

BOARD OF SUPERVISORS  
COUNTY OF YORK  
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the 16th day of September, 2025:

---

<u>Present</u>	<u>Vote</u>
Sheila S. Noll, Chair            man	Yea
Douglas R. Holroyd, Vice Chairman	Yea
M. Wayne Drewry	Yea
G. Stephen Roane, Jr.	Yea
Thomas G. Shepperd, Jr.	Yea

---

On motion of Mr. Roane, which carried 5:0, the following ordinance was adopted:

AN ORDINANCE TO AMEND CHAPTER 2.1-PROCUREMENT OF THE YORK COUNTY CODE TO MAKE CERTAIN CLARIFYING AND TECHNICAL AMENDMENTS TO YORK COUNTY’S PROCUREMENT CODE AND TO ADD PROVISIONS CONFORMING THE CODE WITH § 2.2-4311.3 OF THE CODE OF VIRGINIA

WHEREAS, York County’s Department of Finance and Central Purchasing division recommend that the Board of Supervisors amend Chapter 2.1 of the County Code to add and clarify some definitions, clarify what constitutes an emergency, clarify the process for solicitation of certain professional and engineering contracts, update the provisions related to disposition of surplus property, and to make other technical amendments; and

WHEREAS, York County’s Department of Finance and Central Purchasing division also recommend that the Board of Supervisors amend Chapter 2.1 of the County Code to conform the code to Virginia Code §2.2-4311.3 of the Code of Virginia and prohibit contracts for information technology goods and service from having provisions that mandate that the contract be interpreted according to the law of any jurisdiction other than Virginia or that disputes arising under the contract be litigating in any courts other than those in the Commonwealth of Virginia; and

WHEREAS, the Board of Supervisors desires to adopt the proposed amendments; and

WHEREAS, the Board has duly advertised and held a public hearing on the proposed amendments;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 16th day of September, 2025, that Chapter 2.1 of the Code of the County of York, Virginia, be amended as follows:

## CHAPTER 2.1 – PROCUREMENT

### ARTICLE 1. – OVERVIEW

\*\*\*

#### **Sec. 2.1-1-9. Definitions.**

As used in this policy, the following words and phrases shall have the meanings set forth below:

*Approving Authority.* The Board of Supervisors or the County School Board or the York-Poquoson Social Services Board, as appropriate.

*Best Value.* The overall combination of quality, price, and various elements of required services that in total are optimal relative to the County's needs, as predetermined in the solicitation.

*Board or Board of Supervisors.* The Board of Supervisors of York County, Virginia.

*Business.* Any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.

*Competitive Negotiation.* A method of procurement defined in section 2.1-2-2 of this chapter.

*Competitive Sealed Bidding.* A method of procurement defined in section 2.1-2-1 of this chapter.

*Construction.* Building, altering, repairing, improving or demolishing any structure, building, or roadway, and any draining, dredging, excavation, grading or similar work upon real property, but generally does not apply to routine maintenance, repair, or operation (MRO) of existing real property, if the expected costs do not exceed \$50,000.

*Construction contract.* A contract relating to the construction, alteration, repair, or maintenance of a building, structure, or appurtenance to such building or structure, including moving, demolition, and excavation connected with such building or structure, or any provision contained in any contract relating to the construction of projects other than buildings.

*Construction management contract.* A contract in which a party is retained by the County to coordinate and administer contracts for construction services for the benefit of the County and may also include, if provided in the contract, the furnishing of construction services to the County.

*Construction Manager at Risk (CMR).* A project delivery system where the Construction Manager, acting as the County's general contractor, is contracted to advise the designer and builder, and to deliver a project within a guaranteed maximum price (GMP).

*County.* The County of York, Virginia, a political subdivision of the Commonwealth of Virginia, and shall include all entities listed in section 2.1-1-4 of this chapter, above, and all other departments, public bodies corporate, agencies, sanitary districts and officers of the County to which this policy applies. It shall also include any other entity that has chosen to participate in this policy and has entered into a cooperative procurement agreement with the County.

*County Administrator.* The County Administrator of York County, or, a duly authorized designee.

*Design-build contract.* A contract between the County and another party in which the party contracting with the County agrees to both design and build the structure, or other item specified in the contract.

*Emergency.* A situation where there exists a threat to public health, welfare, or safety or when a unforeseen circumstance causes disruption of an essential service.

*Employment services organization.* An organization that provides employment services to individuals with disabilities.

*Exigency.* When there is a need to avoid, prevent, or alleviate serious harm or injury, financial or otherwise, to the County, and the use of competitive procurement proposals would prevent or unreasonably delay the procurement action required to address the situation.

*Goods.* All material, equipment, supplies, printing, and automated data processing hardware and software.

*Informality.* A minor defect or variation of a bid or proposal from the exact requirements of a solicitation for goods, services or construction, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

*Job Order Contracting.* A method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities and specifications in the book as the basis of its pricing. The method of selection may be made either through competitive sealed bidding or competitive negotiation.

*Multiphase professional service contract.* A contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

*Nonprofessional services.* Any services not specifically identified as professional services in the definition of professional services.

*Offeror.* Unless expressly indicated otherwise, shall mean both a bidder, i.e., a person who submits a competitive sealed bid in response to an Invitation to Bid, or a person who submits a proposal in response to a Request for Proposals.

*Potential bidder or offeror.* A person who, at the time the County negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

*Professional Services.* Work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering.

*Purchasing Agent.* The County Administrator of York County, Virginia, or any person designated by the County Administrator to implement all or a portion of this policy.

*Responsible bidder or Responsible offeror.* 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.

*Responsive bidder or Responsive offeror.* A person who has submitted a bid or proposal that conforms in all material respects to the Invitation to Bid or Request For Proposals.

*Reverse Auctioning.* A procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for opening.

*Services.* Any work performed by an independent contractor wherein the service rendered does not consist primarily of the acquisition of equipment or materials or the rental of equipment, materials, or supplies.

*Sole Source.* A non-competitive method of procurement used when only one supplier possesses the unique ability or capability to meet the particular requirements of the County or when only one supplier is practicably available.

*State Code.* The Code of Virginia.

*Using Agency.* Any officer, employee, or other entity of the County requiring any goods, services, insurance, or construction to be procured under the policies and procedures established by this policy.

**Sec. 2.1-1-10. Approvals.**

- (a) All purchases in excess of \$25,000 shall be specifically approved by the County Administrator, or the Approving Authority's designee, prior to the placement of a firm order. Purchases of \$25,000 or less may be approved by the Purchasing Agent or its designee.
- (b) Purchases of goods or services not previously included in the approved Capital Improvements Program (CIP) in excess of \$100,000, and purchases of goods and services previously included in the approved CIP in excess of \$250,000, shall be specifically approved by the Board of Supervisors or the appropriate Approving Authority prior to placement of a firm order.

Excluded from the above approval requirement set out in section 2.1-1-10(b) of this chapter are:

- (1) The purchase of vehicles, wherein the cost of a single unit does not exceed \$75,000;
  - (2) The bulk purchase of fuels for the Department of Public Works;
  - (3) The acquisition of Public Utility Services (Data Access services, phone ("land-line" only)/water/electricity/gas);
  - (4) Annual software licensing or maintenance contracts when the initial software acquisition was approved by the Board of Supervisors or the appropriate Approving Authority, such purchases being subject to fund availability; and
  - (5) Individual projects to be performed under an established Board approved annual services agreement for professional services.
- (c) The Board shall be notified no later than the Board's next regular meeting of any purchases of goods and services previously included in the approved CIP that are in excess of \$100,000 but not more than \$250,000.
  - (d) An emergency or exigency purchase may be made without obtaining prior Board approval, regardless of contract value. When Board approval would otherwise have been required, the Purchasing Agent shall notify the Board of the purchase as soon as practically possible. The notification shall identify the circumstances leading to the determination to proceed with the emergency or exigency purchase, and shall identify the efforts to obtain competitive pricing for the procurement.
  - (e) This policy is not intended to require review or approval by the Board of specific items procured by the York County School Board, the York-Poquoson Department of Social Services, the Constitutional Officers, the York County Library, or public bodies who have by agreement become subject to this policy, when sufficient funds have been appropriated to such entity or officer for the purpose of the procurement and this policy has been followed. The Purchasing Agent with regard to such entities and officers shall, however, by signing all purchase orders for such procurements prior to the placement of a firm order, certify compliance with this policy and procedures issued pursuant to it.

\*\*\*

## ARTICLE II. – SOLICITATION PROCESS

\*\*\*

### **Sec. 2.1-2-2. Process for competitive negotiation.**

The process for Competitive Negotiation shall include the following elements:

- (a) Issuance of a written request for proposal (RFP) indicating in general terms what is sought to be procured and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the offeror. In addition, the RFP shall identify and list, in order of importance, the evaluation criteria that will be used in making a decision of award.
  - (1) When soliciting for other than Professional services, costs for services may be an evaluation criteria. The RFP may request any cost or financial information, including, but not limited to, life-cycle costing and actual or nonbinding estimates of price for services. Such cost or financial information may be negotiated during the discussion and negotiation stages.
  - (2) When soliciting for Professional services, costs for services may be an evaluation criteria. The RFP shall not request that offerors furnish estimates of man-hours or cost for services in their RFP response. At the discussion stage, the County may discuss nonbinding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, nonbinding estimates of price for services.
  - (3) When soliciting for architectural or engineering services, in addition to the requirements in the preceding paragraph, the County shall not request or require offerors to list any exceptions to proposed contractual terms and conditions, unless such terms and conditions are required by statute, regulation, ordinance, or when applicable the standards developed pursuant to Commonwealth of Virginia code §2.2-1132, until after the qualified offerors are ranked for negotiations.
- (b) Public notice of the request for proposal at least ten (10) calendar days prior to the date set for receipt of proposals by posting a link to the solicitation on the county's website. In addition, proposals may be solicited directly from potential offerors.
- (c) Offerors shall submit proposals in the manner specified in the Request For Proposals ["RFP"]. When so specified, the County may allow submissions of proposals through electronic means and/or paper submission. Proposals shall not be opened until the designated time specified in the RFP for the submission of proposals.
- (d) Evaluation and Award:

- (1) A panel shall be established by the using agency, and shall consist of a representative of the Purchasing Division, and not less than three County representatives to evaluate proposals and recommend award.
- (2) On the basis of the initial responses to and the evaluation factors identified in the RFP, at least two (2) offerors deemed to be the most qualified, responsible and suitable or having proposed the best solution for which the RFP was issued shall be selected. Individual discussions shall then be had with each such offeror. Repetitive discussions shall be permissible. Offerors shall be encouraged to elaborate on their proposed solution and/or qualifications, scope of work, performance data, or expertise pertinent to the proposed project as well as any alternative concepts. Proprietary information from competing offerors shall not be disclosed to the public or to competitors. Discussions may encompass non-binding estimates of total project costs, including, where appropriate, design, construction, and life cycle costs. Methods to be used in arriving at a price for services may also be discussed. Price of service may be discussed and considered but will not be the sole determining factor in proceeding with negotiations. The evaluation panel shall identify and rank at least two of the offerors with whom the Purchasing representative will negotiate.
  - a. For professional services, negotiations shall be led by the Purchasing Division representative, beginning with the offeror ranked first. For A&E services, exceptions to the solicitation's/contract's Terms and Conditions may be discussed. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable and pursuant to contractual terms and conditions acceptable to the County, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair and reasonable price.
  - b. For other than professional services, negotiations shall be led by the Purchasing Division representative, and may be conducted simultaneously with multiple offerors. Award shall be made to the offeror with whom negotiations, in the County's opinion, resulted in the best proposal and provides the best value.
- (3) When the terms and conditions of multiple awards are so provided for in the request for proposal, awards may be made to more than one offeror.
- (4) Should the County determine in writing and in its sole discretion that only one offeror is fully qualified or that one offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.
- (5) Multiphase professional services contracts satisfactory and advantageous to the completion of large, phased, or long-term projects may be negotiated and awarded based on a fair and reasonable price for the first phase only, where the completion of the earlier phases is necessary to provide information critical to the negotiation of a fair and reasonable price for succeeding phases. Prior to entering into any such contract, the County shall (i) state the anticipated intended total scope of the project and (ii) determine in writing that the nature

of the work is such that the best interests of the County require awarding the contract.

\*\*\*

### ARTICLE III. – METHODS OF PROCUREMENT

\*\*\*

#### **Sec. 2.1-3-5. Exceptions to competition requirements.**

Sections 2.1-3-1 through 2.1-3-4(b) of this chapter shall not apply and no price competition other than specified in this section is required in the following procurement transactions:

- (a) The purchase of items under procurement contracts made available to the County by the Commonwealth of Virginia or to purchases made available to the County through other state, federal, or public entities, or through a cooperative purchasing organization establishing cooperative contracts for the public sector and utilizing competitive methods consistent with this policy;
- (b) Contracts for legal services, expert witnesses, and other services associated with litigation, regulatory proceedings, or other legal matters;
- (c) Purchases for special police work when the Sheriff certifies that the purchases are needed for undercover law enforcement operations;
- (d) Contracts and purchases by the Economic Development Authority with respect to any item of cost of an "authority facility" or "facilities" as defined in § 15.2-4902 of the State Code;
- (e) Upon a determination by the Purchasing Agent in writing, which writing shall state the basis for such determination, that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competition. The Purchasing Agent shall conduct appropriate negotiations as to price, delivery, and terms. A record of the sole source procurement shall be maintained listing the contractor's name, the amount, and qualifying circumstances. The Purchasing Agent shall provide a copy of the written determination to the County Administrator or other appropriate Approving Authority when approval is required by section 2.1-1-10 of this chapter;
- (f) In cases of emergency or exigency provided, however, such procurement shall be made with such competition as is practicable under the circumstances. A written statement by the Purchasing Agent of the basis for the emergency or exigency and for the selection of the particular supplier shall be included in the papers relating to the procurement. The Purchasing Agent shall develop appropriate procedures regarding emergency or exigency purchases;

- (g) Agreements or contracts entered into between the County and private parties for cost participation or cost sharing in the extension or construction of public utilities or the provision of other public services. Any such agreements must be approved by the Board;
- (h) Travel advances, travel reimbursements, or travel expenses;
- (i) Lodging and conference facilities, meals, beverages, entertainment, awards, or similar purchases in conjunction with official county functions or meetings;
- (j) Payments for services to jurors, board and commission members, sports officials, and medical examiners;
- (k) Contracts for local telephone service (excepting cellular and paging services), or other regulated utility services;
- (l) Interdepartmental or interagency expenses or purchases;
- (m) Contracts of employment;
- (n) Advertising and legal notices - not to include advertising associated with marketing;
- (o) Dues and subscriptions;
- (p) Employee educational expenses;
- (q) Textbooks, library books, and other library items for circulation to, or use by students, acquired by the public schools;
- (r) Public library books and other library items for circulation to, or use by the public;
- (s) Services rendered to or payments received by clients of the Department of Social Services;
- (t) Foster home placements;
- (u) Treatment services provided to clients by the Department of Community Services;
- (v) Clinical supervision services for counselors in County employment;
- (w) Occupational therapy, physical therapy, student evaluations;
- (x) Mail and mail-related costs (e.g. postage meter expense, stamps, etc.), but not mailing equipment or nongovernmental services;
- (y) Instructional/specialty educational materials, promotional items, crafts;
- (z) The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance and aggregates shall not be made by reverse auctioning;

- (aa) Notwithstanding any other provision of this policy, upon a determination by the Purchasing Agent that the purchase of certain designated goods from a public auction sale is in the best interest of the County, such items may be purchased at auction sale. The Purchasing Agent shall document the basis for any such determination;
- (bb) The purchase of goods or services that are produced or performed by:
  - (1) Persons, or in schools or workshops, under the supervision of the Virginia Department for the Blind and Vision Impaired; or
  - (2) Employment services organizations that offer transitional or supported employment services serving individuals with disabilities;
- (cc) Public assistance and social services programs as defined in § 63.2-100 of the State Code, community services boards as defined in § 37.2-100 of the State Code; services under the Children's Services Act (§ 2.2-5200 et seq. of the State Code) or the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq. of the State Code) for goods or personal services for direct use by the recipients of such programs if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 2.2-4303 of the State Code;
- (dd) Contracts for certain essential election materials and services;
- (ee) The selection of services related to the management, purchase, or sale of authorized investments, including, but not limited to, actuarial service;
- (ff) The procurement of goods and services not exceeding \$50,000, and not otherwise excluded from competition pursuant to sections 2.1-3-5(a) through 2.1-3-5(ee) of this chapter shall be made as follows:
  - (1) For purchases in the amount of \$5,000 or less, a Purchase Order and multiple quotes are not required; however, price reasonableness shall be considered prior to making a purchase.
    - a. Purchases of \$2,500 or less may be acquired using the County-provided credit card ("purchase card" or "PCard"). The use of a PCard includes the following stipulations:
      - 1. No cash advances (prohibited by security settings);
      - 2. No 'Gift Card' purchases for Employee Recognition Program. Any requests of that nature must be made on a purchase requisition form for coordination with the payroll office;
      - 3. No purchases of "equipment maintenance" or "lease agreements". These services should be requested on a purchase requisition form so that an accurate record of coverage can be maintained by staff;
      - 4. No Cell phones;
      - 5. The Purchasing Agent may allow for the use of a PCard in amounts greater than \$2,500 on an exception basis, when deemed to be in the County's best interest, and approved by the cardholder's department head or County Administration. All School Division spending

- parameter adjustments must be approved by the School Division's Chief Financial Officer.
- b. For purchases in excess of \$5,000 but not greater than \$25,000, at least three suppliers shall be contacted. The request may be made orally or in writing. Quotations shall be in writing. Award should be made to the lowest responsive and responsible vendor.
  - c. For purchases in excess of \$25,000 but not greater than \$50,000, the Purchasing Agent or his designee shall obtain quotes or proposals through an informal written process, and whenever practical publish the quoting opportunity on the website utilized by the County for the posting of solicitations. Bids/quotes need not be sealed, and there is no public opening of bids/quotes. Award should be made to the lowest responsive and responsible vendor, unless the solicitation specified that factors other than price would be considered in determining award.
  - d. When a procurement transaction is made under section 2.1-3-5(ff) of this chapter, the purchase shall be made from the Responsive and Responsible bidder quoting the lowest price, best value or proposing the most suitable solution, unless the Purchasing Agent documents in writing a determination that, in the best interest of the County, such purchase should be made from another supplier at a higher price. Such determination for purchases in excess of \$5,000 shall be approved by the County Administrator or the approving authority's designee.
  - e. Purchases that in the aggregate or in the sum of all phases are expected to be in excess of \$50,000 shall be made by either competitive sealed bidding or competitive negotiation.
  - f. No using agency shall artificially divide contract requirements so as to avoid any dollar limitations set forth in this policy.
  - g. Nothing in this policy shall prevent the use of competitive sealed bidding or competitive negotiation in procurements under \$50,000, if deemed appropriate by the Purchasing Agent.
- (gg) Maintenance or license agreements on prior Board-approved purchases;
- (hh) Purchases paid fully with non-public funds [i.e.: including but not limited to sponsorships, donations, school activity funds, etc.];
- (ii) Professional Services, where fees are expected to be under \$80,000, when made consistent with the Commonwealth's Department of General Services/Division of Purchase and Supply (DPS) Category B procedures:
- (1) Applicable to both single and term contracts.
  - (2) Procedure:
    - a. Prepare a Scope of Work.
    - b. From the pool of firms on file with DPS for Category B procedures, first present opportunity to a micro business if available. If no micro business in the category exist, are willing to participate, or are appropriately qualified, then the initial opportunity may be presented to a certified small business. When selecting firms to contact, avoid favoritism or the appearance of

- favoritism. Consideration should be given to number and value of previous contracts awarded to each firm.
- c. Conduct telephone or personal interviews with representatives of the firm to determine current personnel qualifications, location relative to the work, expertise, workload, capability to meet the proposed schedule, past performance on similar projects and ability to provide the service within budgeted costs.
  - d. Determine if the A/E is qualified for the work and, if so, negotiate the fee for services. Make award following standard operating procedures, including appropriate approvals.
  - e. If unable to negotiate an acceptable fee with the firm, then repeat the process until an acceptable fee is obtained.

\*\*\*

#### ARTICLE IV. – COMPLIANCE REQUIREMENTS

\*\*\*

##### **Sec. 2.1-4-3. Compliance with federal, state, and local laws and federal immigration law; required contract provisions.**

The County shall provide in every written contract a statement that the contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

\*\*\*

##### **Sec. 2.1-4-7. Compliance with state law; contract terms inconsistent with state law.**

(a) As used in this section, “information technology goods and services” means communications, telecommunications, automated data processing, applications, databases, data networks, management information systems, and other related goods and services.

(b) No term or provision in any public contract for the acquisition of information technology goods or services shall be valid or enforceable to the extent that it is in conflict with Virginia law. A public contract containing such a term or provision shall otherwise remain enforceable.

(c) Any term or provision in such a public contract that (i) makes the public contract subject to, governed by, or interpreted under the laws of another state or country or (ii) requires or permits any litigation or other dispute resolution proceeding arising from the public contract to be conducted in another state or county shall be void. Such public contract shall instead be deemed to provide for the application of the law of the Commonwealth of Virginia, without regard to such contract’s choice of law provisions, and to provide for jurisdiction in the courts of the Commonwealth.

\*\*\*

## ARTICLE V. – PREQUALIFICATION

\*\*\*

**Sec. 2.1-5-1. Prequalification generally; prequalification for construction.**

Prospective contractors may be prequalified for particular types of supplies, services, insurance or construction, and consideration of bids or proposals limited to prequalified contractors. The Purchasing Agent shall promulgate written procedures to implement Article V of this chapter.

- (a) Any prequalification of prospective contractors for construction by the County shall include:
  - (1) The County's issuance of a Request For Qualifications (RFQ) or a Request For Proposals (RFP) to solicit an application from prospective contractors desiring prequalification. The RFQ or RFP shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The RFQ or RFP shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. The form shall allow the prospective contractor seeking prequalification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor pursuant to this subsection shall be considered a trade secret or proprietary information subject to the provisions of subsection D of § 2.2-4342 of the State Code;
  - (2) In all instances in which the County requires prequalification of potential contractors, advance notice shall be given of the deadline for the submission of prequalification application. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids to allow the procedures set forth in this Article to be accomplished;
  - (3) At least 30 days prior to the date established for submission of bids or proposals under the procurement of the contract for which the prequalification applies, the County shall advise in writing each contractor who submitted an application whether that contractor has been prequalified. In the event that a contractor is denied prequalification, the written notification to the contractor shall state the reasons for the denial of prequalification and the factual basis of such reasons;
  - (4) A decision by the County denying prequalification under the provisions of this subsection shall be final and conclusive unless the contractor appeals the decision as provided in Section 2.1-10-2 of this Ordinance.
- (b) The County may deny prequalification to any contractor only if the County finds one of the following:
  - (1) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County

- shall be sufficient to establish the financial ability of the contractor to perform the contract resulting from such procurement;
- (2) The contractor does not have appropriate experience to perform the construction project in question;
  - (3) The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management;
  - (4) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The County shall not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond;
  - (5) The contractor or any officer, director, owner, project manager, procurement manager or chief financial official thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article XV of this chapter, (ii) the Virginia Governmental Frauds Act (§ 18.2-498.1 et seq.), (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1, or (iv) any substantially similar law of the United States or another state; or
  - (6) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government; and
  - (7) The contractor failed to provide to the County in a timely manner any information requested by the County relevant to subdivisions 2.1-5-1(b)(1) through 2.1-5-1(b)(6) of this chapter.

\*\*\*

## ARTICLE XI. – DISPOSITION OF SURPLUS PROPERTY

\*\*\*

### **Sec. 2.1-11-1. Sale of surplus property.**

- (a) The Purchasing Agent shall have the responsibility for disposal of County surplus, worn out, or obsolete items. The Purchasing Agent shall have the authority to transfer such surplus stock to other internal and external departments and public bodies and agencies. All property not so transferred shall be exchanged, traded in on new items, salvaged, destroyed, or sold as deemed appropriate by the Purchasing Agent.

- (1) Notwithstanding the foregoing, any library resources available for circulation and other library resources, excluding fixed assets, purchased by the York County public Library which have been declared to be surplus by the York County Librarian may be donated by the Librarian to the York County Friends of the Library, or to any similar organization the main function of which is to support the activities of the York County public library system. The Librarian shall keep a record of all resources so donated for review upon request by the Purchasing Agent.
  - (2) Surplus, worn out, or obsolete items, materials and personal property of the County of York, Virginia and of the York County School Board may be donated to a nonprofit organization which is exempt from taxation under 501(c)(3) of the Internal Revenue Code. Such donations shall be coordinated with the Purchasing Agent.
- (b) In general, the sale of surplus property may be made through competitive methods to include, but not limited to, public auction, sealed bids, or an appropriate website to the highest bidder. The sale of property having an estimated value of \$500 or less shall not require a competitive process. Individual items may be scrapped, if in the opinion of the Purchasing Agent, the cost of storage and sale exceeds the value of the item. The Board, upon the request of the Purchasing Agent, may make a special dispensation of any individual item if, in the opinion of the Board, such dispensation is in the public interest.

A Copy Teste:

---

Heather L. Schott, MMC  
Deputy Clerk