



**REQUEST FOR PROPOSAL (RFP)**  
**ZONING AND SUBDIVISION ORDINANCES UPDATES**

**COUNTY OF BRUNSWICK**  
**DEPARTMENT OF PLANNING'S OFFICE**

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**RFP: #08-2020-01**

**DATE: August 12, 2020**

Sealed Proposals, subject to the general conditions and specifications hereby attached, will be received at the Department of Planning's Office, 228 North Main Street, Basement, P. O. Box 399, Lawrenceville, Virginia 23868 until, but no later than **September 4, 2020 at 3:00 p.m.** for furnishing the services described herein and then publicly opened in the County Government Building, Department of Planning Conference Room, 228 North Main Street, Lawrenceville, Virginia 23868 on the aforementioned date and time.

1. In order to be considered for selection, Vendors must submit a complete response to the RFP. **Ten (10) originals and an electronic copy of the proposal on CD or jump drive in a portable document format (PDF) version** of the proposal shall be submitted to the County of Brunswick.
2. Regardless of delivery method of proposal, the **outside** of each envelope must clearly indicate the following: (If Proposal is delivered by Federal Express, UPS, USPS Priority, etc. or any other means, the **outside of each** envelope **must also** clearly indicate):

**Zoning and Subdivision Ordinances Updates**

**RFP: #08-2020-01**

3. Proposals by telephone, electronic mail, telegraph, or facsimile **will not** be accepted.
4. **ANY PROPOSAL RECEIVED AFTER 3:00 P.M. ON THE AFOREMENTIONED DATE OF OPENING, WHETHER BY MAIL OR OTHERWISE, WILL NOT BE CONSIDERED AND WILL BE RETURNED UNOPENED.**

**RFP COVER SHEET**

**COUNTY OF BRUNSWICK**  
**RFP #07-2020-01 – ZONING AND SUBDIVISION ORDINANCES UPDATES**

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By my signature on this solicitation, I certify that this firm/individual and subcontractor is properly licensed for providing the goods/services specified.

**Note of Clarification:**

All References to **BID** contained within this Invitation should be referred to as **PROPOSAL**.

NAME OF ORGANIZATION	TELEPHONE NUMBER
STREET ADDRESS	FAX NUMBER
CITY, STATE, ZIP CODE	EMAIL ADDRESS
SIGNATURE	DATE
STATE CORPORATION COMMISSION ID#	IRS TAX ID#

*This public body does not discriminate against faith-based organizations in accordance with Virginia Code §2.2.-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination of employment.*

I. PURPOSE

The purpose of this Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiation to provide Zoning and Subdivision Ordinances Updates for the County of Brunswick (hereinafter sometimes referred to as “the County”). The County desires to procure planning services to review and update the County’s Zoning and Subdivision Ordinances.

II. BACKGROUND:

Brunswick County is a rural community located in south-central Piedmont Region of Virginia, traditionally known for its tobacco-based agricultural and forest products economy. The County is situated along the North Carolina border and is 75 miles from Richmond. The main thoroughfares through the County are I-85, U.S. Highway 58, U.S. Highway 46 and U.S. Route 1

Brunswick County is governed by a five member Board of Supervisors who serve as the policy-making body for carrying out duties and powers as outlined in the Code of Virginia. The Board of Supervisors appoints the County Administrator who is responsible to the Board of Supervisors for the proper administration of all affairs of the County. Brunswick County’s population is 16,231 and is comprised of a total area of 579 square miles.

The Board of Supervisors’ adopted the County’s Subdivision Ordinance in 1977 and its Zoning Ordinance in 1992. There have been no major updates or revisions to either ordinance since their respective adoptions, merely cosmetic adjustments. In the Board of Supervisors’ *Vision For 2035* the Board enumerated as a priority to work with the Planning Commission to review and update the Zoning and Subdivision Ordinances.

III. SCOPE OF SERVICES:

The County requests proposals from firms able to facilitate and complete the update of the Zoning and Subdivision Ordinance which will:

- A. Follow the vision, goals and objectives of the Comprehensive Plan and encourage economic, environmentally-friendly and socially sustainable development.
- B. Provide commonly used definitions and a user-friendly set of guidelines in clear, simple language or in illustrated language. Ensure language is clearly stated to avoid, whenever possible, disputes of interpretations.
- C. Update the Zoning and Subdivision ordinances so that they are more responsive to development trends and encourage quality development.
- D. Update the Zoning and Subdivision Ordinances so that they are current with all local, state and federal statutes and are consistent with recent case law and constitutional determinations.

- E. Establish clear procedures for zoning related applications and identify opportunities for process simplification and flexibility.
- F. Updating for consistency of language, the review process, and legalities regarding variances and conditional use requests.
- G. Updating to enhance the usability and understanding of the Zoning and Subdivision Ordinances with visual representations, charts, tables, matrices, sketches, etc.
- H. Researching possibility of fees related to the impact of services.

IV. WORK SCHEDULE

Scheduled work will commence within ten (10) days from the date the contract for services is signed. Work shall be completed within twelve (12) months from this date.

V. SELECTION PROCESS:

A Screening Committee consisting of representatives from the Board of Supervisors, Planning Commission, Board of Zoning Appeals, County Administration, and Department of Planning will review proposals. From this review, two or more applicants deemed to be fully qualified and best suited among those submitting proposals will be selected for a personal interview with the Committee. Interviews may include detailed questions regarding methodology, qualifications, and relevant work experience. Applicants will be rated regarding the quality of the written and oral communications. The Committee will recommend to the Board of Supervisors the highest rated applicant(s). The Board of Supervisors will make the final selection and award the contract.

VI. EVALUATION AND AWARD CRITERIA:

These criteria are to be utilized in the evaluation of qualifications for development of the shortlist of those offerors to be considered for negotiations. Individual criteria may be assigned varying weights at the County's discretion to reflect relative importance.

- A. Demonstrated qualifications and capacity of the offeror. This will include: Years in business, service capabilities and experience of the firm in providing planning services for public governmental entities. Verification of positive references with other clients will be considered in the evaluation process.
- B. Demonstrated understanding, approach and explanation of the services offered as it relates to the desired outcomes as outlined in the scope of services.
- C. Past performance and related experience. Offeror should demonstrate the ability to perform the requested scope of work and provide pertinent examples of past performance relative to the requested scope of services. The proposal shall indicate

the quality of previous work, timeliness, diligence and ability to meet schedules and needs of clients.

VII. PROPOSAL PREPARATION:

A. GENERAL INSTRUCTIONS:

1. Submission of Proposal. Proposal will be received until 3:00 p.m. on September 4, 2020. All proposals must be in writing and shall be submitted in a sealed envelope and properly identified with the name:

**Zoning and Subdivision Ordinances Updates  
RFP – #08-2020-01**

Sealed proposals must be received by the Department of Planning’s Office no later than the time specified. Proposals may be mailed or hand delivered to:

Mailed

County of Brunswick  
Director of Planning  
P. O. Box 399  
Lawrenceville, Virginia 23868

Hand Delivered

County of Brunswick  
Director of Planning  
228 North Main Street, Lower Level  
Lawrenceville, Virginia 23868

Faxed and emailed proposals shall not be accepted. It is the offeror’s responsibility to ensure the proposal is received prior to the proposal acceptance time. Late proposals will not be accepted. The County reserves the right to accept or reject all or any part of any proposal, waive informalities and award the contract to best serve the interest of the County.

2. RFP Response: In order to be considered for selection, offerors must submit a complete response to this RFP. **Ten (10) originals along with an electronic copy of the proposal on CD or jump drive in PDF** format must be submitted to the County as a complete sealed proposal. Should the proposal contain **proprietary information**, provide **one (1) redacted hard copy** of the proposal and attachments **with proprietary portions removed or blacked out**, and identified in compliance with Section 3. d. below. This copy should be clearly marked “*Redacted Copy*” on the front cover. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable. The County of Brunswick shall not be responsible for the Contractor’s failure to exclude proprietary information from this redacted copy. No other distribution of the proposal shall be made by the offeror.
3. Proposal Preparation:
  - a. Proposals shall be signed by an authorized representative of the offeror. All information requested should be submitted. Failure to submit all

information requested may result in the County of Brunswick requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete or lack key information may be rejected by the County. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.

- b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
  - c. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
  - d. Ownership of all data, materials, and documentation originated and prepared for the County pursuant to the RFP shall belong exclusively to the County and be subject to public inspection in accordance with the *Virginia Freedom of Information Act* and the *Virginia Public Procurement Act*. Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the *Virginia Freedom of Information Act*; however, the offeror must invoke the protections of *Virginia Code § 2.2-4342(F)*, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable.
  - e. All costs of proposal preparation and presentation shall be borne by each offeror. The County is not liable for any cost incurred by the offeror prior to issuance of a contract.
4. Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the County. This provides an opportunity for the offeror to clarify or elaborate on the proposal. This is a fact finding and explanation session only and does not include negotiation. The County will schedule the time and location of these presentations. Oral presentations are an option of the County and may or may not be conducted.

B. SUBMITTAL REQUIREMENTS: Proposals should be as thorough and detailed as possible so that the County may properly evaluate your capabilities to provide the

required goods/services. Offerors are required to submit the following items as a complete proposal:

1. Cover Sheet

Return the RFP cover sheet and all addenda acknowledgements, if any, signed and filled out as required.

2. Section 1 – Experience:

- The consultant(s) shall provide a brief overview of the history and structure of the firm and attach an organizational chart of the office that will be providing the service to the County.
- The consultant(s) shall provide a statement of particular expertise and experience in performing revisions to Zoning and Subdivision Ordinances. Example of work is highly encouraged.
- The consultant(s) shall provide resume(s) with the educational background, including all degrees and certifications earned, and work history for each team member or consulting firm performing work under the scope of this Request for Proposal. Show the extent of hours spent by each person and the number of projects, which will be managed by each person. Also, the consultant shall provide a listing of other individuals on the team that would support the completion of this project, with a summary of each team member's area of responsibility, experience, and qualification of this work.

3. Section 2 – Methodology/Specific Plan:

Describe the methodology/specific plan of the offerors processes incorporating an understanding of the goals and criteria of this project and how the offeror intends to meet those goals and criteria.

4. Section 3 – Timeline:

The consultant(s) shall include a timetable of tasks to conclude the project within the twelve (12) month requirement.

5. Section 4 – References

The consultant(s) shall provide a minimum of three (3) references for public sector work completed within the last three (3) years. Also, the consultant(s) shall list a contact name, address, phone number, fax number, and email address for each reference. The County reserves the right to investigate the references and the past performance of any applicant with respect to its successful performance of similar projects, compliance with specifications and contractual obligations, and its completion of a project on schedule.

6. Section 5 – Additional Information: This section is to be used to provide the following information. In addition, you may add any other relevant information to this section.

- The consultant(s) shall provide a statement that the proposal is valid for a minimum of seventy-five (75) days after the submission deadline, signed by an individual to bind the company, with the name and title printed.
- Submit completed and signed State Corporation Commission Form with proposal.

VIII. TECHNICAL ASSISTANCE:

All questions regarding this project should be directed to:

George E. Morrison, III  
Director of Planning  
228 North Main Street, Lower Level  
P. O. Box 399  
Lawrenceville, Virginia 23868  
(434) 848-0882  
[gmorrison@brunswickco.com](mailto:gmorrison@brunswickco.com)

In order to maintain equal access to information we request that you not contact anyone other than the individual named above. If there are any changes to the scope of work, addenda will be issued by the Director of Planning to all known participants.

IX. CONTRACT

A. AWARD OF CONTRACT: The selection process shall be in accordance with *Virginia Code* § 2.2-4301(3)(b) for the procurement of non-professional services. Selection shall be made of two or more offerors deemed to be fully qualified and best suited among all the offerors on the basis of the evaluation criteria, including price. Negotiations shall then be conducted with each of the offerors so selected. Price shall be considered but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the County shall select the offeror which in their opinion has made the best proposal, and shall award the contract to that offeror. Should the County determine in writing and in their sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

B. CONTRACT TERMS

Scheduled work will commence within ten (10) days from the date the contract for services is signed. Work shall be completed within twelve (12) months from this date. The County reserves the right to negotiate contract terms with the successful offeror/bidder for items/services identified but not specifically described in this RFP in the best interest



of the County and agreed to by the contractor. Additional work of reasonable scale shall be priced consistent with proposal to allow for additions and future expansions of a similar nature. The final contract for services is expected to incorporate the General Terms and Conditions attached hereto as Attachment A.

**COUNTY OF BRUNSWICK**  
**RFP #08-2020-01 – ZONING AND SUBDIVISION ORDINANCES UPDATES**

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**State Corporation Commission Form**

**Virginia State Corporation Commission (“SCC”) registration information:**

**The undersigned Offeror:**

- is a corporation or other business entity with the following SCC identification number:

\_\_\_\_\_ **-OR-**

- is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the Offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder’s out- of-state location) **-OR-**

- is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned Offeror’s current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

**\*\*NOTE\*\*** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals (the County reserves the right to determine in its sole discretion whether to allow such waiver):

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

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

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

**Print**

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

**Name of Firm:** \_\_\_\_\_

**GENERAL TERMS AND CONDITIONS**

The following are the general conditions that are incorporated into the Agreement for services associated with updates to the Zoning Ordinance and Subdivision Ordinance of the County of Brunswick, Virginia (the "County"), between the Board of Supervisors of the County and \_\_\_\_\_ (the "Contractor"), for goods and services to be provided by the Contractor.

**1. General Provisions**

Nothing in any resulting contract shall be construed as authority for either party to make commitments which will bind the other party beyond the scope of service contained herein. This contract is subject to appropriations by the County.

**2. Laws of the Commonwealth**

- A. Any purchase order or contract resulting from this solicitation shall be governed in all respects whether as to validity, construction, performance, or otherwise by the laws of the Commonwealth of Virginia. The Contractor providing goods or services to the County under this contract represents to the County that it is:
  - 1. Conforming to the provisions of the Civil Rights Act of 1964, as amended, the Virginia Fair Employment Contracting Act of 1975, as amended, and the Virginia Human Rights Act, as amended, where applicable;
  - 2. Not employing illegal alien workers or otherwise violating the provisions of the Immigration Reform and Control Act of 1986;
  - 3. Complying with federal, state and local laws and regulations applicable to the performance of the services procured; and
  - 4. Submitting the bid or proposal in full compliance with the Virginia Conflict of Interest Act.
  
- B. In every contract of over \$10,000, the Contractor agrees during the performance of this contract that:
  - 1. The Contractor (1) will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor, (2) will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and (3) will state that the Contractor is an equal opportunity employer in all solicitations or advertisements for employees

placed by or on behalf of the Contractor under this contract. All notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section; and

2. The Contractor will include the provisions of the foregoing subparagraph 2.(B)(1) in every subcontract or purchase order under this Contract of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

C. In every contract of over \$10,000, the Contractor agrees during the performance of this contract that:

The Contractor shall A) provide a drug-free workplace for its employees; B) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in its workplace and specify the actions which will be taken against any employee for a violation; C) state in all of its solicitations or advertisements for employees that it maintains a drug-free workplace; and D) include the provisions of this sub-paragraph in every subcontract or purchase order of over \$10,000, so that said provisions shall be binding upon each subcontractor or vendor.

For purposes of this sub-paragraph, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with the provisions of the Virginia Public Procurement Act, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

D. In addition to the provisions contained in sub-paragraph C. pertaining to drug-free place, Contractor shall comply with the federal Drug Free Workplace Act.

E. Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, in all invitations to bid, requests for proposals, contracts, and purchase orders, the County does not discriminate against faith-based organizations.

"Faith-based Organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

If Contractor is a faith-based organization, then Contractor shall give to each individual who applies for or receives goods, services, or disbursements provided pursuant to this Agreement the following notice:

## NOTICE

Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, as an applicant for or recipient of goods, services, or disbursements provided pursuant to a contract between the County and a faith-based organization, you are hereby notified as follows:

**Neither the County's selection of a charitable or faith-based provider of services nor the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the County Administrator of Brunswick County.**

### 3. Certifications

The Contractor certifies that:

- A. The bid or offer (1) is made without prior participation, understanding, agreement, or connection with any corporation, firm or person submitting a bid/offer for the same materials, supplies, equipment, or services with respect to the allocation of the business afforded by or resulting from the acceptance of the bid or proposal, (2) is in all respects fair and without collusion or fraud, and (3) is or is intended to be competitive and free from any collusion with any person, firm or corporation;
- B. The Contractor has not offered or received any kickback from any other bidder or Contractor, supplier, manufacturer, or subcontractor in connection with the bid/offer on this solicitation. A kickback is defined as an inducement for the award of a contract, subcontracts or order, in the form of any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged. Further, no person shall demand or receive any payment, loan, subscription, advance, and deposit of money, services or anything of value in return for an agreement not to compete on a public contract;
- C. The Contractor is not a party to nor has he participated in nor is obligated or otherwise bound by agreement, arrangement or other understanding with any

person, firm or corporation relating to the exchange of information concerning bids, prices, terms or condition upon which the contract resulting from the acceptance of his bid proposal is to be performed;

- D. The Contractor understands that collusive bidding is a violation of the Virginia Governmental Frauds Act and federal Law, and can result in fines, prison sentences, and civil damage awards and agrees to abide by all conditions of this proposal; and
- E. The Contractor or subcontractor has not and will not confer on any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

**4. Warranties**

Any goods or services furnished by the Contractor under the contract shall be covered by the most favorable warranties provided by the Contractor to any customer; the rights and remedies hereby provided are in addition to any and do not limit those otherwise available to the County. The Contractor agrees that if such warranties are in any respect breached, the Contractor will pay to the County the full contract price agreed to by the County to be paid for the supplies, materials, equipment or services furnished under the bid or proposal.

**5. Modifications, Additions or Changes**

Modifications, additions or changes to these terms and conditions may not be made except in writing and agreed to by the County; however, no fixed priced contract may be increased by more than twenty-five (25) percent of the amount of the contract or \$50,000 whichever is greater without the approval of the County. The amount of any contract may not be increased for any purpose without adequate consideration provided to the County.

**6. Hold Harmless**

The Contractor agrees to indemnify, defend and hold harmless the County and its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor/any services of any kind or nature provided by the Contractor, provided that such liability is not attributable to the sole negligence on the part of the County or to failure of the County to use the materials, goods, or equipment in the manner outlined by the Contractor and descriptive literature or specifications submitted with the Contractor's bid.

**7. Assignment**

The contract may not be assigned, sublet, or transferred without the written consent of the County.

**8. Default**

In the case of default or breach by the Contractor or the failure of the Contractor to deliver the services in conformance with the specifications in the contract the County shall give written notice to the Contractor specifying the manner in which the contract has been breached. If the County gives such notice of breach and the Contractor has not corrected the breach within fifteen (15) days of receipt of the written notice, the County shall have the right to immediately rescind, revoke or terminate the contract and in addition to any other remedies available at law to procure such services from other sources and hold the Contractor responsible for any and all excess cost occasioned thereby.

**9. Audit**

The Contractor's (and its authorized agents, state auditors, the grantor of the funds to the County, the Comptroller of Virginia or of the United States, or any of their duly authorized representatives) records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the County to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by Contractor of any of its payees pursuant to execution of the contract. Such records subject to examination shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this contract.

For the purpose of such audits, inspections, examinations and evaluations, the County shall have access to said records from the effective date of this contract, for the duration of the work, and until five (5) years after the date of final payment by the County to Contractor pursuant to this contract.

The County shall have access to Contractor's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this article. The County shall give Contractor reasonable advance notice of intended audits.

Contractor shall require all subcontractors, insurance agents, and materials suppliers (payees) to comply with the provisions of this article by insertion of the requirements hereof in a written contract agreement between Contractor and payee. Failure to obtain such written contracts which include such provisions shall be reason to exclude some or all of the related payees' costs from amount payable to Contractor pursuant to this contract.

If an audit inspection or examination in accordance with the article, discloses overcharges (of any nature) by Contractor to the County in excess of five percent (5%) of the total contract

billings, the actual cost of the County's audit shall be paid by Contractor. In addition, the County shall not be responsible for any overages not approved by change order and will deduct such amounts from the final contract payment.

**10. Ownership of Documents**

Any reports, studies, photographs, negatives, or other documents prepared by Contractor in the performance of its obligations under any resulting contract shall be remitted to the County by the Contractor upon completion, termination or cancellation of this Contract. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this contract without the prior written consent of the County. The County shall own the intellectual property rights to all materials produced under this contract.

**11. Payment and Performance Bond**

For any Contract for construction, the amount of which exceeds \$100,000, the Contractor shall furnish to the County the bonds required under Sections 2.2-4336 and 2.2-4337 of the Code and shall otherwise fully comply with the requirements of such sections of the Code. The County reserves the right to require payment and/or performance bonds in the amount of the Contract for any other Contracts, whether or not required by such sections of the Code.

**12. Required Payment**

Pursuant to Section 2.2-4354 of the Code, the Contractor covenants and agrees to:

- A. within seven (7) days after receipt of any amounts paid to the Contractor under the Contract, (i) pay any subcontractor for its proportionate share of the total payment received from the County attributable to the work under the Contract performed by such subcontractor, or (ii) notify the County and the subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment and the reason therefor;
- B. provide its federal employer identification number or social security number, as applicable, before any payment is made to the Contractor under the Contract; and
- C. pay interest at the legal rate or such other rate as may be agreed to in writing by the subcontractor and the Contractor on all amounts owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the County for work performed by the subcontractor under the Contract, except for amounts withheld pursuant to subparagraph 12a. above.
- D. include in its contracts with any and all subcontractors the requirements of a, b, and, c above.



**13. Liability Coverage**

Unless otherwise expressly excepted in the procurement announcement documents prepared by the County, the Contractor shall take out and maintain during the life of the Contract such bodily injury, liability and property damage liability insurance as shall protect it and the County from claims for damages for personal injury, including death, as well as from claims for property damage, which may arise from its activities under this agreement. Such insurance shall at least have the coverages and be in the amounts set forth in section 15 “Insurance and Bond Requirements” set forth below and shall name the Board of Supervisors and the County as an Additional Insureds. Such insurance must be issued by a company admitted within the Commonwealth of Virginia and with at least a Best’s Key Rating of A:V1. The Contractor shall provide the County with a certificate of insurance showing such insurance to be in force and providing that the insurer shall give the County at least 30 days’ notice prior to cancellation or other termination of such insurance. The County shall be named as a co-insured on all such policies and evidence of such status as a co-insured shall be provided to the County prior to the time the contract is executed by the County.

**14. Insurance and Bond Requirements**

The Contractor shall maintain the following insurance to protect it from claims under the Workmen’s Compensation Act, and from any other claims for personal injury, including death, and for damage to property that may arise from operations under the Contract, whether such operations be by itself or by any subcontractor, or anyone directly or indirectly employed by either of them.

**TYPE OF COVERAGE**

**LIMITS**

Workers’ Compensation and Employer’s Liability including coverage under United States Longshoremen’s and Harbor Worker’s Act where applicable

Statutory, including Employer’s Liability of \$100,000.00 Each Accident  
\$500,000.00 Disease-Policy Limit  
\$100,000.00 Disease-Each Employee

Comprehensive General Liability endorsement coverages.

Including the Broad Form C.G.L.

Premises – Operations  
Bodily Injury Liability and Property Damage Liability Combined

\$500,000 Each Occurrence  
\$1,000,000 Aggregate

Including:  
Underground Hazard (U)  
Explosion and Collapse Hazard (XC)

Independent Contractors – Owner’s Protective Bodily Injury Liability and Property Damage Liability Combined	\$500,000 Each Occurrence \$1,000,000 Aggregate
Completed Operations - Products Liability Bodily Injury Liability and Property Damage Liability Combined for five (5) years after payment	\$500,000 Each Occurrence \$1,000,000 Aggregate
Contractual Bodily Injury Liability and Property Damage Liability Combined in accordance with Agreement between Owner and Contractor	\$500,000 Each Occurrence \$1,000,000 Aggregate
Personal Injury with Employee’s Exclusion C deleted	\$1,000,000 Aggregate
Automobile Bodily Injury Liability and Property Damage Liability Combined covering all automobiles, trucks, tractors, trailers, or other automobile equipment, whether owned, non-owned, or hired by the Contractor	\$500,000 Per Accident
Umbrella/Excess Liability	\$1,000,000 Each Occurrence \$1,000,000 Aggregate
Professional Liability Insurance	\$1,000,000 Limit of Liability

- A. The Contractor shall purchase and maintain insurance coverage on his tools, equipment and machinery and shall waive subrogation to the County for damage thereto.
- B. The County reserves the right to require insurance of any Contractor in greater amounts provided notice of such requirements is stated in the Solicitation.

**15. Environmental Management**

The Contractor will be responsible for complying with all federal, state and local environmental regulations relating to transportation, handling, storage, spillage and any other aspect of providing the services specified herein, as applicable. If the County should have to defend any enforcement action against it relating to the services provided by the Contractor under the Agreement, the Contractor shall indemnify and hold harmless the County for any such actions, including reimbursing the County for all costs associated with defending such actions, attorneys fees and costs, and shall correct without cost to the County any defects or deficiencies found that are directly attributable to the Contractor.

**16. No Waiver**

Any failure of the County to demand rigid adherence to one or more of this Agreement's provisions in the contract, on one or more occasions, shall not be construed as a waiver nor deprive the County of the right to insist upon strict compliance with the terms of this Contract. Any waiver of a term of this Contract, in whole or in part, must be in writing and signed by the party granting the waiver to be effective.

**17. Termination for Default**

In case of default by the Contractor for failure to deliver or perform in accordance with the Contract's specifications or terms and conditions, the County may procure the articles or services from other sources and hold the defaulting the Contractor responsible for any resulting additional purchase and administrative costs. The County will normally repurchase from the next low bidder or purchase competitively by re-solicitation. If the repurchase results in increased costs to the County, a letter will be sent to the defaulted the Contractor requiring payment for additional costs. When repayment is requested, the Contractor will be removed from future bidding until the repayment has occurred. the Contractor shall not be liable for any excess cost if the failure to perform arises out of any act of war, order of legal authority, strikes, act of God, or other unavoidable causes not attributed to their fault or negligence. Failure of a Contractor' source to deliver is generally not considered to be an unavoidable cause. The burden of proof rests with the Contractor.

**18. Termination**

The County may terminate the resulting contract for its convenience upon thirty (30) days written notice to the Contractor. The Contractor shall not be paid for any service rendered or expense incurred after receipt of such notice except such fees and expenses incurred prior to the effective date of termination that are necessary for curtailment of the Contractor's work under this contract.

**19. Choice of Law**

To ensure uniformity of the enforcement of this Contract, and irrespective of the fact that either of the parties now is, or may become, a resident of a different state, this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to her principles of conflicts of law.

**20. Forum Selection**

The parties agree that any claims, causes of action or disputes arising out of, relating to or concerning this Contract shall have jurisdiction and venue only in the Circuit Court of Brunswick County, Virginia.

**21. Severability**

If any provision of this Contract is held to be illegal, invalid, or unenforceable, or is found to be against public policy for any reasons, such provision shall be fully severable and this Contract shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of this Contract, and the remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance from this Contract.

**22. Subject to Annual Appropriation**

The Contract is subject to annual appropriation by the Board of Supervisors of Brunswick County. Neither the Contract nor any amount due or to become due under the Contract shall be deemed to constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof, including the County. Neither the Commonwealth of Virginia nor any political subdivision thereof, including the County, shall be obligated to pay any amount due or to become due under this Contract except from funds annually appropriated by the Board of Supervisors of Brunswick County for such purpose.

In the event of non-appropriation of funds for the items under this Contract, the County may terminate this Contract as to the Services for which funds have not been appropriated. Written notice will be provided to the Contractor as soon as possible after such action is taken.

**23. Notices**

All requests, notices and other communications required or permitted to be given under this Contract shall be in writing and delivery thereof shall be deemed to have been made when such notice shall have been either (a) duly mailed by first-class mail, postage prepaid, return receipt requested, or any comparable or superior postal or air courier service then in effect, or (b) transmitted by hand delivery or telegram to the party entitled to receive the same at the address indicated below or at such other address as such party shall have specified by written notice to the other party. Notices to the County shall be sent to:

Charlette Woolridge  
County Administrator  
Brunswick County  
P.O. Box 399  
Lawrenceville, VA 23868

And

Paul C. Jacobson, Esquire  
Sands Anderson PC  
1005 Slater Road, Suite 200  
Durham, NC 27703

**24. Contractual Claims Procedure**

- A. Contractual claims or disputes, whether for money or other relief, except for claims or disputes exempted by law from the procedure set forth herein, shall be submitted in writing no later than sixty (60) days after final payment; provided, however, that Contractor shall give the County written notice of its intention to file a claim or dispute within fifteen (15) days after the occurrence upon which the claim or dispute shall be based. Any written notice of Contractor's intention to file such a claim or dispute need not detail the amount of the claim, but shall state the facts and/or issues relating to the claim in sufficient detail to identify the claim, together with its character and scope. Whether or not Contractor files such written notice, Contractor shall proceed with the work as directed. If Contractor fails to make its claim or dispute, or fails to give notice of its intention to do so as provided herein, then such claim or dispute shall be deemed forfeited.
- B. The County, upon receipt of a detailed claim, may at any time render its decision and shall render such decision within one hundred twenty (120) days of final payment. Each such decision rendered shall be forwarded to the Contractor by written notice.
- C. If the Contractor disagrees with the decision of the County concerning any pending claim, the Contractor shall promptly notify the County by written notice that the Contractor is proceeding with the work under protest. Any claim not resolved, whether by failure of the Contractor to accept the decision of the County or under a written notice of Contractor's intention to file a claim or a detailed claim not acted upon by the governing body of the County, shall be specifically exempt by the Contractor from payment request, whether progress or final. Pendency of claims shall not delay payment of amounts agreed due in the final payment.
- C. The decision on contractual claims by the governing body of the County shall be final and conclusive unless the Contractor appeals within six months of the date of the final decision on the claim by instituting legal action in the appropriate circuit court.