

July 14, 2025

Virginia:

AT A SPECIAL CALLED MEETING of the Nelson County Board of Supervisors at 4:00 p.m. in the Former Board of Supervisors Room located on the fourth floor of the Nelson County Courthouse, in Lovingston, Virginia.

Present: Ernie Q. Reed, Central District Supervisor – Chair
Dr. Jessica L. Ligon, South District Supervisor – Vice Chair
Jesse N. Rutherford, East District Supervisor
J. David Parr, West District Supervisor
Candice W. McGarry, County Administrator
Amanda B. Spivey, Administrative Assistant/Deputy Clerk
Phillip D. Payne IV, County Attorney

Absent: Thomas D. Harvey, North District Supervisor

I. CALL TO ORDER

Mr. Reed called the meeting to order at 4:01 p.m. with four (4) Supervisors present to establish a quorum and Mr. Harvey being absent.

II. CLOSED SESSION PURSUANT TO 2.2-3711 (A)(7) & (A)(8)

Mr. Rutherford moved that the Nelson County Board of Supervisors convene in closed session to discuss the following as permitted by Virginia Code Sections 2.2-3711 -

(A)(7) - "Consultation with legal counsel and briefings by staff members pertaining to actual litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body" – Wagner Zoning Appeal

(A)(8) - "Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter." - DSS Building Bid Results

Dr. Ligon seconded the motion. There being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Supervisors conducted the closed session and upon its conclusion, Mr. Rutherford moved to reconvene in public session. Dr. Ligon seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

Upon reconvening in public session, Mr. Rutherford moved that the Nelson County Board of Supervisors certify that, in the closed session just concluded, nothing was discussed except the matter or matters specifically identified in the motion to convene in closed session and lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information Act cited in that motion. Mr. Parr seconded the motion and there being no further discussion, Supervisors voted unanimously (4-0) by roll call vote to approve the motion.

III. SOCIAL SERVICES OFFICE BUILDING PROJECT – IFB#2025-NCDSS

a. Consideration of Authorizing Notice of Award (R2025-52)

Dr. Ligon moved to approve **Resolution R2025-52** and Mr. Rutherford seconded the motion. There being no further discussion, Supervisors approved the motion unanimously (4-0) by roll call vote and the following resolution was adopted:

**RESOLUTION R2025-52
NELSON COUNTY BOARD OF SUPERVISORS
EVALUATION OF COMPETITIVE SEALED BIDS FOR IFB#2025-NCDSS AND INTENT TO
PROVIDE NOTICE TO THE APPARENT LOW BIDDER OF THEIR STATUS AS A NON-
RESPONSIVE AND RESPONSIBLE BIDDER; AND THE INTENT TO AWARD THE
CONTRACT TO THE SUBMITTER OF THE NEXT LOWEST RESPONSIVE AND
RESPONSIBLE BID**

WHEREAS, Competitive sealed bids for IFB#2025-NCDSS were received on July 2, 2025 and publicly opened on July 3, 2025, in accordance with the IFB, Addendums 1-3, and the Virginia Public Procurement Act (VPPA) §2.2-4300; and

WHEREAS, within the 24 hours between receipt of bids and bid opening, the County did not receive any bid modifications or reports of errors and omissions; it proceeded with evaluation of the bid response provided by the apparent low bidder, Wall Construction, LLC; and

WHEREAS, on July 8, 2025, within the two business day allowance under the VPPA, PMA was notified by Wall Construction LLC, that their bid omitted the required Sitework Allowance of 3,000 cubic yards of undercut and backfill per Section 012110-Sitework Allowance, 3.1, A.; when this requirement was reiterated and discussed in detail at the pre-bid meeting held on May 28th; and

WHEREAS, IFB Section 9 Award of Contract, Section 9.1 states the award of the contract will be to the responsive and responsible bidder submitting the lowest base bid whose qualifications indicate the award will be in the best interest of the Nelson County Board of Supervisors and whose bid meets the prescribed requirements; and

WHEREAS, the VPPA, §2.2-4301 defines "Responsive Bidder" as a person who has submitted a bid that conforms in all material respects to the Invitation to Bid; and

WHEREAS, Wall Construction LLC, fails to meet the definition of "Responsive Bidder" because their bid does not conform in all material respects to the invitation to bid nor does it meet the prescribed requirements of the IFB, due to the omission of the required sitework allowance from the base bid; and

WHEREAS, the VPPA, §2.2-4301 defines "Responsible bidder" as a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required; and

WHEREAS, from July 9th to July 11th 2025, further communication with Wall Construction LLC indicated their intent was not to withdraw their bid, but was to have the County consider awarding the project to them knowing there was a defect and agreeing to negotiate a way for them to cure the problem on assumptions that the work specified would not be needed; and subsequently asking the County to move forward with them honoring their bid; even though they had modified their bid after bid opening and prior to contract

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award, by including the omitted required allowance after re-arranging their sub-contractor costs to cover the amount omitted; which was in conflict with IFB section 6.7 Modification and Withdrawal of Bids; and

WHEREAS, aforementioned suggested actions by Wall Construction, LLC would subject the County to legal action by other Bidders if they were pursued and would weaken the fundamental understanding that the Contractor's Price is firm and reliable for all of the project; calling into question their reliability and qualification of being a "Responsible Bidder" based on the State Code definition.

NOW THEREFORE IT BE RESOLVED, that pursuant to results of its evaluation, the Nelson County Board of Supervisors hereby authorizes the provision of a notice of intent to determine that the apparent low bidder, Wall Construction, Inc. is not a responsive and responsible bidder; and

BE IT FURTHER RESOLVED, that the Board hereby authorizes the provision of a notice of intent to award the contract pursuant to IFB#2025-NCDSS, to the bidder who submitted the next lowest base bid, Coleman-Adams Construction Inc.; and following the completion of a favorable evaluation of their status as responsive and responsible, issue them a Notice of Award.

IV. OTHER BUSINESS (AS PRESENTED)

The Board had no other business to discuss.

V. ADJOURNMENT

At 5:20 p.m. Mr. Rutherford moved to adjourn the meeting and Dr. Ligon seconded the motion. There being no further discussion, Supervisors approved the motion unanimously by vote of acclamation and the meeting adjourned.