



State of South Carolina

Invitation For Bid
EXEMPT

Solicitation: 5400012285
 Date Issued: 10/25/2016
 Procurement Officer: SCOTT DOBEREINER
 Phone: 803-737-1484
 E-Mail Address: dobereinersa@scdot.org
 Mailing Address: SCDOT Procurement Office
 PO Box 191
 Columbia SC 29202-0191

DESCRIPTION: ***On Call Tree Removal - Oconee County**

USING GOVERNMENTAL UNIT: **SC Department of Transportation**

SUBMIT YOUR OFFER ON-LINE AT THE FOLLOWING URL: <http://www.procurement.sc.gov>

SUBMIT OFFER BY (Opening Date/Time): **11/14/2016 14:30:00** (See "Deadline For Submission Of Offer" provision)

QUESTIONS MUST BE RECEIVED BY: **11/04/2016 12:00:00** Send questions to dobereinersa@scdot.org

(See "Questions From Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED: **See Page 3**

CONFERENCE TYPE: Not Applicable DATE & TIME: <small>(As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)</small>	LOCATION: Not Applicable
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AWARD & AMENDMENTS	Award will be posted on 11/28/2016 . The award, this solicitation, any amendments, and any related notices will be posted at the following web address: http://www.procurement.sc.gov
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You must submit a signed copy of this form with Your Offer. By signing, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date. (See "Signing Your Offer" provision.)

NAME OF OFFEROR <small>(full legal name of business submitting the offer)</small>	Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.
AUTHORIZED SIGNATURE <small>(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</small>	DATE SIGNED
TITLE <small>(business title of person signing above)</small>	STATE VENDOR NO. <small>(Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)</small>
PRINTED NAME <small>(printed name of person signing above)</small>	STATE OF INCORPORATION <small>(If you are a corporation, identify the state of incorporation.)</small>

OFFEROR'S TYPE OF ENTITY: (Check one)	<small>(See "Signing Your Offer" provision.)</small>
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Partnership
<input type="checkbox"/> Corporate entity (not tax-exempt)	<input type="checkbox"/> Corporation (tax-exempt)
<input type="checkbox"/> Other _____	<input type="checkbox"/> Government entity (federal, state, or local)

PAGE TWO

(Return Page Two with Your Offer)

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause)
	Area Code - Number - Extension Facsimile
	E-mail Address

PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause)	ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses)
___ Payment Address same as Home Office Address ___ Payment Address same as Notice Address (check only one)	___ Order Address same as Home Office Address ___ Order Address same as Notice Address (check only one)

ACKNOWLEDGMENT OF AMENDMENTS
 Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See "Amendments to Solicitation" Provision)

Amendment No.	Amendment Date	Issue									

DISCOUNT FOR PROMPT PAYMENT (See "Discount for Prompt Payment" clause)	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	___ Calendar Days (%)
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PREFERENCES - A NOTICE TO VENDORS (SEP. 2009): On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at www.procurement.sc.gov/preferences. ***ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT. VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES.*** [11-35-1524(E)(4)&(6)] *****PREFERENCES DO NOT APPLY*****

PREFERENCES - ADDRESS AND PHONE OF IN-STATE OFFICE: Please provide the address and phone number for your in-state office in the space provided below. An in-state office is necessary to claim either the Resident Vendor Preference (11-35-1524(C)(1)(i)&(ii)) or the Resident Contractor Preference (11-35-1524(C)(1)(iii)). Accordingly, you must provide this information to qualify for the preference. An in-state office is not required, but can be beneficial, if you are claiming the Resident Subcontractor Preference (11-35-1524(D)).

*****PREFERENCES DO NOT APPLY*****

___ In-State Office Address same as Home Office Address ___ In-State Office Address same as Notice Address **(check only one)**

INSTRUCTIONS FOR OFFERORS SUBMITTING BIDS ONLINE

All Offerors desiring to respond to this solicitation can register and submit their response online. To respond online, Offeror must follow the new South Carolina Enterprise Information System (SCEIS) vendor registration instructions found at the South Carolina Procurement Information Center website address of: <http://www.procurement.sc.gov>. If Offeror is registered in the old procurement system, Offerors must register or update their information in the new SCEIS system. Once the registration process is complete, the system will generate a new SCEIS vendor user id and password. The Offeror must keep this information current or the Offeror will not be able to submit future bids online.

Offerors will need to follow these instructions carefully when responding to the solicitation online.

1. The original solicitation response should be submitted online and it will be the official response.
2. All Offerors must attach all additional requested documents to their response in the online system. These documents can be attached under the “**Notes and Attachments**” tab of the online solicitation either on the main page or under the necessary line item.

OFFERORS ENCOUNTERING REGISTRATION PROBLEMS SHOULD CONTACT:

DSIT Help Desk (803) 896-0001, Select Option 1, then Option 2
Monday – Friday 8:00 A.M. – 4:30 P.M. (EST)

Offeror instructions can be found at:

<http://procurement.sc.gov/PS/vendor/PS-vendor-submitting-offers.phtm>

NOTICE

- To submit bids vendors must use Internet Explorer 8, 9 or 10, which is compatible with SAP. Other browsers such as Internet Explorer 11, Google Chrome, or Mozilla Firefox will not function properly and may prohibit bid submissions.
- **It will be the responsibility of each bidder to ensure that their response was submitted properly. The Response Status must indicate 'Submitted'. If the response is in a 'HELD' or 'SAVED' status, you MUST go back in the system and submit the response before it can be 'ACCEPTED' by the State.**
- Bidders are encouraged to review the '[Simulation for Bid Creation](#)' before trying to submit their response.
- Electronic bid submission (SRM Login) – <https://vendorportal.sc.gov/irj/portal>
- Submitting Confidential Data - <http://procurement.sc.gov/PS/legal/PS-legal-general-info.phtm>

INSTRUCTIONS FOR OFFERORS SUBMITTING HARD COPY BIDS

Mailing Address:

SCDOT Procurement Office
P.O. Box 191 – Room 101
Columbia, S.C. 29202-0191

Physical Address:

SCDOT Procurement Office
955 Park Street – Room 101
Columbia, S.C. 29201-3976

1. Offerors shall submit their bid in a sealed package.
2. The solicitation number and opening date must appear on the package exterior.
3. Offerors shall submit one (1) copy.

PLEASE NOTE THAT IF TERMS AND CONDITIONS ARE OBJECTED OR QUALIFIED OR OFFEROR INCLUDES ADDITIONAL TERMS AND CONDITIONS TO BE CONSIDERED, THE OFFER WILL BE DEEMED NON-RESPONSIVE AND WILL BE ELIMINATED FROM FURTHER CONSIDERATION.

IF YOU QUALIFY YOUR OFFER WITH A STATEMENT LIKE: “THIS IS NOT AN OFFER”, YOU WILL BE DEEMED NON-RESPONSIVE AND ELIMINATED FROM FURTHER CONSIDERATION.

OFFEROR BID SUBMISSION VALIDATION

After submitting an online response to a solicitation, Offerors may validate their submission with the following steps:

STEP 1: Go back to the initial **'Rfx and Auctions'** screen

The screenshot shows the SAP Rfx and Auctions interface. The table below lists various events with their details. The row for event 5400006796 is highlighted, showing a response number of 5500029632 and a status of Submitted. Red arrows point to the Refresh button and the Submitted status.

Event Number	Event Description	Event Type	Event Status	Start Date	End Date	Response Number	Response Status	Event Version	Response Version	Q&A	Start Time	End time
5400006906	Computer Replacement for SCGOV	Request for Proposal	Published	11/06/2013	11/06/2013		No Bid Created	2		0	00:00:00	14:00:00
5400006905	Computer Room Upgrade Project	Request for Proposal	Published	11/06/2013	11/06/2013		No Bid Created	2		0	00:00:00	15:00:00
5400006893	RAY44228 11/04/2013 09:48:49	Invitation For Bid	Published	11/06/2013	11/06/2013		No Bid Created	1		0	00:00:00	11:00:00
5400006887	Whiteboard Stand	Invitation For Bid	Published	11/15/2013	11/15/2013		No Bid Created			0	00:00:00	10:00:00
5400006796	Computer Room Upgrade Project	Invitation For Bid	Published	11/05/2013	11/05/2013	5500029632	Submitted			0	00:00:00	17:00:00
5400006771	Homemaker Services	Request for Proposal	Published	01/25/2014	01/25/2014		No Bid Created	3		0	00:00:00	14:00:00
5400006687	Web Site Design Project	Request for Proposal	Published	11/06/2013	11/06/2013		No Bid Created	7		0	00:00:00	17:00:00
5400006328	DSS FPB Technical Assistance & Support	Fixed Price Bid	Published	06/30/2018	06/30/2018		No Bid Created	5		0	00:00:00	11:00:00
5400006269	FPB TO PROVIDE MULTI AGENCY COMMUNITY BA	Fixed Price Bid	Published	05/31/2014	05/31/2014		No Bid Created	3		0	00:00:00	11:30:00
5400006008	Xirrus Network Products & Services	Fixed Price Bid	Published	08/19/2018	08/19/2018		No Bid Created	3		0	00:00:00	14:30:00

STEP 2: Select the **'Refresh'** button to update the screen.

STEP 3: Make sure the Rfx you responded to, has your specific bid response number **'55xxxxxxx'** displayed in the Response Number column and the Response Status column has a status of **'Submitted'** before you log off.

NOTE: You also have the ability to print out a copy of your submission by selecting the **'Print Preview'** button after your offer has been submitted.

The screenshot shows the 'Display RFX Response' screen. The Rfx Response Number is 5500029632, the Rfx Number is 5400006796, and the Status is Submitted. The Rfx Response Version Number is Active Version and the Rfx Version Number is 8.

RFx Response Number	RFx Number	Status
5500029632	5400006796	Submitted

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I. SCOPE OF SOLICITATION

The South Carolina Department of Transportation (SCDOT) is soliciting for On-Call Tree Removal Services in Oconee County. This will include cutting and leaving, cutting and removing, and cutting, removing, and stump grinding depending on the direction of the Resident Maintenance Engineer (RME) or his designee, in accordance with specifications herein.

This solicitation is exempt pursuant to 11-35-710 (1).

ACQUIRE SERVICES

The purpose of this solicitation is to acquire services complying with the enclosed description and/or specifications and conditions.

MAXIMUM CONTRACT PERIOD – ESTIMATED

Start date: 11/29/2016 End date: 11/28/2021. Dates provided are estimates only. Any resulting contract will begin on the date specified in the notice of award. See clause entitled "Term of Contract - Effective Date/Initial Contract Period".

II. INSTRUCTIONS TO OFFERORS - A. GENERAL INSTRUCTIONS

DEFINITIONS, CAPITALIZATION, AND HEADINGS

CLAUSE HEADINGS USED IN THIS SOLICITATION ARE FOR CONVENIENCE ONLY AND SHALL NOT BE USED TO CONSTRUE MEANING OR INTENT. EVEN IF NOT CAPITALIZED, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION, UNLESS EXPRESSLY PROVIDED OTHERWISE.

AMENDMENT means a document issued to supplement the original solicitation document.

AUTHORITY means the State Fiscal Accountability Authority or its successor in interest.

BUSINESS means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity.

CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

CONTRACT See clause entitled Contract Documents & Order of Precedence.

CONTRACT MODIFICATION means a written order signed by the procurement officer, directing the contractor to make changes which the clause of the contract titled "Changes," if included herein, authorizes the Procurement Officer to order without the consent of the contractor.

CONTRACTOR means the Offeror receiving an award as a result of this solicitation.

COVER PAGE means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.

INCLEMENT WEATHER means any time during the allowed hours of operation whereby weather or conditions due to weather: 1) prevents safe performance of the activity (e.g., impaired visibility, slippery conditions), 2) performing the activity will likely result in damage to SCDOT property (e.g., equipment-induced ruts in soil surface due to wet/soggy conditions), or 3) prevents the work from being performed satisfactorily to meet the requirements of the specifications. The minimum increment of inclement weather is ½ day.

OFFER means the bid or proposal submitted in response this solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.

OFFEROR means the single legal entity submitting the offer. The term Bidder is used interchangeably with the term Offeror. See bidding provisions entitled Signing Your Offer and Bid/Proposal As Offer To Contract.

PAGE TWO means the second page of the original solicitation, which is labeled Page Two.

PROCUREMENT OFFICER means the person, or his successor, identified as such on either the Cover Page, an amendment, or an award notice.

YOU and YOUR means Offeror.

SOLICITATION means this document, including all its parts, attachments, and any Amendments.

STATE means the Using Governmental Unit(s) identified on the Cover Page.

SUBCONTRACTOR means any person you contract with to perform or provide any part of the work.

US or WE means the using governmental unit.

USING GOVERNMENTAL UNIT means the unit(s) of government identified as such on the Cover Page. If the Cover Page identifies the Using Governmental Unit as "Statewide Term Contract," the phrase "Using Governmental Unit" means any South Carolina Public Procurement Unit that has submitted a Purchase Order to you pursuant to the contract resulting from this solicitation. Reference the clauses titled "Purchase Orders" and "Statewide Term Contract."

WORK means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract.

AMENDMENTS TO SOLICITATION

(a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of Amendments: www.procurement.sc.gov (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

AUTHORIZED AGENT

All authority regarding this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement or the resulting contract.

AWARD NOTIFICATION

Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, any notice of extension of award. Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation.

BID/PROPOSAL AS OFFER TO CONTRACT

By submitting Your Bid or Proposal, You are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed.

BID ACCEPTANCE PERIOD

In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing.

BID IN ENGLISH and DOLLARS

Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation.

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.

(a) By submitting an offer, the offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-

- (i) Those prices;
- (ii) The intention to submit an offer; or
- (iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or

(2)(i) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal];

(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not

participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

(c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS

(a) (1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-

(i) Offeror and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offer must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default.

CODE OF LAWS AVAILABLE

The South Carolina Code of Laws is available at:

<http://www.scstatehouse.gov/code/statmast.php>

The South Carolina Regulations are available at:

<http://www.scstatehouse.gov/coderegs/statmast.php>

DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE

You warrant and represent that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If you have an unfair competitive advantage or a conflict of interest, the state may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered. Without limiting the foregoing, you represent that your offer identifies any services that relate to either this solicitation or the work and that has already been performed by you, a proposed subcontractor, or an affiliated business of either.

DEADLINE FOR SUBMISSION OF OFFER

Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental body's mail room which services that purchasing office prior to the opening.

DRUG FREE WORK PLACE CERTIFICATION

By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

DUTY TO INQUIRE

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention. See clause entitled "Questions from Offerors."

ETHICS CERTIFICATE

By submitting an offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed.

IRAN DIVESTMENT ACT - CERTIFICATION

(a) The Iran Divestment Act List is a list published by the Authority 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.

OMIT TAXES FROM PRICE

Do not include any sales or use taxes in Your price that the State may be required to pay.

OPEN TRADE REPRESENTATION

By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, which includes World Trade Organization members and those with which the United States has free trade or other agreements aimed at ensuring open and nondiscriminatory trade relations.

PROTESTS

Any prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest within five days of the date of issuance of the applicable solicitation document at issue. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the award of a contract shall protest within five days of the date notification of award is posted. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the SCDOT Chief Procurement Officer within the time provided. See clause entitled "Protest-CPO".

PROHIBITED COMMUNICATIONS AND DONATIONS

Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of law.

(a) During the period between publication of the solicitation and final award, *you must not communicate, directly or indirectly, with the Using Governmental Unit or its employees, agents or officials regarding any aspect of this procurement activity*, unless otherwise approved in writing by the Procurement Officer. All communications must be solely with the Procurement Officer.

(b) *You represent that your offer discloses any gifts made, directly or through an intermediary, by you or your named subcontractors to or for the benefit of the Using Governmental Unit during the period beginning eighteen months prior to the Opening Date.*

PUBLIC OPENING

Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable.

QUESTIONS FROM OFFERORS

(a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions regarding the original solicitation or any amendment must be received by the Procurement Officer no later than five (5) days prior to opening unless an earlier date is stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. See clause entitled "Duty to Inquire." **We will not identify you in our answer to your question.** (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer -- as soon as possible -- regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition.

REJECTION/CANCELLATION

The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part.

RESPONSIVENESS/IMPROPER OFFERS

(a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

(b) Multiple Offers. Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted as a separate document. If this solicitation is a Request for Proposals, multiple offers may be submitted as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal for each offer, if applicable.

(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer.

(d) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price.

(e) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(f) **Do not submit bid samples or descriptive literature unless expressly requested.** Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the solicitation.

SIGNING YOUR OFFER

Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words by its Partner, and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal.

STATE OFFICE CLOSINGS

If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the government office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at: <http://www.scemd.org>.

SUBMITTING CONFIDENTIAL INFORMATION

(An overview is available at www.procurement.sc.gov) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, which is information in specific detail not customarily released to the general public, the release of which might cause harm to the competitive position of the party supplying the information. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is submitted pursuant to information requested by the procurement officer to determine responsibility. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its agencies, officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from withholding information by the State of South Carolina or any of its agencies, that Offeror marked as "confidential" or "trade secret" or "PROTECTED". (All references to S.C. Code of Laws.)

SUBMITTING A PAPER OFFER OR MODIFICATION

Unless specifically instructed otherwise in the solicitation, you should submit your offer or modification in accordance with the clause titled "ON-LINE BIDDING INSTRUCTIONS." Paper offers are discouraged. If you must submit a paper offer or modification the following instructions apply. (a) All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (b) (1) All copies of the offer or modification, and any other documents required to be submitted with the offer shall be enclosed in a sealed, opaque envelope or package. (2) Submit your offer or modification to the address on the Cover Page. (3) The envelope or package must show the time and date specified for opening, the solicitation number, and the name and address of the bidder. If the offer or modification is sent by mail or special delivery service (UPS, Federal Express, etc.), the outermost envelope or wrapper must be labeled "OFFER ENCLOSED" on the face thereof. (c) If you are responding to more than one solicitation, submit each offer in a separate envelope or package. (d) Submit the number of copies indicated on the Cover Page. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation.

TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES

Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor. The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888.

Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498.

VENDOR REGISTRATION MANDATORY

You must have a state vendor number to be eligible to submit an offer. To obtain a state vendor number, visit www.procurement.sc.gov and select New Vendor Registration. (To determine if your business is already registered, go to "Vendor Search"). Upon registration, you will be assigned a state vendor number. Vendors must keep their vendor information current. If you are already registered, you can update your information by selecting Change Vendor Registration. (Please note that vendor registration does not substitute for any obligation to register with the S.C. Secretary of State or S.C. Department of Revenue. You can register with the agencies at <http://www.scbos.com/default.htm>).

WITHDRAWAL OR CORRECTION OF OFFER

Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

II. INSTRUCTIONS TO OFFERORS -- B. SPECIAL INSTRUCTIONS

CLARIFICATION

The Procurement Officer may elect to communicate with you after opening for the purpose of clarifying either your offer or the requirements of the solicitation. Such communications may be conducted only with offerors who have submitted an offer which obviously conforms in all material aspects to the solicitation. Clarification of an offer must be documented in writing and included with the offer. Clarifications may not be used to revise an offer or the solicitation.

ON-LINE BIDDING INSTRUCTIONS

(a) Mandatory Registration. You must register before you can submit an offer on line! See clause entitled "VENDOR REGISTRATION MANDATORY."

(b) Steps for On-Line Bidding

1 The link provided on the solicitation's Cover Page will take you to our web based on-line bidding system, where you will enter and/or upload your offer.

2 Follow the general user instructions posted at www.procurement.sc.gov under the heading "Submitting Offers."

3 Confirm your offer has a status of "submitted" by refreshing the "RFx and Auctions" screen.

Only offers with a status of "submitted" have been received by the State.

Offers with a status of "saved" have not been received.

4 Save or print a copy of your offer using the "Print Preview" button after your offer has been submitted.

PROTEST - CPO – SCDOT CPO ADDRESS

Any protest must be addressed to the SCDOT Chief Procurement Officer, South Carolina Department of Transportation, and submitted in writing

(a) by email to BartonSD@scdot.org,

(b) by facsimile at 803-737-2046, or

(c) by post or delivery to PO Box 191, Columbia, SC 29202 or 955 Park St, Room 304, Columbia, SC 29201.

UNIT PRICES REQUIRED

Unit price to be shown for each item.

III. SCOPE OF WORK/SPECIFICATIONS

The South Carolina Department of Transportation (SCDOT) is soliciting for On-Call Tree Removal Services in Oconee County. This will include cutting and leaving, cutting and removing, and cutting, removing, and stump grinding depending on the direction of the Resident Maintenance Engineer (RME) or his designee.

Section 1 – General Requirements

On-Call Tree Removal shall be performed according to the following:

- 1.1 Provide all implements, machinery, equipment, tools, materials, transportation, mobilization, labor, licenses, bonding, fuel, incidentals, work zone traffic control, and any other items necessary to perform **On-Call Tree Removal** and the associated activities described in these specifications.
- 1.2 Provide traffic control in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and NCHRP 350 Standards.
<http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1r2edition.pdf>
http://www.scdot.org/doing/technicalPDFs/publicationsManuals/trafficEngineering/NCHRP350List_ALL2.pdf
- 1.3 Preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the site of the work, which are not to be removed and which do not unreasonably interfere with the work. Due care shall be taken at all times in removing trees authorized for removal to avoid damage to vegetation that is to remain in place. Any damage to adjacent property caused by the vendor's operations shall be repaired and restored to the satisfaction of the engineer. Damage Claims shall be handled as outlined in Section 4.5 and 4.6 of this contract. Failure of the vendor to resolve damage claims issues in an appropriate and timely manner as determined by the Engineer shall serve as grounds for suspending work and placing the vendor in delinquent status until such issues have been resolved.
- 1.4 Protect from damage all existing improvements within the work site, which include but are not limited to: signs, fences, guardrail, and drainage structures. Damage Claims shall be handled as outlined in Section 2.9 and 2.10 of this contract.
- 1.5 Nothing in this contract should be construed as authorizing use of mechanical equipment solely in removing all of the trees covered by this contract. In fact, it may be necessary for some portion of these trees to be removed by hand because of the size and to avoid excessive damage to other vegetation or existing facilities.
- 1.6 The contractor will be responsible for disposal of all debris at an approved off-site disposal area or areas and for the obtaining of any federal, state, or local permits that may be required. All tipping or other disposal fees shall be paid by the contractor. The South Carolina Department of Health and Environmental Control (SCDHEC) can assist the contractor in locating pre-approved disposal sites and/or methods for each county in South Carolina.
- 1.7 The contractor, at his discretion, may elect to dispose of some of the smaller debris by mechanical chipping. If the contractor uses this option, the chipped material shall be blown out and scattered within the right-of-way as mulch. The accumulated chipped material shall be spread by hand or mechanical means in a lift or blanket not to exceed ¾ of an inch. No chipped material will be allowed to remain on any portion of the paved travel ways or shoulders or on the right-of-way in front of residential/commercial property.
- 1.8 Provide personnel with Personal Protective Equipment (PPE). Failure to provide proper PPE and use of this equipment shall be grounds for the Engineer to suspend work until compliance is met.
- 1.9 Provide personnel with a list of emergency telephone numbers. Failure to produce this list on the project shall be grounds for the Engineer to suspend work until such a list is provided by the vendor for each work crew.
- 1.10 The Department prohibits the Contractor or any Subcontractor from storing material and equipment adjacent to a roadway in an unsafe manner. The Contractor shall always store material and equipment at the greatest possible distance from the adjacent edge of pavement when the right-of-way and space is available. Also, the Contractor should utilize areas protected by guardrail or temporary concrete barrier when available. On roadways with limited right-of-way, the Contractor shall store material and equipment no closer than 15' from the adjacent edge of pavement when space is available. Whenever space is limited and the 15' distance is unavailable, the Contractor

shall store material and equipment at the greatest possible distance from the adjacent edge of pavement and supplement the complete lengths of these areas with portable plastic drums spaced at 5' intervals. These requirements for storage of material and equipment shall also apply to parking of employees' personal vehicles and storage of portable sign supports and other traffic control devices when not in use.

- 1.11 It is the **Contractor's responsibility to have all utilities located** prior to beginning any work and coordinate with utility companies to move them as necessary.
- 1.12 The contractor shall take special care during the course of this work to avoid damage to the existing roadway surface, sidewalks, and curbs. The contractor shall avoid placing heavy equipment on sidewalks and curbs that will cause damage to these structures. Any damage caused by the vendor's operations shall be repaired and restored to the satisfaction of the engineer. Damage Claims shall be handled as outlined in Section 4.5 and 4.6 of this solicitation.
- 1.13 The contractor shall take special care to avoid damage to existing roadway shoulders, side ditches, outfalls, other watercourses and drainage structures. Damage in this case shall also include the fillings of previously open ditches, watercourses or drainage structures with soil or debris. Any damage caused by the vendor's operations shall be repaired and restored to the satisfaction of the engineer. Damage Claims shall be handled as outlined in Section 4.5 and 4.6 of this contract.
- 1.14 The contractor shall keep the work sites clean and free from an accumulation of debris or materials during service. At completion of work, the entire right-of-way, facility and premises shall be left clean. All accumulations of trash and other materials, which are not to be used in the service, must be removed from the premises on a daily basis.
- 1.15 Emergency call-outs could occur at any time (day, night, and/or weekends). Emergency call-outs will only occur when authorized by the Engineer.
- 1.16 **The SCDOT reserves the right to dictate the order in which tree removal operations take place. The contractor shall provide a daily work schedule of all tree removal activity.**
- 1.17 The contractor without additional cost to the state shall fill holes in the ground caused by the removal of trees and stumps.
- 1.18 No trees and/or debris shall be removed from or left on private property unless specifically directed to do so by the engineer.

Failure of the Contractor to adhere to these requirements constitutes non-compliance.

The Contractor must adhere to the rules and regulations of the sections of the latest edition of the **South Carolina Department of Transportation Standard Specifications for Highway Construction** (hereinafter called **Standard Specifications**) referred to herein. http://www.scdot.org/doing/doingPDFs/2007_full_specbook.pdf

Section 2 – Work Expectations and Limitations

2.1 Activity Start Date

The Contractor shall begin the activity on the start date announced by the Engineer, unless inclement weather occurs on that date as determined by the Engineer. Work may begin prior to the announced start date only if the Engineer approves. Failure of the Contractor to adhere to these requirements constitutes non-compliance. In addition, failure of the Contractor to begin work on (or before) the announced start date will result in a non-refundable deductions for each business day past the announced start date until work begins.

2.2 Activity by SCDOT Forces

SCDOT reserves the right to perform **Tree Removal** within its right-of-way at any time during the life of the contract using its forces.

2.3 Worker Safety

The Contractor shall be responsible for the safety and health of all [his/her] workers on the job and shall comply with all applicable provisions of the Occupational Safety and Health Act (OSHA as well as state regulations, and the worker safety requirements specified in the current edition of the *Work Zone Safety Guidelines for the South Carolina Department of Transportation, Municipalities, Counties, Utilities, and Contractors*. This document is available on the following SCDOT internet website: <http://www.scdot.org/doing/trafficengineering.shtml>

For specific worker safety requirements, the bidder/Contractor should contact the South Carolina Department of Labor, Licensing and Regulation (<http://www.llr.state.sc.us/>).

a. Work Site Conditions

The contractor shall maintain all sites involved in this tree service contract in a clean condition at all times. The contractor shall take proper measures and use proper work practices to protect utilities and adjacent equipment and systems from damage. There are some sites in this project where direct contact with utilities, most of which is underground, is possible during the performance of this work. The contractor shall contact P.U.P.S. (Palmetto Utility Protection Services) 1-888-721-7877 before any work begins on any site to determine the presence of utilities. All utilities shall be protected from damage by the contractor, and if damaged by the contractor, shall be repaired to the SCDOT's and the utility company's satisfaction by the contractor. All cost associated with the repair, interruption of service, etc. shall be that of the contractor.

Failure of the Contractor to adhere to these requirements constitutes non-compliance.

2.5 Work Progression and Completion

Section 108.03 of the **Standard Specifications** shall apply. Work shall be performed diligently with sufficient personnel and equipment to ensure the completion of the activity (and associated activities) within **10 business days** of being notified of Tree(s) Removal. Suspension of work by the Contractor, for reasons other than inclement weather constitutes non-compliance. Failure to complete the activity within the time allowed constitutes non-compliance and will result in a non-refundable deduction as outlined Section 3 of these specifications.

2.5.1 Inspection By Regulatory Agencies: Work described herein may be subject to inspection by other State and Local regulatory agency inspection or review teams. Contractor personnel shall be knowledgeable concerning the work, equipment or operational procedures being inspected. The contractor shall participate in responding to all requests for information, and inspection or review findings by regulatory agencies.

2.6 Preservation and Restoration of Property, Tree, Monuments, Etc.

Section 107.16 of the **Standard Specifications** shall apply.

2.7 Forest Protection

Section 107.17 of the **Standard Specifications** shall apply.

2.8 Third Party Liability

Section 107.19 of the **Standard Specifications** shall apply.

2.9 Negligent Operation – Damage to SCDOT Property

Negligent operation by the Contractor that results in damage to SCDOT property shall result in a non-refundable deduction charge per incident at the current rate AND a charge of the actual cost incurred by SCDOT to repair the damage.

Examples of damage to SCDOT property due to negligent operation include but are not limited to:

- damage to non-target roadside vegetation (e.g., landscape or wildflower plots)
- damage to a roadside appurtenance (e.g., signs, guardrails, cable rail, culvert pipes, catch basins, manhole covers, etc.)
- damage to the road surface

The Contractor shall not attempt to repair damage to any SCDOT property.

The Engineer shall verbally notify the Contractor by the next business day of damage sustained by SCDOT property (See Section 4.3). Within ten (10) business days following the incident, the Engineer will notify the Contractor in writing of damage sustained by SCDOT property as well as the associated cost to repair the damage. The notification shall be accompanied with photographs of the damage along with the **NOTICE OF DAMAGED SCDOT PROPERTY FORM (Appendix 3)**. The liquated damage charge and the repair cost shall be included as a deduction (i.e., a line item credit due SCDOT) on the Contractor’s invoice. Any disagreements pertaining to damage or deduction shall be resolved prior to submittal of the invoice. The Engineer will not accept the invoice for payment until all deductions for damage are listed on the invoice.

2.10 Negligent Operation – Damage to Third Party Property

Negligent operation that results in damage sustained by a third party’s property, requires receipt of a claim from the third party. Refer to Section 4.5 of these specifications for the claims process for damage sustained by a third party.

Examples of damage to third party property due to negligent operation include but are not limited to:

- damage to private real property, such as non-SCDOT vegetation
- damage to a mailbox(es)
- damage to a driveway(s)
- damage to a third party vehicle or property
- damage to a utility feature

Section 3 – Non-Compliance/Non-Refundable Deductions/Payment

In some cases as indicated in these specifications, Non-Refundable Deductions may be assessed in addition to non-compliance.

A summary of all potential deductions is provided below.

TABLE OF NON-COMPLIANCE ITEMS			
Category	Item	Specification	Non-Refundable Deduction Amount
A	Inclement Weather	4.4	\$500 per offense
A	Pre-Performance Meeting	Section VII-B	\$500 per offense
A	Negligent Operations – Damage to SCDOT Property	2.9	\$500 per offense + repair cost
B	Activity Start date	2.1	\$500 per business day until work begins
B	Work Progression (i) and Completion (ii)	2.5	(i) \$750 per business day that work is suspended (ii) \$750 per business day until work is complete
B	Work Zone Traffic Control	6.0	\$750 per offense

3.1 Acceptance

The provisions for partial acceptance for a unit of the project as set forth in **Section 105.15**; paragraph (a) of the **Standard Specifications** shall apply.

Method of Measurement: The Engineer and the Contractor will agree on the size of the tree before the tree is cut. The size of the tree is determined by the diameter of the tree trunk 5 feet above the lowest point of ground.

3.2 Payment

Payment to the Contractor for the work covered in this contract will be per TREE per size for all work satisfactorily completed as outlined in Scope of Work and determined by the Engineer.

Upon completion of the tree removal the contractor will be paid the contract unit price per tree per size of the work completed and accepted by the Engineer, per the line items described in **Bid Schedule**.

The Contractor shall request payment by submitting to the Engineer a properly prepared invoice for accepted work. It must contain the company name, address, phone number, and some sort of tracking number system for future reference. The invoice shall include corrections and any deductions for non-refundable deductions, repair costs, or claims as determined/approved by the Engineer.

Section 4 - Engineer Responsibilities

The Engineer shall be responsible for:

- Establishing the start date for **On-Call Tree Removal** (Section 4.1)
- Inspecting all equipment prior to and during each activity (Section 4.2)
- Monitoring Contractor performance (Section 4.3)
- Determining Inclement Weather (Section 4.4)
- Receiving and processing related claims (Section 4.5)
- Receiving and processing invoices (Section 3.2)

4.1 Activity Start Date

The Engineer shall announce the activity start date to the Contractor in writing. The written announcement shall be postmarked or facsimile date-stamped at least ten (10) business days prior to the start date. Refer to **Section 2.1** for more information about the activity start date.

4.2 Equipment Inspection

Prior to and during any activity by the Contractor, the Engineer shall inspect all equipment to verify that it is appropriate for the activity to be performed and that it meets all specifications described in **Section 5.0 and Section 6.3**. The Engineer shall direct the Contractor to suspend activity if at any time equipment does not meet the specifications described herein. No work may proceed until the deficiency is corrected.

4.3 Monitoring Contractor Performance

The Engineer shall monitor/inspect the performance of the Contractor **DAILY** (i.e., each business day that the Contractor is actively working) to ensure that the activity or associated activity meets the requirements presented in these specifications. **The Engineer shall also maintain a DAILY log or diary of pertinent information such as communication with the Contractor, weather conditions, complete and incomplete work, etc. The Engineer shall document relevant contract information in the SCDOT Highway Maintenance Management System (HMMS). The Engineer shall direct the Contractor to take immediate action to correct any Work Zone Traffic Control deficiency. The Engineer shall communicate to the Contractor within one business day: 1) any substandard performance, 2) any work ACCEPTED (see Section 3.1), and 3) any SCDOT property damage (see Section 2.9). Substandard work (i.e., any performance deficiency) must be corrected by the next business day. The Engineer shall not direct the Contractor to correct a performance deficiency, if more than three business days has elapsed from the time the work was performed. Once the work has been accepted by the Engineer, the Engineer cannot request the Contractor to perform more work on that tree.**

4.4 Determining Inclement Weather

The Engineer shall advise the Contractor of approved inclement weather days as they occur. The Engineer shall document this in the log or diary and in HMMS. Refer to **DEFINITIONS, CAPITALIZATION, AND HEADINGS on page 8** for information regarding inclement weather.

4.5 Claims (Third Party Property Damage)

The Contractor will indemnify and hold harmless SCDOT and all of its officers, agents, and employees from all suits or claims for property damage pursuant to Section 107.18 of the Standard Specifications. The Engineer shall be responsible for receiving and processing third party property damage claims resulting from **On-Call Tree Removal** activities performed by the Contractor. If the Contractor is approached by a third party claimant, the Contractor shall direct the claimant to contact the local SCDOT office to file a claim.

The Engineer shall:

- Provide the claimant a **SCDOT DAMAGE CLAIM FORM (Appendix 1)**
- Obtain a digital photograph of the damage
- Investigate the alleged incident

Within five (5) business days upon receipt of the completed **SCDOT DAMAGE CLAIM FORM**, the Engineer shall provide to the SCDOT Claims Office:

- The completed **SCDOT DAMAGE CLAIM FORM**
- A photograph of the damage
- Two (2) repair estimates or a paid invoice (as provided by the Claimant)
- SCDOT findings of the incident investigation
- Recommendation for claim denial or payment

The SCDOT Claims Office will process the claim. If the SCDOT Claims Office denies the claim, the Claims Office will notify the Claimant.

If the SCDOT Claims Office approves the claim for payment, the Claims Office will provide a check to the claimant and will provide to the Contractor:

- A copy of the check paid to the claimant
- A copy of the completed **SCDOT DAMAGE CLAIM FORM**
- A copy of the Engineer's recommendation
- A letter advising the Contractor to reimburse SCDOT for the claim within thirty (30) days

If the [thirty-day] grace period has elapsed and the Contractor has failed to reimburse SCDOT for the claim, the SCDOT Claims Office shall inform the Director of Procurement and the Director of Maintenance. The Director of Procurement will proceed with Default procedures. Consequently, termination of the remaining term of the contract will occur and the Contractor's ability to bid on future work for SCDOT will be jeopardized.

4.6 Claims (Third Party Personal Injury)

The Contractor will indemnify and hold harmless SCDOT and all of its officers, agents, and employees from all suits or claims for personal injury pursuant to Section 107.18 of the Standard Specifications. In cases of third party personal injury claims resulting from vegetation control activities and/or associated activities performed by the Contractor, SCDOT shall provide to the claimant the Contractor's name, address and phone number. The Contractor shall be responsible for receiving and processing such claims.

Section 5.0 - Equipment

5.1 Equipment-General

The Contractor must use equipment that is appropriately designed to perform On-Call Tree Removal and all associated activities as prescribed, and within the time specified. The Contractor is responsible for cleanup of any environmentally sensitive material spilled during equipment servicing or from leaking equipment. Equipment shall be operated during each activity to prevent any damage to non-target vegetation, the soil surface, and to all SCDOT property and third party property. Equipment shall be maintained in good operating condition. Routine equipment maintenance will only be allowed in designated parking areas identified in **Section 5.3**. Refer to **Section 6.3** for details regarding equipment Work Zone Traffic Control requirements. Failure of the Contractor to adhere to these requirements constitutes non-compliance.

5.2 Equipment-Travel

On-Call Tree Removal and associated activities should be performed in the same direction as the flow of traffic. Failure of the Contractor to adhere to these requirements constitutes non-compliance.

5.3 Equipment-Parking

Parking of Contractor's vehicles and equipment will be permitted within SCDOT right-of-way only at locations designated by the Engineer or on non-SCDOT property with prior (written) approval from the property owner. In no case shall any vehicle or equipment be parked in the interstate median or within thirty (30) feet of the travel-way of an interstate route. Damage to vegetation or soil within areas permitted for parking will be corrected to SCDOT specifications at the Contractor's expense. Parking of private vehicles within the interstate right-of-way is prohibited at all times. Failure of the Contractor to adhere to these requirements constitutes non-compliance.

Section 6.0 - Work Zone Traffic Control

6.1 Work Zone Traffic Control - General

The Contractor shall provide **Work Zone Traffic Control** for **On-Call Tree Removal** and the associated activities stated in these specifications. Work Zone Traffic Control (including devices, placement, equipment requirements, and worker requirements) shall comply with these specifications, all supplemental specifications, the Engineer, and the latest editions of the following documents. These documents are available on the internet website links indicated.

- **Manual of Uniform Traffic Control Devices (MUTCD)**
<http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/mutcd2009r1r2edition.pdf>
- **Work Zone Safety Guidelines for the South Carolina Department of Transportation, Municipalities, Counties, Utilities, and Contractor**
http://www.scdot.org/doing/publications_Traffic.aspx
- **SCDOT Standard Specifications for Highway Construction**
http://www.scdot.org/doing/construction_StandardSpec.aspx
- **Applicable SCDOT Traffic Engineering Standard Drawings**
http://www.scdot.org/doing/standard_drawings.shtml

Work Zone Traffic Control shall be appropriate/proper for the given work zone. All Work Zone Traffic Control shall be in place before any work commences each business day. The Engineer shall direct the Contractor to suspend operations at any time Work Zone Traffic Control is not compliant. The Contractor shall take immediate action to correct any Work Zone Traffic Control deficiency. No work shall proceed until the deficiency is corrected. All Work Zone Traffic Control devices shall be promptly removed when work is complete each business day.

The Contractor shall be responsible for establishing a safe work area to motorists and pedestrians while working and for leaving the area safe during non-working hours. Adequate provisions shall be made for the protection of the highway traffic at all times during all activities. The work shall be planned and carried out to minimize the inconvenience to the traveling public and adjacent landowners. All Work Zone Traffic Control devices, except for Category IV devices, shall comply with the requirements of the National Cooperative Highway Research Program Report 350 (NCHRP Report 350). An approved products list has been developed and only those traffic control devices listed on the "Approved Products List For Traffic Control Devices In Work Zones" are considered acceptable on these projects. This approved products list also includes the implementation dates and any special conditions or restrictions for each device. The approved products list is available on the following SCDOT internet website:

http://www.scdot.org/doing/technicalPDFs/publicationsManuals/trafficEngineering/NCHRP350List_ALL2.pdf

Lane closures may be restricted to specific days and times by the Engineer. The interstate highway will not be affected by this work and no lanes on the interstate will be closed during the **On-Call Tree Removal** activities without the written approval of the Engineer or his designee.

Work Zone Traffic Control is considered an associated part of the activity. No separate payment will be given for Work Zone Traffic Control. All necessary traffic control including, detours, lights, barricades, warning signs, flagmen, etc. shall be provided and provided for by the Contractor.

Failure of the Contractor to adhere to these requirements constitutes non-compliance.

6.2 Work Zone Traffic Control - Signs, Sign Stands, Etc.

Subsections 601.1, 601.2, 601.3 and 601.4 of the **Standard Specifications** shall apply. All signs mounted on portable sign supports shall have a minimum mounting height of five (5) feet from the ground to the bottom of the sign. Failure of the Contractor to adhere to these requirements constitutes non-compliance.

6.3 Work Zone Traffic Control - Equipment Requirements

In addition to requirements stated or referenced in **Section 6.1** of these specifications, **all motorized equipment and/or vehicles within the work zone shall at a minimum have a top-mounted amber color warning light that is fully operational. This light shall meet the Society of Automotive Engineers (SAE) Class I standards and must provide 360 degree visibility.** A standard Slow Moving Vehicle (SMV) emblem shall be mounted on the rear of all slow-moving equipment. All equipment shall conform to the prevailing OSHA standards. Failure of the Contractor to adhere to these requirements constitutes non-compliance.

6.4 Work Zone Traffic Control - Worker Requirements

Refer also to **Section 2.3** of these specifications. The Contractor shall be responsible for the safety and health of all [his/her] workers on the job and shall comply with all applicable provisions of the Occupational Safety and Health Act (OSHA as well as state regulations, and the worker safety requirements specified in the current edition of the *Work Zone Safety Guidelines for the South Carolina Department of Transportation, Municipalities, Counties, Utilities, and Contractors*. **This document specifies the minimum requirements for worker attire and safety apparel.** This document is available on the following SCDOT internet website: <http://www.scdot.org/doing/publications/Traffic.aspx>. **For specific worker safety requirements, the bidder/Contractor should contact the South Carolina Department of Labor, Licensing and Regulation (<http://www.llr.state.sc.us/>).**

Failure of the Contractor to adhere to these requirements constitutes non-compliance.

SEE BIDDING SCHEDULE

See Bidding Schedule

DELIVERY/PERFORMANCE LOCATION – PURCHASE ORDER

After award, all deliveries shall be made and all services provided to the location specified by the Using Governmental Unit in its purchase order.

DELIVERY DATE -- PURCHASE ORDER

All items shall be delivered within ten (10) days after receipt of purchase order.

IV. INFORMATION FOR OFFERORS TO SUBMIT

INFORMATION FOR OFFERORS TO SUBMIT -- GENERAL

You shall submit a signed Cover Page and Page Two. If you submit your offer electronically, you must upload an image of a signed Cover Page and Page Two. Your offer should include all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in Part IX. Attachments to Solicitations. You should submit a summary of all insurance policies you have or plan to acquire to comply with the insurance requirements stated herein, if any, including policy types; coverage types; limits, sub-limits, and deductibles for each policy and coverage type; the carrier's A.M. Best rating; and whether the policy is written on an occurrence or claims-made basis.

MINORITY PARTICIPATION

Is the bidder a South Carolina Certified Minority Business? Yes No

Is the bidder a Minority Business certified by another governmental entity? Yes No

If so, please list the certifying governmental entity: _____

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor? Yes No

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor? _____

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? Yes No

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor? _____

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

- Traditional minority
- Traditional minority, but female
- Women (Caucasian females)
- Hispanic minorities
- DOT referral (Traditional minority)
- DOT referral (Caucasian female)
- Temporary certification
- SBA 8 (a) certification referral
- Other minorities (Native American, Asian, etc.)

(If more than one minority contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

The Department of Administration, Division of Small and Minority Business Contracting and Certification, publishes a list of certified minority firms. The Minority Business Directory is available at the following URL: <http://osmba.sc.gov/directory.html>

For a list of SCDOT certified minority contractors, please consult the following URL: http://www.scdot.org/doing/businessdevelop_scurified.aspx

V. QUALIFICATIONS

QUALIFICATIONS OF OFFEROR

(1) To be eligible for award, you must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider (i) key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established, and/or (ii) any subcontractor you identify. (2) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection. (3) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability;** however, we may elect to consider any security, e.g., letter of credit, performance bond, parent-company corporate guaranty, that you offer to provide. Instructions and forms to help assure acceptability are posted on www.procurement.sc.gov, link to "Standard Clauses & Provisions."

QUALIFICATIONS -- REQUIRED INFORMATION

Submit the following information or documentation for you and for any subcontractor (at any tier level) that you identify pursuant to the clause titled Subcontractor - Identification. Err on the side of inclusion. You represent that the information provided is complete. (a) The general history and experience of the business in providing work of similar size and scope. (b) Information reflecting the current financial position. Include the most current financial statement and financial statements for the last two fiscal years. If the financial statements have been audited in accordance with the following requirements, provide the audited version of those statements. [Reference Statement of Financial Accounting Concepts No. 5 (FASB, December, 1984), as amended.] (c) A detailed, narrative statement listing the three most recent, comparable contracts (including contact information) which have been performed. For each contract, describe how the supplies or services provided are similar to those requested by this solicitation, and how they differ. (d) A list of every business for which supplies or services substantially similar to those sought with this solicitation have been provided, at any time during the past three years. (e) A list of every South Carolina public body for which supplies or services have been provided at any time during the past three years, if any. (f) List of failed projects, suspensions, debarments, and significant litigation.

SUBCONTRACTOR -- IDENTIFICATION

If you intend to subcontract, at any tier level, with another business for any portion of the work and that portion either (1) exceeds 10% of your cost, (2) involves access to any "government information," as defined in the clause entitled "Information Security - Definitions," if included, or (3) otherwise involves services critical to your performance of the work (err on the side of inclusion), your offer must identify that business and the work which they are to perform. Identify potential subcontractors by providing the business name, address, phone, taxpayer identification number, **and point of contact**. In determining your responsibility, the state may contact and evaluate your proposed subcontractors.

VI. AWARD CRITERIA

AWARD CRITERIA -- BIDS

Award will be made to the lowest responsible and responsive bidder(s).

AWARD TO ONE OFFEROR

Award will be made to one Offeror.

COMPETITION FROM PUBLIC ENTITIES

If a South Carolina governmental entity submits an offer, the Procurement Officer will, when determining the lowest offer, add to the price provided in any offers submitted by non-governmental entities a percentage equivalent to any applicable sales or use tax. S.C. Code Ann. Regs 117-304.1 (Supp. 2004).

TRANSPORTATION SECRETARY APPROVAL REQUIRED

Any award is subject to prior approval by South Carolina Transportation Secretary which may take an additional ten (10) days to make an award.

VII. TERMS AND CONDITIONS -- A. GENERAL

ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE

(a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible procurement officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, contractor may assign monies receivable under the contract provided that the state shall have no obligation to make payment to an assignee until thirty days after contractor (not the assignee) has provided the responsible procurement officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, contractor shall provide the procurement officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval of the SCDOT, which does not restrict transfers by operation of law.

BANKRUPTCY - GENERAL

(a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the contractor's insolvency, including the filing of proceedings in bankruptcy.

CHOICE-OF-LAW

The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.

CONTRACT DOCUMENTS and ORDER OF PRECEDENCE

(a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) the solicitation, as amended, (3) documentation of clarifications or discussions of an offer, if applicable, (4) your offer, (5) any statement reflecting the state's final acceptance (a/k/a "award"), and (6) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) a purchase order or other instrument submitted by the State, (ii) any invoice or other document submitted by Contractor, or (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

DISCOUNT FOR PROMPT PAYMENT

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the state annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday,

Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day.

DISPUTES

(1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the SCDOT Chief Procurement Officer, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the Government regarding the Agreement is not a waiver of either the Government's sovereign immunity or the Government's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.

EQUAL OPPORTUNITY

Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.

FALSE CLAIMS

According to the S.C. Code of Laws Section 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime.

FIXED PRICING REQUIRED

Any pricing provided by contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit contractor from offering lower pricing after award.

NO INDEMNITY OR DEFENSE

Any term or condition is void to the extent it requires the State to indemnify, defend, or pay attorney's fees to anyone for any reason.

NOTICE

(A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph.

OPEN TRADE

During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, which includes World Trade Organization members and those with which the United States has free trade or other agreements aimed at ensuring open and nondiscriminatory trade relations.

PAYMENT and INTEREST

(a) The State shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this

contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless otherwise provided herein, including the purchase order, payment will be made by check mailed to the payment address on "Page Two." (c) Notwithstanding any other provision, payment shall be made within thirty (30) work days from acceptance of goods and services and proper invoice. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason. (d) Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General not to exceed fifteen percent each year unless otherwise required by Section 29-6-30. (e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding. (f) The State shall have all of its common law, equitable and statutory rights of set-off.

PUBLICITY

Contractor shall not publish any comments or quotes by State employees, or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer.

PURCHASE ORDERS

Contractor shall not perform any work prior to the receipt of a purchase order from the using governmental unit. The using governmental unit shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.

IRAN DIVESTMENT ACT - ONGOING OBLIGATIONS

(a) You must notify the procurement officer immediately if, at any time during the contract term, you are added to the Iran Divestment Act List. (b) Consistent with Section 11-57-330(B), you shall not contract with any person to perform a part of the Work, if, at the time you enter into the subcontract, that person is on the then-current version of the Iran Divestment Act List.

SURVIVAL OF OBLIGATIONS

The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit.

TAXES

Any tax the contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to contractor, contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the contractor.

TERMINATION DUE TO UNAVAILABILITY OF FUNDS

Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, contractor

will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term.

THIRD PARTY BENEFICIARY

This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise.

WAIVER

The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing.

VII. TERMS AND CONDITIONS -- B. SPECIAL

CHANGES

(1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- (a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;
- (b) method of shipment or packing;
- (c) place of delivery;
- (d) description of services to be performed;
- (e) time of performance (i.e., hours of the day, days of the week, etc.); or,
- (f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless the State is prejudiced by the delay in notification.

(4) Claim Barred After Final Payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

CONFERENCE – PRE-PERFORMANCE

Section 108.02 of the Standard Specifications shall apply. A pre-construction (i.e., pre-work) conference shall be held after the award is issued by Procurement, prior to beginning **On-Call Tree Removal**. This conference shall be used to review appropriate details of the contract. Failure of the Contractor to adhere to this requirement constitutes non-compliance.

The second paragraph of **Section 105.05** of the Standard Specifications shall apply and is amended by adding: “**During the Pre-Construction (Pre-Work) Conference, the name and phone number of the responsible foreman or superintendent on the job will be provided to the Engineer.**” Failure of the Contractor to adhere to these requirements constitutes non-compliance.

COMPLIANCE WITH LAWS

During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

CONTRACTOR'S LIABILITY INSURANCE - GENERAL

- (a) Without limiting any of the obligations or liabilities of Contractor, Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees or subcontractors.
- (b) Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.

(2) Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(c) Every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

(d) For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the State, every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them. Any insurance or self-insurance maintained by the State, every applicable Using Governmental Unit, or the officers, officials, employees and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.

(e) Prior to commencement of the work, the Contractor shall furnish the State with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the State before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

(f) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the State immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

(g) Contractor hereby grants to the State and every applicable Using Governmental Unit a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or applicable Using Governmental Unit by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or Using Governmental Unit has received a waiver of subrogation endorsement from the insurer.

(h) Any deductibles or self-insured retentions must be declared to and approved by the State. The State may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(i) The State reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

CONTRACTOR PERSONNEL

The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

CONTRACTOR'S OBLIGATION -- GENERAL

The contractor shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The contractor must act as the prime contractor and assume full responsibility for any subcontractor's performance. The contractor will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements.

DEFAULT

(a) (1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract.

ESTIMATED QUANTITY -- UNKNOWN

The total quantity of purchases of any individual item on the contract is not known. The State does not guarantee that the State will buy any specified item or total amount. The omission of an estimated purchase quantity does not indicate a lack of need but rather a lack of historical information.

ILLEGAL IMMIGRATION

(An overview is available at www.procurement.sc.gov) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon

request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your subcontractors or sub-subcontractors; or (b) that you and your subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your subcontractors language requiring your subcontractors to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

INDEMNIFICATION-THIRD PARTY CLAIMS - GENERAL

Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee's negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, "Indemnitees" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees.

LICENSES AND PERMITS

During the term of the contract, the Contractor shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract.

PRICE ADJUSTMENTS

(1) Method of Adjustment. Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise allowed):

- (a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- (b) by unit prices specified in the Contract or subsequently agreed upon;
- (c) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;
- (d) in such other manner as the parties may mutually agree; or,
- (e) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.

(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable.

PRICE ADJUSTMENT - LIMITED -- AFTER INITIAL TERM ONLY

Upon approval of the Procurement Officer, prices may be adjusted for any renewal term. Prices shall not be increased during the initial term. Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the expiration of the applicable term and must be accompanied by sufficient documentation to justify the increase. If approved, a price increase becomes effective starting with the term beginning after approval. A price increase

must be executed as a change order. Contractor may terminate this contract at the end of the then current term if a price increase request is denied. Notice of termination pursuant to this paragraph must be received by the Procurement Officer no later than fifteen (15) days after the Procurement Officer sends contractor notice rejecting the requested price increase.

PRICE ADJUSTMENTS -- LIMITED BY CPI "OTHER GOODS and SERVICES"

Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), "Other Goods & Services" for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at www.bls.gov.

PRICING DATA -- AUDIT -- INSPECTION

(a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (1) any award to contractor, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with contractor which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the state finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the chief Procurement Officer. The state may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits related to this contract. (c) Inspection. At reasonable times, the state may inspect any part of your place of business which is related to performance of the work. (d) Instructions Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for the state context). (e) Subcontracts. You shall include the above text of this clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state.

RELATIONSHIP OF THE PARTIES

Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

TERM OF CONTRACT -- EFFECTIVE DATE / INITIAL CONTRACT PERIOD

The effective date of this contract is the first day of the Maximum Contract Period as specified on the final statement of award. The initial term of this agreement is 1 years, 0 months, 0 days from the effective date. Regardless, this contract expires no later than the last date stated on the final statement of award.

TERM OF CONTRACT -- OPTION TO RENEW

(a) At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of 1 year(s), 0 month(s), and 0 day(s), unless contractor receives notice that the state elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award. (b) Contractor acknowledges that, unless excused by Section 11-57-320, if the contractor is on the then-current Iran Divestment Act List as of the date of any contract renewal, the renewal will be void ab initio.

TERM OF CONTRACT -- TERMINATION BY CONTRACTOR

Contractor may terminate this contract at the end of the initial term, or any renewal term, by providing the Procurement Officer notice of its election to terminate under this clause at least 090 days prior to the expiration of the then current term.

TERMINATION FOR CONVENIENCE

(1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract

terminated and when termination becomes effective.

(2) Contractor's Obligations. The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the State. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to Supplies. The Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation. (a) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:

(i) contract prices for supplies or services accepted under the contract;

(ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;

(iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph;

(iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.

(d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

(5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause.

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

BIDDING SCHEDULE

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0001	12.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Leave 3.0"-9.0"				
Tendering Text: Cut down at ground level and leave in tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 1				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0002	30.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Leave 9.1"-15.0"				
Tendering Text: Cut down at ground level and leave in tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 2				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0003	30.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Leave 15.1"-21.0"				
Tendering Text: Cut down at ground level and leave in tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 3				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0004	30.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Leave 21.1"-27.0"				
Tendering Text: Cut down at ground level and leave in tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 4				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0005	30.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Leave 27.1"-33.0"				
Tendering Text: Cut down at ground level and leave in tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 5				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0006	30.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Leave 33.1"-39.0"				
Tendering Text: Cut down at ground level and leave in tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 6				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0007	12.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Leave 39.1"-45.0"				
Tendering Text: Cut down at ground level and leave in tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 7				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0008	12.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Leave 45.1"-51.0"				
Tendering Text: Cut down at ground level and leave in tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 8				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0009	12.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Leave 51.1"-57.0"				
Tendering Text: Cut down at ground level and leave in tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 9				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0010	6.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Leave 57.1"-63.0"				
Tendering Text: Cut down at ground level and leave in tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 10				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0011	25.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Remove 3.0"-9.0"				
Tendering Text: Cut down at ground level and remove from tree line. Quantities are estimates and will be used for evaluation purposes.				
Internal Item Number: 11				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0012	60.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Remove 9.1"-15.0"				
Tendering Text: Cut down at ground level and remove from tree line. Quantities are estimates and will be used for evaluation purposes				
Internal Item Number: 12				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0013	120.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Remove 15.1"-21.0"				
Tendering Text: Cut down at ground level and remove from tree line. Quantities are estimates and will be used for evaluation purposes				
Internal Item Number: 13				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0014	180.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Remove 21.1"-27.0"				
Tendering Text: Cut down at ground level and remove from tree line. Quantities are estimates and will be used for evaluation purposes				
Internal Item Number: 14				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0015	150.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Remove 27.1"-33.0"				
Tendering Text: Cut down at ground level and remove from tree line. Quantities are estimates and will be used for evaluation purposes				
Internal Item Number: 15				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0016	120.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Remove 33.1"-39.0"				
Tendering Text: Cut down at ground level and remove from tree line. Quantities are estimates and will be used for evaluation purposes				
Internal Item Number: 16				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0017	30.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Remove 39.1"-45.0"				
Tendering Text: Cut down at ground level and remove from tree line. Quantities are estimates and will be used for evaluation purposes				
Internal Item Number: 17				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0018	30.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Remove 45.1"-51.0"				
Tendering Text: Cut down at ground level and remove from tree line. Quantities are estimates and will be used for evaluation purposes				
Internal Item Number: 18				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0019	30.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Remove 51.1"-57.0"				
Tendering Text: Cut down at ground level and remove from tree line. Quantities are estimates and will be used for evaluation purposes				
Internal Item Number: 19				

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0020	12.000	each		
Product Catg.: 96888 - Tree and Shrub Removal Services				
Item Description: Cut Tree, Remove 57.1"-63.0"				
Tendering Text: Cut down at ground level and remove from tree line. Quantities are estimates and will be used for evaluation purposes				
Internal Item Number: 20				

IX. ATTACHMENTS TO SOLICITATION

ATTACHMENTS LIST

The following documents are attached to this solicitation:

Appendix 1 - SCDOT Damage Claim Form

Appendix 2 - Notice of Non-Compliance

Appendix 3 - Notice of Damage to SCDOT Property Form

IMPORTANT TAX NOTICE - NONRESIDENTS ONLY

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at: <https://dor.sc.gov>

This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-896-1420.

PLEASE SEE THE "NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING" FORM (FORM NUMBER I-312) LOCATED AT: https://dor.sc.gov/forms-site/Forms/I312_05182015.pdf

APPENDIX 2 – NOTICE OF NON-COMPLIANCE

DATE:

TO:

FROM:

RE:

CONTRACT #:

PURCHASE ORDER #:

Attention:

The following item has been determined to be in non-compliance with the contract specifications. A non-refundable deduction will be assessed and deducted from your invoice as shown:

TIER	ITEM	SPECIFICATION	NON-REFUNDABLE DEDUCTION
<i>Insert</i>	<i>Insert</i>	<i>Insert</i>	<i>Insert</i>

The non-compliance item occurred as follows:

(INSERT DATE)

(INSERT ROUTE, DIRECTION, AND MILE POINT)

(INSERT DETAILS)

Per the contract specifications, you have two business days upon receipt of this notification to respond and to dispute, in writing, this deduction.

CC: SCDOT DIRECTOR OF PROCUREMENT

SCDOT DIRECTOR OF MAINTENANCE

SCDOT DISTRICT ENGINEERING ADMINISTRATOR

APPENDIX 3 – NOTICE OF DAMAGE TO SCDOT PROPERTY FORM

DATE:			
TO: CONTRACTOR CONTRACT NO.: _____	NAME: _____ ADDRESS: _____ FAX NO.: _____		
FROM: SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION	OFFICE: _____ ADDRESS: _____ PHONE NO.: _____		
RE: NOTIFICATION OF DAMAGE TO SCDOT PROPERTY			
DESCRIPTION OF DAMAGE: (PHOTOGRAPH OF THE DAMAGED PROPERTY IS ATTACHED).			
DATE OF OCCURENCE:	ROUTE:	DIRECTION:	MILE MARKER:
COSTS: REPAIR COST = LIQUIDATED DAMAGES = ===== TOTAL COST =			
SCDOT EMPLOYEE (NAME / SIGNATURE / TITLE):			