or any one or more of them, shall be provided by the Contractor for the Contract Price.
- 4.3 Nothing contained in this Contract shall create, nor be interpreted to create, privity or any other relationship whatsoever between the County and any person except the Contractor.
- 4.4 When a word, term or phrase is used in this Contract, it shall be interpreted or construed first, as defined herein; second, if not defined, according to its generally accepted industry meaning; and third if there is no generally accepted industry meaning, according to its common and customary usage.
- 4.5 The words “include,” “includes,” and “including,” as used in this Contract, shall be deemed to be followed by the phrase, “without limitation”.
- 4.6 The listing herein of any items as constituting a material breach of this Contract shall not imply that any other, non-listed item will not constitute a material breach of this Contract.
- 4.7 In the event of any conflict, discrepancy, or inconsistency among any of the documents which make up this Contract, the following shall control:
 - 4.7.1 As between this Contract document and any discrepancies among other conflicting or inconsistent documents, this Contract document shall govern.
 - 4.7.2 In the case of any conflict, discrepancy or inconsistency among any of the other documents, the Contractor shall notify the County immediately upon discovery of the same.

ARTICLE 5
CONTRACTOR’S PERFORMANCE

The Contractor shall perform all of the work required, implied or reasonably inferable from this Contract including, but not limited to, the following:

- 5.1 The Contractor will complete the entire Scope of Work as described in the Proposal Documents, in accordance with the specifications and terms therein and all addenda thereto, all as may be amended from time to time only by means of a change order agreed upon by both parties.
- 5.2 Contractor shall furnish any and all required surety bonds and insurance certificate(s) and endorsement(s).

ARTICLE 6
TIME FOR CONTRACTOR’S PERFORMANCE

- 6.1 The Contractor shall commence the performance of this Contract on the date of execution of this Contract and shall diligently continue its performance until the Substantial Completion of the project in no more than 30 calendar days following the issuance of the notice to proceed letter by the County. By signing this contract, the contractor agrees that the Contract Time is a reasonable time for accomplishing Completion of the Project.
- 6.2 The term “Substantial Completion,” as used herein, shall mean that point at which, as certified in writing by the County, the Project is sufficiently complete in accordance with the Contract Documents so that the County can utilize the work for its intended use.
- 6.3 The County has the right to impose liquidated damages in the amount of \$500 per calendar day for any days after the required date of completion noted above that the project is not substantially complete.

ARTICLE 7
FIXED PRICE AND CONTRACT PAYMENTS

- 7.1 The County shall pay, and the Contractor shall accept, as full and complete payment for the Contractor’s timely performance of its obligations hereunder the fixed price of _____ **Dollars (\$XX,XXX.XX)**. This price shall constitute the Contract Price.
- 7.2 When the project is complete and the Contractor is ready for a final inspection, it shall notify the County. Thereupon, the County will perform a final site inspection of the project. If the County concurs that the project is complete and in full accordance with this Contract and that the Contractor has performed all of its obligations to the County hereunder, the County will pay the Contract Price to the Contractor.

- 7.3 Guarantees and equipment warranties required by this Contract shall commence on the date of Substantial Completion.

ARTICLE 8

DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR

In addition to any and all other duties, obligations and responsibilities of the Contractor set forth in the Contract Documents, the Contractor shall have and perform the following duties, obligations and responsibilities to the County:

- 8.1 The Contractor shall not perform work without adequate plans and specifications. If the Contractor performs work knowing or believing, or if through exercise of reasonable diligence it should have known, that such work involves an error, inconsistency or omission in the Contract without first providing written notice to the County, the Contractor shall be responsible for such work and shall correct same bearing the costs therefore.
- 8.2 All work shall strictly conform to the requirements of this Contract. To that end the Contractor shall be solely responsible for and have control over the performance of all portions of the Work, unless otherwise specified in the Contract Documents.
- 8.3 The work shall be strictly supervised, the Contractor bearing full responsibility for any and all acts, errors or omissions of those engaged in the work on behalf of the Contractor, including, but not limited to all subcontractors or employees. The Contractor shall provide on-site supervision while any portion of the work is being performed.
- 8.4 The Contractor hereby warrants that all laborers furnished under this Contract shall be qualified and competent to perform the tasks undertaken, that the product of such labor shall yield only first-class results, that all materials and equipment provided shall be new (unless otherwise specified) and of high quality, that the completed work will be complete, of high quality, without defects, and that all work strictly complies with the requirements of this Contract. Any work not strictly complying with the requirements of this section shall constitute a breach of the Contractor's warranty.
- 8.5 The Contractor shall maintain the Project site and adjacent areas affected by its work and/or acts of its employees and subcontractors in a reasonably clean condition during the performance of the work. Upon substantial completion, the Contractor shall clean the Project site of all debris, trash and excess materials and equipment. If the Contractor fails to do so, the County may complete the cleanup, by its own forces or by separate contract, and shall be entitled to charge the Contractor for the same through the collection or withholding of funds through the mechanisms provided elsewhere herein.

- 8.6 At all times relevant to this Contract, the Contractor shall permit the County and its designated representative(s) to enter upon the Project site to review or inspect the work and any materials on the site without formality or other procedure.
- 8.7 **PROTECTION OF PERSONS AND PROPERTY.** It shall be the responsibility of the Contractor to initiate, continue and supervise all safety programs and precautions in performance of the terms of this Contract. The Contractor shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss to its employees, subcontractors, employees of the County and members of the public, the Work itself and unassembled components thereof, and other property at the site or adjacent thereto. As part of the Contractor's obligations hereunder, the Contractor shall erect and maintain safeguards, barriers, signs, warnings, etc.

**ARTICLE 9
INDEMNITY**

The Contractor hereby expressly agrees to indemnify and hold the County harmless against any and all expenses and liabilities arising out of the performance or default of this Contract or arising from or related to the Work as follows:

- 9.1 Contractor expressly agrees to the extent that there is a causal relationship between its negligent, reckless or intentionally wrongful action or inaction, or the negligent, reckless or intentionally wrongful action or inaction of any of its employees or any person, firm or corporation directly or indirectly employed or retained by the Contractor, and any damage, liability, injury, loss or expense (whether in connection with bodily injury or death or property damage or loss) that is suffered by the County or its employees or by any member of the public, to indemnify and save the County and its employees harmless against any and all liabilities, penalties, demands, claims, lawsuits, losses, damages, costs, and expenses arising out of the performance or default of this Contract or arising from or related to the Work, regardless of whether such liabilities, penalties, demands, claims, lawsuits, losses, damages, costs, and expenses are caused in part by the County. Such costs are to include, without limitation, defense, settlement and reasonable attorneys' fees incurred by the County and its employees. This promise to indemnify shall include without limitation, bodily injuries, death occurring to Contractor's employees and any person, directly or indirectly employed or retained by the Contractor (including without limitation any employee of any subcontractor), the County's employees, the employees of any other independent contractors, or occurring to any member of the public. When the County submits notice, Contractor shall promptly defend any aforementioned action.
- 9.2 The limits of insurance required herein shall not limit the Contractor's obligations under this Article. The terms and conditions contained in this Article shall survive the termination

of this Agreement or the suspension of the Work hereunder. The recovery of fees and costs specified herein will also apply to any actions to enforce this Article.

**ARTICLE 10
INSURANCE**

- 10.1 The successful firm(s) shall procure and maintain insurance for protection from claims under workers' compensations acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any and all employees or of any person other than such employees; claims for damages because of injury to or destruction of property, including loss of use resulting therefrom; claims caused by professional errors, acts, or omission; and any other insurance prescribed by law. The successful firm shall name Florence County, South Carolina, its elected and appointed officials, officers, and employees "Additional Insured" as their interests may appear but only with respect to services performed or provided by successful firm on behalf of the County under Consultant's commercial general liability insurance policy.
- 10.2 The successful firm shall, within 10 calendar days of the full execution of any contract, provide the County's Procurement Officer with a certificate(s) of insurance evidencing the coverage required above and containing an endorsement to the effect that any cancellation or non-renewal shall not be until 10 calendar days after the insurer or the selected firm gives written notice to the County.
- 10.3 Without limiting the provisions of paragraph above, the selected firm shall during the term of any contract resulting from this purchase and maintain insurance with limits not less than those set forth below: The successful firm(s) shall take out and maintain, during the life of the contract agreement, workers' compensation and employer's liability insurance for all employees to be engaged in services on this project under this agreement in an amount not less than \$1,000,000.00, and in case any such services are sublet, the firm(s) shall require all subcontractor(s) also to provide workers' compensation and employer's liability insurance in an amount not less than \$1,000,000.00 for all of the subcontractor's employees to be engaged in such.
- 10.3.1 Employer's Liability Insurance - \$1,000,000 each accident, \$1,000,000 disease policy limit, \$1,000,000 disease each employee.
- 10.3.2 Commercial General Liability Insurance - \$1,000,000 per occurrence (bodily injury and property damage) / \$1,000,000 general aggregate.
- 10.3.3 Automobile Liability Insurance - \$1,000,000 combined single limit (bodily injury and property damage), each accident.

ARTICLE 11

DISCOVERING AND CORRECTING DEFECTIVE OR INCOMPLETE WORK

- 11.1 In the event that the Contractor covers, conceals or obscures its work in violation of this Contract or in violation of an instruction from the County, such work shall be uncovered and displayed for review by the County upon request, and shall be reworked at not cost in time or money to the County.
- 11.2 The Contractor shall, at no cost in time or money to the County, correct work rejected by the County as defective or failing to conform to this Contract. Additionally, the Contractor shall reimburse the County for all review, inspections and other expenses incurred as a result thereof.
- 11.3 In addition to its warranty obligations set forth elsewhere herein and any manufacturer’s warranties provided on the project, and in addition to other remedies provide herein or by law to the County, the Contractor shall be specifically obligated to promptly correct any and all defective or nonconforming work, whether obvious or after-discovered, for a period of twelve (12) months following Substantial Completion upon written direction from the County.

ARTICLE 12

TERMINATION BY THE COUNTY

The County may terminate the Contract in accordance with the following terms and conditions:

- 12.1 The County may, by written notice, terminate this Contract in whole or in part at any time, for the failure to fulfill the Contract obligations. Upon receipt of such notice, services shall be immediately discontinued unless the notice directs otherwise, and all materials as may have been accumulated in performing this Contract, whether completed or in progress delivered to the County.
- 12.2 Termination due to the failure to fulfill the Contractor’s obligations may cause the County to take over the work and prosecute the same to completion by Contract or otherwise. In such case, the contractor shall be liable to the County for any additional cost occasioned to the County thereby.
- 12.3 The rights and remedies of the County provided in this Article are in addition to any other rights and remedies provided by law or under this Contract.
- 12.4 Notwithstanding any other provision contained herein, any violation or breach of terms of this Contract on the part of the Contractor or their subcontractors may result in the suspension or termination of this Contract or such other action that may be necessary to enforce the rights of the parties of this Contract. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition

to and not a limitation of any duties, obligations, rights, and remedies otherwise impose or available by law.

**ARTICLE 13
ENTIRE AGREEMENT**

Any modification to this Contract must be supported by an additional, articulated consideration, and must either be in writing, executed by the parties hereto, or, if made orally, should be confirmed in writing, which writing should state the consideration which supports the modification. Failure to confirm an oral modification in writing shall constitute a waiver of any claim for additional compensation with regard to the oral modification. Nothing in this Article shall be construed to limit the County’s authority to issue changes.

**ARTICLE 14
SEVERABILITY**

If any term or condition of this Contract or application thereof to any person(s) or circumstances is held invalid, this invalidity shall not affect other terms, conditions or applications which can give effect without the invalid term, condition, or application. To this end, the terms and conditions of this Contract are agreed to be severable

**ARTICLE 15
WAIVER**

Waiver of any breach of any term or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach, and shall not entitle any party hereto to any subsequent waiver of any terms hereunder. No term or condition of this Contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto.

**ARTICLE 16
NOTICES**

All notices to each party to this Contract shall be in writing, and sent as follows:

To County:

Patrick D. Fletcher, Procurement Director
Florence County
180 North Irby Street, MSC-R
Florence, SC 29501
Telephone: (843) 665-3019 E-mail: pfletcher@florenceco.org
Fax: (843) 664-9668

To Contractor:

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Telephone: (XXX) XXX-XXXX E-mail: XXXXXXX@XXXXXXX
Fax: (XXX) XXX-XXXX

All notices, demands, requests, consents or approvals that may or are required to be given by any party to another shall be in writing and shall be deemed given if: (i) served personally by hand delivery; (ii) sent by nationally-recognized overnight courier with return receipt; or (iii) sent by Unites States registered or certified mail, by depositing the same in the United States Mail in the continental United States, postage prepaid, return receipt requested and addressed to such other party at the address specified above or at such other place as such other party may from time to time designate by notice in writing to the other parties hereto. Rejection or other refusal to accept a notice, demand, request or consent, or the inability to deliver because of a changed address, of which no notice was given, shall be deemed to be actual receipt thereof. In the event given by registered or certified mail, such notice, demand, request, or consent so mailed shall be effectively conveyed upon receipt or shall be presumed to have been effectively conveyed and received by the addressee 72 hours after deposit of same in the mail, whichever first occurs.

**ARTICLE 17
APPLICABLE LAW**

The laws of South Carolina shall govern this Contract. In any litigation arising under this Contract, all such litigation shall be litigated in the Circuit Court within the Twelfth Judicial Circuit Court of Florence County, South Carolina. Without limitation upon the prevailing party’s rights to recovery such fees and costs, the relevant provisions of Section 15-37-10 et seq. of the Code of Laws of South Carolina (1976, as amended) shall apply to this Article, as the case may warrant. This Contract is **not** subject to arbitration.

**ARTICLE 18
SUCCESSOR AND ASSIGNS**

Each party binds itself, it successor, assigns, executors, administrators or other representative to the other party hereto and to successors, assign, executors, administrators or other representatives of such other party in connection with all terms and conditions of this Contract. The Contractor shall not assign this Contract without prior written consent of the County

IN WITNESS WHEREOF, the parties have executed this Agreement in two originals on the day and year written on the first page of this agreement.

WITNESSETH:

FOR CONTRACTOR:

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Federal Tax I.D. No.: XX-XXXXXX

SC Contractor's License Number: XXXXXX

FOR FLORENCE COUNTY:

Patrick D. Fletcher, CPPB
Procurement Director

K. G. (Rusty) Smith
Florence County Administrator