

Brunswick County Sheriff's Office

Tom Rogers

80 Stamp Act Drive

Bolivia, NC 28422

(910) 253-2578

# **Request for Proposals For 911 Center Audio/Video/USB System**



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# 1 RFP Timeline

**Advertisement/Release  
of RFP**

October 10, 2020

**Pre-Response  
Meeting/Walk-Through**

October 19, 2020 10:00 AM EST

911 Communications Center

Conference Room

80 Stamp Act Drive

Bolivia, NC 28422

**Attendance at the pre-response meeting/walk-through is required for submission of a proposal. In accordance with CDC guidance on COVID-19, multiple walk-throughs may be required in order to ensure adequate social distancing. Please RSVP by October 15, 2020 to BCSO-RFP@brunswicksheriff.com if you plan to attend the walk-through. The Sheriff's Office will contact all potential Contractors if multiple walk-throughs are required.**

**First Deadline for  
Receipt of Questions**

November 6, 2020 3:00 PM EST

All questions must be emailed to

BCSO-RFP@brunswicksheriff.com

The Sheriff's Office will respond by November 13, 2020 3:00 PM EST. A copy of all questions, further clarifications and answers will be provided to all Contractors.

**Second Deadline for  
Receipt of Questions**

November 20, 2020 3:00 PM EST

All questions must be emailed to

BCSO-RFP@brunswicksheriff.com

The Sheriff's Office will respond by November 27, 2020 3:00 PM EST. A copy of all questions, further clarifications and answers will be provided to all Contractors.

**Deadline for Receipt of  
Responses**

November 30, 2020 3:00 PM EST

**Proposals must be sent to Tom Rogers as directed below. Proposals must be received by the aforementioned date and time. Each should be clearly marked "Proposal Response – 911 Center Audio/Video/USB System." The Sheriff's Office will not be responsible for the failure of any mail or delivery service to deliver a proposal prior to the stated date and time. Regardless of the manner of submission or reason for delay, any proposal received after the stated date and time will not be considered. Incomplete proposals or proposals inconsistent with the required format may be disqualified from consideration.**

## 2 General Information

### 2.1 Purpose and Scope

The Brunswick County Sheriff's Office, hereinafter collectively referred to as "Sheriff's Office" or "BCSO," is requesting proposals from contractors qualified to furnish, install, maintain, and warranty audio/video/USB systems at the Brunswick County 911 Center ("BCSO 911") located at 80 Stamp Act Drive, Bolivia, NC 28422.

The Brunswick County 911 Center is a modern 911 facility that was built in 2015. All computers and servers are housed in the data center utilizing an Adder system to deliver audio, video, and plug and play USB human interaction device (mice, keyboards, 10-digit dial pads, etc.) to the end users in the 911 operations room. Sources can be routed to multiple locations such as one screen to all user pods (13) for monitoring, sources to the video wall (not being replaced), and sources to the conference room. The user controls and conference room, that also utilizes an IP integrated conference phone, are controlled by a Crestron controller.

The Sheriff's Office desires to replace the current aged out system with an updated system, add additional functionality, add additional monitors, and make it easily serviceable by onsite staff to maintain survivability until certified technicians can complete any repairs. The Sheriff's Office also desires to see scalability where offsite monitoring could exist.

### 2.2 Coverage & Participation

Any Audio/Video/USB installation solution and agreement resulting from this RFP shall apply to the BCSO 911 Center and any expanded facilities identified in any awarded contract. Should the selected solution be implemented on a limited basis, the Sheriff's Office reserves the right to add and/or delete elements and participation locations for existing equipment at any time without prior notification and without additional liability or obligation of any kind to the Contractor.

### 2.3 Original RFP Document

All stated terms, conditions, exhibits and other attachments in the original form of the RFP are to remain unaltered in respondents' proposals. Each stated term and condition, exhibit and other attachments should be addressed in the response. Alternate proposals to the stated terms and conditions, exhibits and other attachments are to be stated in comparative relation to the original RFP requirements. The Sheriff's Office reserves the right to reject all proposals.

### 2.4 Professional Expectations

The Contractor acknowledges that the Sheriff's Office will rely on the Contractor's ability, expertise, and knowledge to provide a comprehensive solution for BCSO 911 in accordance with the Scope of Work and specifications. The Contractor shall be obligated to exercise the highest standard of care in performing their obligations. Also, the Contractor will direct its personnel to respect and abide by the authority of Brunswick County, the Brunswick County Sheriff's Office and/or its consultants on all matters related to the Contractor's operation at the

project site, including but not limited to: Use of site resources such as loading docks, and the coordination of same; Connection to and use of utilities; Safety issues including site epidemic guidelines; Trash removal and site cleanliness; Site security.

## 2.5 Proposal Contents

A complete list of all equipment proposed must be provided, specifying manufacturer and individual model numbers. All equipment and component parts furnished shall be new, meet the requirements stated herein, and be in an operable condition at the time of delivery.

Items will be funded via two sources. The Sheriff's Office will provide a diagram detailing the usage of each piece so a cost breakdown can be identified by novice examination.

## 2.6 Condition of Goods

All goods shall be new and in no case will be used, reconditioned, or obsolete parts be accepted.

## 2.7 Delivery

On-time delivery of goods and services is an essential part of the consideration. Upon notification of delivery delay, the Sheriff's Office at its sole option, may cancel the order or extend delivery times. Such extension of delivery times will not be valid unless extended in writing by an authorized representative of the Sheriff's Office. To mitigate or prevent damages caused by delayed delivery, the Sheriff's Office may require the Contractor to deliver additional quantities utilizing express modes of transport, and or overtime, and all costs of same will be the Contractor's responsibility. The Sheriff's Office reserves the right to procure from alternate source, and/or refuse receipt of or return delayed deliveries, at no cost to the Sheriff's Office.

## 2.8 Time for Opening Responses

Proposals will be opened December 2, 2020 at 10:00 AM EST in the 911Center Conference Room. Any proposals received after the scheduled closing time for the receipt of proposals will not be considered. Proposals submitted shall not be subject to public inspection until a contract is awarded.

## 2.9 Evaluation Criteria

Pursuant to North Carolina General Statutes §§ 143-129.8 and 143-135.9, the Sheriff's Office will award the contract to the Contractor who it deems submits the best overall proposal. When evaluating proposals, the Sheriff's Office will consider the following criteria, without limitation:

- 1) Modern, accepted practices
- 2) Engineering, design, efficiency, and workmanship
- 3) Maintenance costs

- 4) Availability of service and parts inventory
- 5) Operation costs
- 6) Delivery time
- 7) Warranties provided
- 8) Contractor's qualifications, experience, design skills, and production capabilities
- 9) Completeness and appropriateness of response submitted with the Sheriff's Office stated goals
- 10) Performance (based on The Sheriff's Office previous use of the same or similar equipment)
- 11) Servicing requirements as follows (understanding this is a Critical facility that operates 24/7 with no planned outages):
  - The ability, either directly or through an established local agent, to receive and respond within four hours to emergency maintenance requests communicated by telephone at any time (24 hours per day, 365 days per year).
  - The ability to provide a normal service response within twenty-four hours during normal business hours (8 a.m. to 5 p.m. ET, Monday through Friday, non-holidays), and within four (4) hours for critical support events. Service response time is defined as the period between the placing of a service request by authorized Sheriff's Office personnel and the arrival of a qualified Contractor's maintenance technician on-site.
  - All service personnel be trained and have a strong understanding of the systems for which they are dispatched to repair/service.
  - A sufficient parts inventory and necessary service equipment to repair and make operational each system type within a 12-hour period. Timing shall start upon the initial arrival of service personnel at the site.

The Sheriff's Office may negotiate with Contractors it deems to fall within a competitive range in order to obtain a final contract that best meets its needs. The Sheriff's Office reserves the right to award a contract, based on the initial proposals received, without further discussion or negotiation.

## 2.10 Standard of Award

After the Sheriff's Office has completed its review of all proposals, the contract shall be awarded to the Contractor that the Sheriff's Office deems to have submitted the best overall proposal. Brunswick County reserves the right to cancel the work described herein prior to issuance and acceptance of any contractual agreement, even if the Brunswick County Board of Commissioners has formally accepted the recommendation. Brunswick County shall not be deemed to have finally awarded the project until a contract has been successfully negotiated and executed by both parties.

# 3 Insurance and Indemnity

## 3.1 Indemnity

Contractor agrees to defend, indemnify, and hold harmless the Sheriff's Office and Brunswick County, their officers, employees, and agents from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof that are due in part or in the entirety of Contractor, its employees or agents. Contractor further agrees to investigate, handle, respond to, defend and dispose of same at its sole expense and agrees to bear all other costs and expenses related thereto.

## 3.2 Minimum Insurance Coverage Requirements

At Contractor's expense, the Contractor shall procure and maintain the following recommended lines of insurance according to the Scope of Work. The Sheriff's Office may choose to elect higher or lower coverages according to the work performed. Contractors must be insured by a licensed agent in North Carolina and rated A-VII or better by A.M. Best.

### **Commercial General Liability**

Covering all operations involved in this Agreement.

- \$2,000,000 General Aggregate
- \$2,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Each Occurrence
- \$1,000,000 Personal and Advertising Injury Limit
- \$ 5,000 Medical Expense Limit

### **Workers' Compensation**

Statutory limits covering all employees, including Employer's Liability with limits of:

- \$500,000 Each Accident
- \$500,000 Disease - Each Employee
- \$500,000 Disease - Policy Limit

### **Commercial Automobile Liability**

- \$1,000,000 Combined Single Limit – Any Auto

### **Professional Liability**

- \$1,000,000 Per Occurrence

### 3.3 Additional Insurance Requirements

Before commencement of any work or event, Contractor shall provide a Certificate of Insurance in satisfactory form as evidence of the insurances required above.

Contractor shall have no right of recovery or subrogation against the Sheriff's Office or Brunswick County (including its officers, agents and employees), it being the intention of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

Neither the Sheriff's Office nor Brunswick County shall have any liability with respect to Contractor's personal property whether insured or not insured. Any deductible or self-insured retention is the sole responsibility of Contractor.

All certificates of insurance must provide that the policy or policies shall not be changed or cancelled without at least thirty (30) days prior written notice.

Insurance procured by Contractor shall not reduce nor limit Contractor's contractual obligation to indemnify, hold harmless and defend the Sheriff's Office or Brunswick County for claims made or suits brought which result from or relating to the performance of this Agreement.

In the event Contractor receives Notice of Cancellation of Insurance required pursuant to this Agreement, Contractor shall immediately cease performance of all services and shall provide Notice to Brunswick County's Legal/Risk Management personnel within twenty-four (24) hours.

Certificate Holder shall be listed as follows.

ATTENTION: Brunswick County Risk Manager  
30 Government Center Dr. NE  
P.O. Box 249  
Bolivia, NC 28422

If Contractor is authorized to assign or subcontract any of its rights or duties hereunder and in fact does so, Contractor shall ensure that the assignee or subcontractor satisfies all requirements of this Agreement, including, but not limited to, maintenance of the required insurances coverage and provision of certificate(s) of insurance and additional insured endorsement(s), in proper form prior to commencement of services.

## 4 Current Audio/Video/USB System

The current Audio/Video/USB System at the BCSO 911 center will be replaced in its entirety, with the exception of any wiring components that Contractor may be able to utilize. The current Audio/Video/USB system at the BCSO 911 center allows for 70 different monitors from 41 computers as well as the ability to display selected content to a video wall and to a conference room projector. There is a master control panel at the primary console and individual controls for the audio settings at each location. The conference room has a separate controller that can select each computer or table source to project. All current wiring and cable runs are inside of troughs and/or conduit above ceilings and under the raised floor.

## 5 Future System Requirements

### 5.1 General Description

Contractors should describe their proposed solution in detail. The Sheriff's Office desires to replace the existing system with an updated scalable system to include 70 different monitors for 41 computers, as exists for the current system. The Sheriff's Office may also potentially add additional views at offsite locations with up to 8 monitors at the 10 current workstations and provide all needed infrastructure for a planned expansion into 3 additional workstations. Contractor should plan to provide critical public safety level support for the system for a minimum of 5 years. To the extent possible, Contractor should utilize any existing wiring and cable runs. Any proposed additional wiring and cable runs should match the colors of the existing construction and be high quality and, at a minimum, match the type, brand, and speed of the current infrastructure.

### 5.2 Architecture

Contractor should describe their system infrastructure solution design. Explain how failures are isolated and redundancies are handled to ensure the survivability of a critical 24/7 facility. Contractor must be able to work with other public safety vendors - particularly Mobile Communications America and their radio and 911 phone system.

### 5.3 Network Infrastructure

It will be the responsibility of the Contractor to perform a site survey to determine network infrastructure needs and any needed cable runs. Some, but not all, potential issues are listed below.

#### 5.3.1 Existing Conduit/Pathway Viability

The BCSO 911 Center currently uses CAT6 cabling at each workstation. All cables are terminated in racks in the server room located just behind the main room. The

Contractor will need to survey the existing pathways and determine any need for additional cable runs.

#### Termination of Fiber and Cabling

The Contractor should be prepared to terminate fiber and cable runs in an appropriate and uniform fashion abiding by all approved standards and guidelines including testing, labeling, and certifications.

## 5.4 System Features

Minimum required features in a system:

- Replace existing A/V/USB system. Provide new transmitter/receiver type equipment, replace computer monitors in the BCSO 911 center, any needed switches, controllers, etc. to complete the functional system.
- System must allow for adding additional selectable sources to be put in by the BCSO 911 staff on an ad hoc basis without the Contractor or a programmer being involved after delivery.
- System must allow for a pre-defined set of selectable sources by a non-technical end user at each 911 console.
- New system must not interfere with any other system nor cause any disruption in service. Installation will be in a live Public Safety Answering Point, and Contractor will have to work around live 911 calls. Any downtime should be minimal and will have to be planned for early morning hours with adequate notice.
- Install system in a section by section method that does not interrupt daily operations. The BCSO 911 Center will always remain operational during the project. Individual workstations can be migrated per station to ensure other stations remain operational.
- Provide new equipment.
- Include the specialized hardware and application software that operate the system.
- Software or site enabled access necessary to monitor and interface with the systems is required.
- Require scalability of the system to include future local and remote sites and at least 13 end-user consoles with each console consisting of:
  - o Critical 911 Phone System [1 PC, 1 Monitor, Shared HID]
  - o Critical Radio System [1 PC, 1 Monitor, Shared HID]
  - o Critical Dispatch System [1 PC, 4 Monitors, Dedicated HID]
  - o 2x Non-Critical Selectable Source [Scalable PC Sources, Shared HID]

- System must be capable of passing advanced audio solutions and mixing in a manner such that an end-user can hear both their phone, a selected and unselected radio channels at the same time from two sources. (*phone on headset with selected radio talkgroup mixed with same audio only for user to hear and unselected audio over speakers not in headset*)
- Require the use of a firewall and Virtual Private Network for transmission between sites.
- All cable runs terminated, tested and certified by the solutions provider

## 6 Maintenance and Warranty

Contractor warrants that all goods furnished shall be free from all defects and shall conform in all respects to the technical specifications established by the Sheriff's Office.

Contractor shall submit with the proposal form a copy of the manufacturers' warranties against defects in materials and workmanship covering the goods proposed.

Contractor will guarantee all hardware, software, and 24/7 support are provided for a minimum of 5 years from system handoff. Contractor shall submit a complete maintenance and warranty agreement not less than 5 years and for 24/7 support.

Contractor shall identify the location of the local service center and the number of service personnel trained on installing, terminating, testing and repairing the proposed cabling.

## 7 Timeline for Completion

The migration from the current system must be done with minimum disruption and be coordinated at a level that eliminates any adverse impact to end-user operations and the customers they serve. It is the Contractor's responsibility to provide a detailed proposed project schedule as part of their proposal. Typically, December until March provides the optimal window for project implementation.

## 8 Contractor's Understanding of the RFP

In responding to this RFP, the Contractor acknowledges that by submitting a proposal, it understands the RFP in its entirety, and in detail, including making any inquiries to the Sheriff's Office as necessary to gain such understanding. The Sheriff's Office reserves the right to determine, at its sole discretion, whether the Contractor has demonstrated such understanding. Such disqualification and/or cancellation shall be at no fault, cost, or liability whatsoever to the Sheriff's Office.

## 9 Contractor Incurred Costs

All costs that may be incurred to prepare proposals, attend meetings, attend site inspections, provide requested follow-up information, make formal and informal presentations, and for the entire contract negotiations process if applicable, shall be the sole responsibility of each Contractor. The Sheriff's Office is not responsible under any circumstances for reimbursement of any costs that may be incurred by Contractors during the proposal preparation, subsequent selection or negotiation stages.

## 10 Guidelines

Configure your system design to satisfy all stated RFP requirements, including any and all system hardware and software elements necessary to satisfy a requirement. All products and solutions proposed for by this RFP must be included at the time the completed RFP is returned to the Sheriff's Office. Omissions will be deemed nonresponsive.

## 11 Submission of Proposal

A written proposal specifying services and materials compliant with the requirements in this document should be mailed or hand delivered to Tom Rogers as set forth below. Proposals must be **received** by **November 30, 2020, at 3:00 PM EST**. Each should be clearly marked "Proposal Response – 911 Center Audio/Video/USB System." The Sheriff's Office will not be responsible for the failure of any mail or delivery service to deliver a proposal prior to the stated date and time. Regardless of the manner of submission or reason for delay, proposals received after the stated date and time will not be considered. Incomplete proposals or proposals inconsistent with the required format may be disqualified from consideration. Please include **four (4)** copies for review. Due to COVID19 mitigation, please make hand deliveries to the address below. The deliverer should wear a mask for interaction with any staff and will not be allowed beyond the lobby for purposes of proposal delivery.

Mail: Brunswick County Sheriff's Office 911  
Attn: Tom Rogers  
80 Stamp Act Drive  
Bolivia, NC 28422

Hand Deliver: Tom Rogers  
Brunswick County Sheriff's Office 911  
80 Stamp Act Drive  
Bolivia, NC 28422

To expedite the evaluation of proposals, each Contractor shall organize its proposal as follows:

- 1) Submittal shall include a “Table of Contents” and give page numbers for each part of the requirements.
- 2) The pages shall be numbered sequentially using Arabic numerals (1, 2, 3, etc.).
- 3) Company Overview

Provide a brief overview of your company and the services offered including:

1. Full legal name of the company
2. Year the business was established
3. Number of employees
4. An outline of your current financial status
5. An outline of your current partnerships
6. List the qualifications and experience of the project manager(s) and other key personnel that will be working on the project

4) Contractor References

Please provide information about your current clients, including:

1. Total number of current clients
2. A list of clients where you have installed similar systems
3. Evidence of successful completion of a project of a similar size and complexity
4. References: Please provide a client reference list consisting of three customers presently using the proposed system. References from other governmental organizations using equipment similar to what is being proposed are preferred. The list should include the organization’s name, name of contact with address and telephone number, and a brief description of the system, platform, length of time using the system, and number of users.

# 12 Additional Information

## 12.1 Form of Agreement

In addition to the terms and conditions contained in this Request for Proposal, by submitting a proposal, Contractor, if selected, agrees to enter into and be bound by the provisions of a Goods and Services Agreement in substantially the form attached hereto and incorporated herein by reference. To the extent that any of the terms of this Request for Proposal and the terms of the Goods and Services Agreement conflict, the terms of the Goods and Services Agreement shall prevail. No work shall commence until an agreement has been fully executed by the parties.

## 12.2 Reservation of Rights

In addition to other reservations of rights as set forth herein, the Sheriff's Office reserves the right to reject, without prejudice or explanation, any or all proposals. The Sheriff's Office reserves the right to waive informalities or technical defects in proposals or to amend the Scope of Work or specifications and request new proposals at any time prior to the award of a contract. All decisions of the Sheriff's Office shall be final and binding. The Sheriff's Office reserves the right to cancel the work described herein prior to issuance and acceptance of any contractual agreement even if the Board of Commissioners has formally accepted the recommendation.

# 911 Center Audio/Video/USB System

## Acceptance of Terms

Company Name:

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Contact Person:

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Title:

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Address:

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Phone Number:

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I certify that all above listed information is correct and that I and my company will agree to meet or exceed all requirements as outlined in the Request for Proposals for 911 Center Audio/Video/USB System.

Name / Title (Print) \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

**NORTH CAROLINA**

**GOODS AND SERVICES AGREEMENT**

**BRUNSWICK COUNTY**

**THIS GOODS AND SERVICES AGREEMENT** (hereinafter referred to as the “Agreement”) is made and entered into by and between Brunswick County, a body politic and corporate of the State of North Carolina, (hereinafter referred to as “County”), party of the first part and {Vendor Name}, (hereinafter referred to as “Contractor”), party of the second part.

**WITNESSETH:**

**1. GOODS AND SERVICES; FEES**

The goods to be purchased and the services to be performed under this Agreement (hereinafter referred to collectively as the “Project”) and the agreed upon fees for the Project are set forth on Exhibit “A” attached hereto.

Any exhibits or attachments referenced herein are hereby incorporated by reference and made a part of this Agreement. Any conflict between the language in an exhibit or attachment and the main body of this Agreement shall be resolved in favor of the main body of this Agreement.

**2. TERM OF AGREEMENT AND TERMINATION**

The term of this Agreement begins on {Effective Date} (the “Effective Date”) and continues in effect until {Expiration Date}, unless sooner terminated as provided herein. The County may terminate this Agreement at any time without cause by giving sixty (60) days’ written notice to Contractor. As soon as practicable after receipt of a written notice of termination without cause, Contractor shall submit a statement to County showing in detail the work performed under this Agreement through the effective date of termination. County may terminate this Agreement for cause by giving written notice of a breach of the Agreement. Contractor shall have fifteen (15) days to cure the breach following receipt of the notification. Failure to cure the breach within the fifteen (15) days shall result in the immediate termination of the Agreement. Notwithstanding the foregoing, County may terminate this Agreement immediately and without notice to Contractor if Contractor becomes insolvent, makes or has made an assignment for the benefit of creditors, is the subject of proceedings in voluntary or involuntary bankruptcy instituted on behalf of or against Contractor, or has a receiver or trustee appointed for substantially all of its property, or if Contractor allows any final judgment to stand against it unsatisfied for a period of forty-eight (48) hours.

**3. NONAPPROPRIATION**

If the Board of County Commissioners does not appropriate the funding needed by the County to make payments under this Agreement for a given fiscal year, the County will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were

appropriated. In such event, the County will promptly notify the Contractor of the non-appropriation and this Agreement will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the County which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

#### **4. COMPENSATION**

The County agrees to pay costs as specified in Exhibit “A” or as set out above for the satisfactory completion of the Project. Unless otherwise specified, Contractor shall submit monthly invoices to County and include detail of all product delivered or work performed under the terms of this Agreement. County shall pay all undisputed and properly completed invoices within thirty (30) days of receipt. Notwithstanding the foregoing, County will not pay late fees on any charges under this Agreement. If County disputes any portion of the charges on any invoice received from Contractor, the County shall inform Contractor in writing of the disputed charges. Once the dispute has been resolved, Contractor shall re-invoice County for the previously disputed charges, and, per any resolution between County and Contractor, the County shall pay those charges in full at that time. No advance payment shall be made for the work to be performed by Contractor under this Agreement.

#### **5. INDEPENDENT CONTRACTOR**

Both County and Contractor agree that Contractor shall act as an independent contractor and shall not represent itself as an agent or employee of the County for any purpose in the performance of its duties under this Agreement. Contractor represents that it has or will secure, at its own expense, all personnel required in performing the work under this Agreement. Accordingly, Contractor shall be responsible for payment of all federal, state and local taxes arising out of its activities in accordance with this Agreement, including, without limitation, federal and state income tax, social security tax, unemployment insurance taxes and any other taxes or business license fees as required. Contractor shall not be entitled to participate in any plans, arrangements or distributions by the County pertaining to or in connection with any pension, stock, bonus, profit sharing or other benefit extended to County employees.

In the event the Internal Revenue Service should determine that Contractor is, according to Internal Revenue Service guidelines, an employee subject to withholding and social security contributions, then Contractor hereby acknowledges that all payments hereunder are gross payments, and the Contractor is responsible for all income taxes and social security payments thereon.

#### **6. CONTRACTOR REPRESENTATIONS**

- a. Contractor is a duly organized entity or corporation qualified to do business and in good standing under the laws of the State of North Carolina;
- b. Contractor has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;

- c. No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for Contractor to enter into and perform its obligations under this Agreement;
- d. In connection with Contractor's obligations under this Agreement, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses;
- e. Contractor shall not violate any agreement with any third party by entering into or performing the work under this Agreement;
- f. Contractor will provide all goods and perform all work in conformity with the specifications and requirements of this Agreement;
- g. The goods and services provided by Contractor under this Agreement will not violate, infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party, or any other third-party rights (including, without limitation, non-compete agreements);
- h. Contractor shall exercise reasonable care and diligence when performing the work hereunder and will ensure that it adheres to the highest generally accepted standards in the industry when performing said work;
- i. Contractor acknowledges that if any specific licenses, certifications or related credentials are required in its performance of the work, it will ensure that such credentials remain current and active and not in a state of suspension or revocation; and
- j. Contractor shall ensure that whenever its employees or agents are on County property, they will strictly abide by all instructions and directions issued by the County with respect to rules, regulations, policies and security procedures applicable to work on the County's premises. Such rules, regulations, policies and security procedures shall include, but not be limited to: (i) not possessing any controlled substances; (ii) smoking only in designated smoking areas, if any; and (iii) not possessing weapons, except for weapons possessed by law enforcement officials.

## **7. WARRANTIES**

Without limiting Contractor's obligation to provide warranty or maintenance services, and in addition to any other warranties available, Contractor hereby assigns to County all of Contractor's warranties covering any third-party goods purchased under this Agreement. Contractor will provide copies of all said warranties to County upon delivery of the goods.

## **8. DAMAGE TO EQUIPMENT, FACILITIES, PROPERTY OR DATA**

Contractor shall be solely responsible for any damage to or loss of the County's equipment, facilities, property and/or data arising out of the negligent or willful act or omission of Contractor or its subcontractors. In the event that Contractor causes damage to the County's equipment or facilities, Contractor shall, at its own expense, promptly repair or replace such damaged items to restore them to the same level of functionality that they possessed prior to such damage.

## **9. NON-ENDORSEMENT AND PUBLICITY**

County is not endorsing Contractor or the goods or services covered under this Agreement, and Contractor is not permitted to reference this Agreement or County in any manner without the prior written consent of County. Notwithstanding the foregoing, the parties agree that Contractor may list the County as a reference in response to requests for proposals and may identify County as a customer in presentations to potential customers.

## **10. NON-EXCLUSIVITY**

Contractor acknowledges that County is not obligated to contract solely with Contractor for the goods or services covered under this Agreement.

## **11. DIVESTMENT FROM COMPANIES THAT BOYCOTT ISRAEL**

Contractor hereby certifies that it has not been designated by the North Carolina State Treasurer as a company engaged in the boycott of Israel pursuant to N.C.G.S. § 147-86.81.

## **12. DEBARMENT**

Contractor hereby certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this Agreement by any governmental department or agency. Contractor must notify County within thirty (30) days if debarred by any governmental entity during this Agreement.

## **13. INDEMNIFICATION**

Contractor shall defend, indemnify and hold harmless County, its officers, officials, agents and employees from and against all actions, liability, claims, suits, damages, costs or expenses of any kind which may be brought or made against County or which County must pay and incur arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind in connection with or arising out of this Agreement and/or the performance hereof that are due in part or in the entirety of Contractor, its employees or agents. Contractor further agrees to investigate, handle, respond to, defend and dispose of same at its sole cost and expense. Contractor shall be fully responsible to County for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by it. This Section shall survive any expiration or termination of this Agreement.

## 14. INSURANCE

Contractor shall procure and maintain in full force and effect at all times and at its sole cost and expense Commercial General Liability, Commercial Automobile Liability, Professional Liability and Workers' Compensation insurance, if applicable, and any additional insurance as may be required by County with limits acceptable to County. All insurance policies (with the exception of Workers' Compensation, if applicable, and Professional Liability) shall be endorsed, specifically or generally, to include County as an additional insured and as a certificate holder. Contractor shall furnish a Certificate of Insurance from a licensed insurance agent in North Carolina with a rating of A-VII or better by A.M. Best verifying the existence of any insurance coverage required by County. The Certificate will provide for thirty (30) days' advance notice in the event of termination or cancellation of coverage. Contractor shall have no right of recovery or subrogation against County (including its officers, agents and employees), it being the intention of the parties that the insurance policies so affected shall protect both parties and be primary coverage for any and all losses covered by the aforementioned insurance.

## 15. WORKERS' COMPENSATION

To the extent required by law, Contractor shall comply with the North Carolina Workers' Compensation Act and shall provide for the payment of workers' compensation to its employees in the manner and to the extent required by such Act. In the event Contractor is excluded from the requirements of such Act and does not voluntarily carry workers' compensation coverage, Contractor shall carry or cause its employees to carry adequate medical/accident insurance to cover any injuries sustained by its employees or agents while fulfilling Contractor's obligations under this Agreement.

Contractor agrees to furnish County proof of compliance with said Act or adequate medical/accident insurance coverage upon request.

## 16. REMEDIES

- a. **RIGHT TO COVER.** If Contractor fails to meet any completion date or resolution time set forth, due to no fault of County, the County may take any of the following actions with or without terminating this Agreement, and in addition to, and without limiting, any other remedies it may have:
  - i. Employ such means as it may deem advisable and appropriate to perform itself or obtain the goods and/or services from a third party until the matter is resolved and Contractor is again able to resume performance under this Agreement; and
  - ii. Deduct any and all expenses incurred by County in obtaining the goods and/or performing the services from any money then due or to become due Contractor and, should the County's cost of obtaining the goods and/or performing the

services exceed the amount due Contractor, collect the amount due from Contractor.

- b. **RIGHT TO WITHHOLD PAYMENT.** County reserves the right to withhold any portion, or all, of a scheduled payment if Contractor fails to perform under this Agreement until such breach has been fully cured.
- c. **SETOFF.** Each party shall be entitled to set off and deduct from any amounts owed to the other party pursuant to this Agreement all damages and expenses incurred or reasonably anticipated as a result of the other party's breach of this Agreement.
- d. **OTHER REMEDIES.** Upon breach of this Agreement, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently in addition to any other available remedy.
- e. **NO SUSPENSION.** In the event that County disputes in good faith an allegation of breach by Contractor, notwithstanding anything to the contrary in this Agreement, Contractor agrees that it will not terminate this Agreement or suspend or limit any services or warranties, unless: (i) the parties agree in writing; or (ii) an order of a court of competent jurisdiction determines otherwise; provided, however, this dispute period shall be limited to ninety (90) days.

## **17. TAXES**

Contractor shall be responsible for paying all taxes, fees, assessments and premiums of any kind payable on its employees and operations. Contractor shall substantiate, on demand by the County, that all taxes and other charges are being properly paid.

## **18. HEALTH AND SAFETY**

Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with completing the Project. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to all employees in connection with completing the Project and other persons who may be affected thereby.

## **19. NON-DISCRIMINATION IN EMPLOYMENT**

Contractor shall not discriminate against any employee or applicant for employment because of race, ethnicity, gender, gender identity, sexual orientation, age, religion, national origin, disability, color, ancestry, citizenship, genetic information, political affiliation or military/veteran status, or any other status protected by federal, state or local law or other unlawful form of discrimination. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated fairly during employment. In the event Contractor is determined by the

final order of an appropriate agency or court of competent jurisdiction to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Agreement may be cancelled, terminated or suspended in whole or in part by County, and Contractor may be declared ineligible for further County agreements.

## **20. COMPLIANCE WITH E-VERIFY PROGRAM**

Pursuant to N.C.G.S. § 143-133.3, Contractor understands that it is a requirement of this Agreement that Contractor and its subcontractors must comply with the provisions of Article 2 of Chapter 64 of the North Carolina General Statutes. In doing so, Contractor agrees that, unless it is exempt by law, it shall verify the work authorization of its employees utilizing the federal E-Verify program and standards as promulgated and operated by the United States Department of Homeland Security, and Contractor shall require its subcontractors to do the same. Upon request, Contractor agrees to provide County with an affidavit of compliance or exemption.

## **21. CONFIDENTIAL INFORMATION**

For purposes of this Agreement, the party disclosing Confidential Information is the “Discloser,” and the party receiving Confidential Information is the “Recipient.” “Confidential Information” shall mean any nonpublic information concerning the parties’ respective businesses including, but not limited to, all tangible, intangible, visual, electronic, present or future information such as: (a) trade secrets; (b) financial information, including pricing; (c) technical information, including research, development, procedures, algorithms, data, designs and know-how; (d) business information, including operations, planning, marketing interests and products; and (e) the terms of any agreement between the parties and the discussions, negotiations and proposals related thereto. Confidential Information disclosed to the other party must be clearly identified. Written Confidential Information must be clearly marked in a conspicuous place with an appropriate legend identifying the information as “Confidential.” Confidential Information that is not written must be identified as confidential at the time of disclosure and confirmed in writing delivered to Recipient within fifteen (15) days of disclosure.

The restrictions regarding the use and disclosure of Confidential Information do not apply to information that is:

- a. in the public domain through no fault of the Recipient;
- b. within the legitimate possession of the Recipient, with no confidentiality obligations to a third party;
- c. lawfully received from a third party having rights in the information without restriction, and without notice of any restriction against its further disclosure;
- d. independently developed by the Recipient without breaching this Agreement or by parties who have not had, either directly or indirectly, access to or knowledge of the Confidential Information;

- e. disclosed with the prior written consent of the Discloser; or
- f. required to be disclosed by law, regulation or court or governmental order, specifically including requests pursuant to the Public Records Laws of North Carolina contained in Chapter 132 of the North Carolina General Statutes. In the event Recipient receives such a request, it shall notify Discloser and Discloser shall have the opportunity to defend against production of such records at Discloser's sole expense.

## **22. OWNERSHIP OF WORK PRODUCT**

Should Contractor's performance under this Agreement generate documents or other work product that are specific to the Project hereunder, such documents or work product shall become the property of County and may be used by County on other projects without additional compensation to Contractor.

## **23. NO ASSIGNMENT WITHOUT CONSENT**

Neither party shall assign this Agreement (or assign any right or delegate any obligation contained herein whether such assignment is of service, of payment or otherwise) without the prior written consent of the other party hereto. Any such assignment without the prior written consent of the other party hereto shall be void. An assignee shall acquire no rights, and County shall not recognize any assignment in violation of this provision.

## **24. GOVERNING LAW AND VENUE**

This Agreement shall be governed by applicable federal law and by the laws of the State of North Carolina without regard for its choice of law provisions. All actions relating in any way to this Agreement shall be brought in the General Court of Justice of the State of North Carolina in Brunswick County or in the Federal District Court for the Eastern District of North Carolina, Wilmington division.

## **25. DISPUTE RESOLUTION**

Should a dispute arise as to the terms of this Agreement, both parties agree that neither may initiate binding arbitration. The parties may agree to non-binding mediation of any dispute prior to the bringing of any suit or action.

## **26. GOVERNMENTAL IMMUNITY**

County, to the extent applicable, does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.

## **27. NON-WAIVER**

Failure by County at any time to require the performance by Contractor of any of the provisions of this Agreement shall in no way affect County's right hereunder to enforce the same, nor shall any waiver by County of any breach be held to be a waiver of any succeeding breach or a waiver of this Section.

## **28. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein. There are no other representations, understandings or agreements between the parties with respect to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations and proposals, written or oral.

## **29. HEADINGS**

The headings in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

## **30. SEVERABILITY**

The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of this Agreement can be determined and effectuated. If a provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

## **31. AMENDMENTS**

No amendments or changes to this Agreement, or additional Proposals or Statements of Work, shall be valid unless in writing and signed by authorized agents of both Contractor and County.

## **32. NOTICES**

- a. **DELIVERY OF NOTICES.** Any notice, consent or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by facsimile to the intended recipient at the address set forth below.
- b. **EFFECTIVE DATE OF NOTICES.** Any notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by facsimile or

electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier.

- c. **NOTICE ADDRESS.** Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment or waiver of any provision of this Agreement shall be sent to:

- i. For the County: Brunswick County Manager  
P.O. Box 249  
Bolivia, NC 28422  
Fax: 910-253-2022
  
- ii. For the Contractor: { Vendor Name }  
{ Vendor Address }  
{ Vendor City }, { Vendor State or Territory } { Vendor Zip }

[SIGNATURES APPEAR ON FOLLOWING PAGE]

**33. SIGNATURES**

This Agreement, together with any amendments or modifications, may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be considered one and the same agreement. This Agreement may also be executed electronically. By signing electronically, the parties indicate their intent to comply with the Electronic Commerce in Government Act (N.C.G.S § 66-358.1 et seq.) and the Uniform Electronic Transactions Act (N.C.G.S § 66-311 et seq.). Delivery of an executed counterpart of this Agreement by either electronic means or by facsimile shall be as effective as a manually executed counterpart.

ATTEST:

**BRUNSWICK COUNTY**

\_\_\_\_\_  
Clerk to the Board

By: \_\_\_\_\_  
Frank Williams  
Chairman

[SEAL]

**{VENDOR NAME}**

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

Printed Name: {Vendor Signatory Name}

Title: {Vendor Signatory Title}

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

“This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.”

\_\_\_\_\_  
Julie A. Miller, Finance Director  
Brunswick County, North Carolina

APPROVED AS TO FORM

\_\_\_\_\_  
Robert V. Shaver, Jr., County Attorney /  
Bryan W. Batton, Assistant County Attorney