

COUNTY OF GILES

**315 N. MAIN ST.
PEARISBURG, VA 24134**



Request for Proposal

Surplus Property Auctioneer Services

Due Date: Thursday November 7, 2019, Time: 2:00 P.M.

Receipt Location: Giles County Administration

315 N. Main St., Pearisburg, VA 24134

Attn: Missy Bray, Purchasing Agent

Submit Questions to:

Missy Bray, Purchasing Agent

(540) 921-2525 ext 1118

Email: mbray@gilescounty.org

SIGNATURE SHEET

This signature sheet must be included as part of the offeror's proposal, or the County will not consider the proposal. The offeror's signature below certifies that this proposal as submitted complies with, and the offeror agrees to be legally bound by, all terms and conditions set forth in the Requests for Proposals for Surplus Property Auctioneer Services dated October 22, 2019. The undersigned hereby represents and warrants that the undersigned is duly authorized to sign and submit this proposal on behalf of the offeror.

Complete Legal Name of Offeror Firm: _____

"Order from" Address: _____

"Remit to" Address: _____

Federal EIN / SSN: _____

Authorized Signature: _____

Printed Name of Signatory: _____

Title of Signatory: _____

Telephone Number with Area Code: _____

Fax Number with Area Code: _____

E-Mail Address: _____

Date: _____

STATE CORPORATION COMMISSION FORM

Complete Legal Name of Bidder Firm: _____

Virginia State Corporation Commission registration information. The bidder:

is a corporation or other business entity with the following State Corporation Commission identification number: _____

-OR-

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

-OR-

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

-OR-

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

-OR-

has not completed any of the foregoing options but currently has pending before the State Corporation Commission an application for authority to transact business in the Commonwealth of Virginia and wishes to be considered for a waiver to allow the bidder to submit the State Corporation Commission identification number after the due date for bids. The bidder shall promptly provide any information the County requires to enable the County to properly evaluate the bidder's request for such a waiver. The County reserves the right to determine in its sole discretion whether to allow such a waiver.

PART I
STATEMENT OF NEEDS

1.1 Introduction.

1.2 **Purpose.** The County of Giles (the “County”) is requesting proposals to establish a contract through competitive negotiation for auction services for surplus property including vehicles, equipment and furnishings.

1.3 **Background.** The County holds periodic auctions of surplus property, typically annually. The County desires to utilize an auction services contractor to provide a suitable, convenient and consistent location for auctions, market the property to be auctioned, conduct the auctions, and prepare sale contracts and collect down payments. The County’s point of contact for auctions is the Public Works Superintendent.

1.4 **Definitions.** The following words and phrases, when used in this Request for Proposals, have the meanings ascribed to them in this section, except where the context clearly indicates that another meaning is intended:

- A. *County.* “County” means the County of Giles, a political subdivision of the Commonwealth of Virginia, acting through its duly authorized representatives.
- B. *Contract.* “Contract” means the Goods and Services Contract, a sample of which is attached to this Request for Proposals, together with all Contract Documents referred to therein, awarded to the Contractor as a result of this solicitation.
- C. *Contractor.* “Contractor” means the offeror to whom the County awards the Contract.
- D. *Offeror.* “Offeror” means any person or legal entity that may choose to submit a proposal in response to this solicitation.
- E. *Surplus Property.* “Surplus Property” means any item of tangible personal property determined to be surplus by the County or any of its departments. The term “Property” as used in this RFP shall be deemed to include Surplus Property.

1.5 **County Point of Contact.** Upon award of the Contract, the County will provide the Contractor with contact information for the County’s point of contact for the Contract.

- 2.1 **Scope of Services, Generally.** As further described in this Request for Proposals, and only at the direction of the County, the Contractor shall provide auction services to the County for the auction of surplus property.
- 2.2 **Frequency of Auctions.**
- A. The Contractor shall conduct auctions of surplus property as needed by the County, typically annually, on a date and time agreed by the Contractor and the County.
 - B. The County reserves the right to change or cancel auction dates. There is no guarantee that an annual auction will be held.
 - C. Each auction must occur in “real time” before an audience of live bidders. The Contractor shall provide a method for receipt of bids submitted online for any auction.
- 2.3 **Auction Facility and Personnel.**
- A. The Contractor must hold each auction at a facility mutually agreed upon by the Contractor and County.
 - B. The Contractor shall provide all necessary equipment, security, personnel to conduct each auction, an auctioneer, licensed as such by the Virginia Department of Professional and Occupational Regulation, to conduct the bid calling and auction the Property and personnel to process winning bidders’ information after the auction.
 - C. The Contractor shall respond to any customer service inquiries related to the auctions, and the Contractor shall forward such inquiries to the County only when the Contractor does not have sufficient information to respond to an inquiry.
- 2.4 **Pre-Auction Tasks.** Prior to conducting each auction, the Contractor shall perform the following tasks:
- A. Coordinate scheduling the date of each auction with the County;
 - B. Review the lists of surplus property to be auctioned that are submitted by the County to the Contractor;
 - C. Impose reserve prices on surplus property identified by the County as requiring a reserve price;
 - D. Advise the County on ways to combine or otherwise “bundle” property to maximize potential sale prices;

- E. Market the property to be auctioned, including, but not necessarily limited to, the use of marketing methods commonly used in the auction industry;
- F. Maintain accurate and continuously updated online advertising for property to be auctioned; and
- G. Post sales terms and auction notices online;
- H. Register prospective bidders prior to each auction.

2.5 **Operation of Auctions.** When conducting each auction, the Contractor shall perform the following tasks:

- A. Document the legal name, address, telephone number, e-mail address, and sale price offered by the high bidder for each item or bundle of property;
- B. Receive and record each high bidder's deposit (in an amount to be determined by the County) and provide a copy of deposit receipts to the County immediately after the Contractor receives the deposit;
- C. Provide the County with a draft Purchase Agreement of Sale or other sales contract, using a form approved by the County, for each item or bundle of property auctioned, identifying the property, the high bidder's legal name, address, and telephone number, the deposit amount, and the total sale price;
- D. Implement measures to prevent receipt of bids from those parties designated by the County as ineligible to bid in surplus property auctions; and
- E. Auction all County Property prior to the auction of any property offered by non-County parties at the same auction.

2.6 **Post-Auction Tasks.**

- A. Immediately after the conclusion of each auction and in a format directed by the County, the Contractor shall provide the County with a list of the property sold at auction, and for each item or bundle of property auctioned, the winning bidder's name, the deposits received, and the total sale price.
- B. No later than two business days after each auction occurs, the Contractor shall provide the County with a list of deposits received, and for each deposit, identify the item or bundle sold and the winning bidder's name.

C. No later than seven calendar days after each auction occurs, the Contractor shall transfer deposits to the County by check or in accordance with other directions provided by the County after award of the Contract.

2.7 Miscellaneous.

A. The County may modify the list of Property to be auctioned at any time up to and including the day of an auction.

B. This Contract is not exclusive; the County and reserves the right to sell or dispose of Property through other means or contractors.

2.8 Invoicing and Payment. The County desires to the extent possible that compensation to the Auctioneer be by payment from the Purchaser of a buyer's premium. However, if applicable, no later than seven calendar days after each auction occurs, the Contractor shall submit an invoice to the County for any costs or commissions which the County has agreed in advance to pay regarding Property auctioned. The invoice must be itemized by item or bundle sold showing the specific commission per item or bundle. The County is required to pay a commission only for those items of property for which a buyer (i) executes a Purchase Agreement of Sale and (ii) pays a deposit. Other than the commission, the County is not required to pay the Contractor any other amounts for any services rendered under this Contract.

2.9 Fidelity Bond Requirements.

A. Prior to the commencement of the Contract, the Contractor shall furnish the County with a fidelity bond in a form prescribed or approved by the County Attorney and with a surety approved by the County Attorney to indemnify the County for any loss of monies or any loss of or any damage to property that the County may suffer due to the fraudulent or dishonest acts or similar employee misconduct of the Contractor's agents, employees, officers or subcontractors. The Contractor shall renew the fidelity bond prior to the commencement of each renewal term of the Contract. For each term of the Contract, the fidelity bond shall have a penal amount equal to \$100,000.00.

B. In lieu of providing a fidelity bond, the Contractor may provide evidence of a commercial crime insurance policy with employee dishonesty coverage that the County Attorney approves as equivalent to or better than the protection afforded by a fidelity bond meeting the requirements of subsection A of this section. The policy or an endorsement thereto must show that the coverage thereunder extends to the employees that the Contractor assigns to the County. Such policy and the evidence thereof shall be in a form that meets the requirements of section 4.2 of Part III ("General Terms and Conditions") and all of its subparts.

3.1 **Proposal Contents.** The proposal must include all of the information set forth in this section and be organized as set forth in this section. In addition to the original, the Offeror shall submit 2 paper copies of its proposal.

3.2 **Tab 1 –Signed Forms.** This tab should include the completed and signed Signature Sheet and State Corporation Commission Form, included with this Request for Proposals.

3.3 **Tab 2 – Statement of the Scope.** A written understanding of what your firm perceives the nature and purpose of this Request for Proposal to be and the proposed methodology for conducting the County’s auction.

3.4 **Tab 3 – Executive Summary.** This tab should provide a brief summary of the proposal’s contents, emphasizing any unique aspects or strengths of the proposal. The Executive Summary should not exceed three pages.

3.5 **Tab 4 – Experience.** This tab should include information explaining the offeror’s qualifications, including a description of the offeror’s experience in providing the services required by this Request for Proposals for entities similar to the County, a brief history of the offeror’s experience providing the services required by this Request for Proposals.

3.6 **Tab 5 – Offeror History.** This tab should include a comprehensive narrative history of the Offeror’s firm. This tab should explain the size of the firm, including years in business, office location, and legal structure. This section of the proposal must contain the following organizational information and data for the Offeror’s organization:

A. If a corporation:

1. The state of incorporation;
2. The date of incorporation;
3. The principal place of business;
4. The Federal I. D. number;
5. Whether the corporation is a Subchapter S corporation.
6. The name, position, address, and number of years in position of each officer and director; and
7. The names of any affiliates, partner corporations, and subsidiaries.

- B. If a limited liability company:
 - 1. The state in which the limited liability company is organized;
 - 2. The date organized;
 - 3. A list of all managers of the limited liability company, including the name, telephone number, and years as a manager for each manager; and
 - 4. A list of all members of the limited liability company, including the name, telephone number, years as a member, and membership interest for each member.
- C. If a partnership:
 - 1. The state in which the partnership was formed;
 - 2. The date formed;
 - 3. The type of partnership; and
 - 4. A list of all general and limited partners, as applicable, including the name, telephone number, years as a partner, and partnership interest for each partner.
- D. If a joint venture:
 - 1. Date of formation;
 - 2. Name and address of each joint venture partner;
 - 3. The name and address of the principals of each joint venture partner; and
 - 4. The percentage of interest of each joint venture partner.
- E. If the Offeror is not a corporation, limited liability company, partnership, or joint venture, this tab must identify the type of business entity and provide any pertinent information.
- F. This tab should provide the Offeror's total number of employees.
- G. This tab should state whether the Offeror has operated under another name within the past ten years and, if so, the other name, the number of years in business under this other name, and the State Corporation Commission identification number under this name.
- H. This tab must state whether the Offeror is a subsidiary or affiliate of another organization and, if so, the name and address of each parent or affiliate organization.
- I. This tab must include the following statement, signed by the Offeror's contractually binding authority:

By submitting its proposal, {Insert Legal Name of Offeror} (the "Offeror") certifies and represents that the information that the Offeror provides in response to this Request for Proposals is accurate and complete as of the date of such submission. If the Offeror provides no information in response to any of the requirements of this Request for Proposals, then the Offeror, by submitting its proposal, certifies and represents that such requirements do not apply because no information exists that would respond to the requirement. The Offeror further covenants that, during the time between the submission of its proposal and the County's announcement of its decision to award the Contract, the Offeror will furnish the County with any changes or additions to such information necessary to ensure that this information remains accurate, complete and up-to-date.

- 3.7 **Tab 6 – Key Personnel.** This tab must include the résumés or curriculum vitae of the Offeror’s key staff members. It should identify the specific employees assigned to provide the services solicited by this Request for Proposals. For each person identified by the Offeror, this tab must include the following information:
- A. Name and title
 - B. Office location and County of residence.
 - C. Project responsibilities and roles.
 - D. Years having these responsibilities/roles with Offeror
 - E. Educational background.
 - F. Professional registrations and memberships, if applicable.
 - G. Years of relevant experience.
- 3.8 **Tab 7 – Pricing.** This tab should include the Offeror’s proposed commission rate if paid by buyers’ premium or paid by the County. The commission rate should be an all-inclusive fee that covers all services required by this Request for Proposals. The Offeror should detail any discounts being offered. This is a revenue-generating contract for the County, so it is the County’s objective to minimize the cost of the auction services.
- 3.9 **Tab 8 – References.** This tab should include the names, mailing and electronic mail addresses, and telephone numbers of at least three other entities, municipalities, corporations, organizations, or commercial groups with which the Offeror has worked during the last five years providing the services required by this Request for Proposals. This tab should briefly identify the project, services performed, and how the property offered for sale is comparable to the Surplus Property the County sells. The tab must also include an affirmative statement that the Offeror grants its consent for the County to contact the Offeror’s references for purposes of evaluating the Offeror and acknowledges that any information obtained from the Offeror’s references will not be disclosed to the Offeror.
- 3.10 **Tab 9 – Project Approach.** This tab should describe in detail the Offeror’s proposal for providing the services required by this Request for Proposals. In particular, the Offeror should include the following:
- A. Provide a sampling of advertisements and online inventories meeting the requirements of sections 2.4(E) and 2.4(F) herein.
 - B. Provide an example of an invoice that meets the requirements of section 2.7 herein.
 - C. Provide copies of all auctioneers’ licenses (e.g., from the Virginia Department of Professional and Occupational Regulation) and local business licenses.
 - D. Either (i) documentation from a surety company authorized to transact fidelity and surety business in the state of Virginia that such surety will furnish the fidelity bond

required by section 2.9(A) herein, or (ii) evidence of a commercial crime insurance policy meeting the requirements of section 2.9(B) herein.

- E. List each available facility where the Offeror proposes to hold auctions. Also, explain whether the Offeror owns each facility, and if the Offeror is not the owner, how the Offeror will obtain use of that facility.
- F. Explain how the Offeror proposes to accept online bids as required by section 2.2 (C) herein.

3.11 **Tab 10 – Subcontracting.** This tab must identify any of the required services that the Offeror intends to subcontract, and provide the following information:

- A. Reasons for subcontracting.
- B. Proposed subcontractor responsibilities.
- C. Identity of proposed subcontractors, including the subcontractor’s location, relevant personnel and experience, previous use by Offeror as a subcontractor, and any other relevant supporting information.

4.0 **Evaluation Criteria.** The Evaluation Committee will use the following evaluation criteria in ranking and selecting Offerors for negotiation pursuant to this Request for Proposals:

	<u>Available Points</u>
A. Experience.....	30 Pts.
B. Project Approach	25 Pts.
C. Cost	30 Pts.
D. Accessibility	5 Pts.
E. MBE / ESB Commitment	10 Pts.
Total Available Evaluation Points.....	<u>100 Pts</u>

END OF STATEMENT OF NEEDS

PART II
INSTRUCTIONS TO OFFERORS

1.1 Interpretations.

1.1.1 **Inquiry.** All inquiries requesting clarification of this Request for Proposals should be made in writing no later than ten business days prior to the closing date to the Purchasing Agent identified on the cover sheet of this Request for Proposals. If submitting an inquiry by electronic mail or facsimile transmission, the offeror should notify the Purchasing Agent by telephone that the person is sending the inquiry by that means. All inquiries should clearly state the number of this Request for Proposals. Because each offeror may have different needs for information, that offeror must make whatever inquiries it deems necessary in order to respond to the Request for Proposals. Inquiries that the Purchasing Agent determines to be pertinent to all solicited contractors will be answered by addenda to all solicited firms.

2.1 **General Requirements.** The proposal must be typed and should be presented as described in the paragraphs that follow. All pages in the proposal must be consecutively numbered. To be considered substantive, the proposal must respond to all requirements of this part of the Request for Proposals. Information supplied must be current and up to date. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. If the offeror supplies publications to respond to a requirement, the response must include reference to the document number and page number to provide a quick reference for the evaluation panel. Proposals not providing this reference will be considered to have no reference included in the additional documents. The proposal must include all the information defined below and be organized as set forth in the Statement of Needs.

2.2 **Substantive Nature of Proposals.** Proposals must be substantive. It is not sufficient for the offeror to address the proposal in general terms or in terms other than those outlined in this Request for Proposals. Proposals should be prepared simply and economically, providing a straightforward, concise description of the offeror's ability to meet the requirements set forth in the Request for Proposals.

2.3 **Authorized Signature.** All proposals must be signed in order to be considered. If the offeror is not an individual or a sole proprietor but rather a corporation or any other type of legal entity, the offeror must show the title of the individual executing the proposal and a resolution or other documentation clearly establishing the authority of the individual to sign the proposal and any subsequent contract.**Policy.** It is the policy of the County to encourage minority participation on all County contracts. To advance this policy, the County encourages minority participation through subcontracting, joint ventures, or other methods in contracting for services.

2.4 **Licenses, Permits and Fees.** All proposals submitted shall have included in the prices submitted the cost of any business or professional licenses, permits or fees required by the County of Giles or the Commonwealth of Virginia.

2.5 Public Inspection of Records.

- 2.5.1 **In General.** All proceedings, records, contracts and other public records relating to the procurement transaction that this Request for Proposals concerns shall be open to the inspection of any citizen of the Commonwealth of Virginia or any representative of a media organization with circulation in or that broadcasts in or into the Commonwealth of Virginia in accordance with the Virginia Freedom of Information Act.
- 2.5.2 **Inspection by Offerors.** Any offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed, but prior to award, except in the event that the County decides not to accept any of the proposals and to reopen the contract. Otherwise, proposal records shall be open to public inspection only after award of the contract.
- 2.5.3 **Proprietary Information.** Pursuant to County Code § 21-5(f) (Va. Code § 2.2-4342(F)), trade secrets or proprietary information submitted by an offeror in connection with this procurement transaction shall not be subject to the Virginia Freedom of Information Act, provided that the offeror (i) invokes the protections of section 21-5 of the Code of the County of Giles prior to or upon submission of the data or other materials, (ii) identifies the data or other materials to be protected, and (iii) states the reasons why protection is necessary. Classifying aspects of the proposal that are not trade secrets or proprietary is cause for the County to reject the proposal. Budgets and price quotations are considered public information in proposals submitted to the County. Classifying budgets and price quotations as “proprietary” or “confidential” is cause for the County to reject the proposal.

2.6 Exceptions.

- A. The offeror shall state in its proposal each exception, including the page number, the part and section numbers, the specific text at issue, and the nature of the exception, except as follows:

If the offeror fails, neglects, or refuses to note any exception in the manner and at the time required by this section, the offeror agrees that it shall comply with the Request for Proposals as originally issued and modified by any addenda.

3.1 Warranties and Representations of Offeror.

- 3.2 **Compliance with Request for Proposals Documents.** By signing its proposal in response to this Request for Proposals, the offeror warrants and represents that the offeror is in compliance with all terms and conditions of this Request for Proposals.

- 3.3 **Ethics in Public Contracting** By signing its proposal in response to this Request for Proposals, the offeror warrants and represents that (i) it has not violated any provisions of federal law or the Code of Virginia, (ii) its proposal is made without any understanding, agreement, or connection with any other person, firm, corporation, or joint venture making a proposal for the same purposes, and is in all respects fair and without collusion or fraud, (iii) it has not offered or received any kickbacks or inducements from any other contractor, supplier, manufacturer or subcontractor in connection with its proposal and (iv) it has not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged. The offeror further warrants and represents that no officer, employee or other person whose salary is payable in whole or in part by the County is, shall be, or become interested, directly or indirectly, as a contracting party, partner, stockholder, surety or otherwise, in this proposal, in the performance of the contract, in the supplies, materials, or equipment and work or labor to which it relates, or in any portion of the profits thereof. In addition, the offeror warrants and represents that the provisions of (Va. Code §§ 2.2-4367—2.2-4377) pertaining to offerors, contractors and subcontractors apply to this Request for Proposals and any resulting contract. The offeror agrees that if these warranties and representations are in any respect breached, such breach shall constitute a material breach of any contract that the County may award to the offeror and the offeror shall pay to the County the full price agreed by the County to be paid for the supplies, materials, equipment or services to be furnished under its proposal.
- 3.4 **Lawful Age and No Others Have Interest.** By signing its proposal in response to this Request for Proposals, the offeror represents that the offeror is of lawful age and that no other person, firm, corporation or joint venture has any interest in this proposal or in the contract proposed to be entered into.
- 3.5 **No Debts to County.** By signing its proposal in response to this Request for Proposals, the offeror warrants and represents that it is not in arrears to the County, upon debt or contract; is not a defaulter, as surety or otherwise, upon any obligation to the County; and has not been delinquent or unfaithful in any former contract with the County.
- 3.6 **Offeror Not Debarred.** By signing its proposal in response to this Request for Proposals, the offeror warrants and represents that neither its organization nor any of its officers, directors, partners or owners is currently barred from bidding on contracts by any agency of the federal government, any agency of the Commonwealth of Virginia, any agency of any other state, or any other public body or agency thereof.
- 3.7 **No Kickbacks or Conflicts of Interest.** By signing its proposal in response to this Request for Proposals, the offeror represents and warrants that it is in compliance with the provisions of section 2.3 (“Anti-Kickback Provision”) of the General Terms and Conditions included with this Request for Proposals and, further, that the offeror’s firm has no business or personal relationships with any other companies or persons that could be considered as a conflict of interest or potential conflict of interest to the County, and that there are no

principals, officers, agents, employees, or representatives of the offeror's firm that have any business or personal relationships with any other companies or persons that could be considered as a conflict of interest or a potential conflict of interest to the County, pertaining to any and all work or services to be performed as a result of this Request for Proposals and any resulting contract with the County.

3.8 State Corporation Commission Registration.

- 3.81 **Generally.** State law requires most business entities to register with the Commonwealth of Virginia's State Corporation Commission to obtain legal authorization to transact business in Virginia. A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described above that enters into a contract with the County shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.
- 3.82 **Form Required.** Each offeror organized or authorized to transact business in the Commonwealth of Virginia pursuant to Title 13.1 or Title 50 of the Code of Virginia shall include in its proposal the identification number issued to it by the State Corporation Commission. Any offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code of Virginia, or as otherwise required by law, shall include in its proposal a statement describing why the offeror is not required to be so authorized. Each offeror shall indicate the above information on the State Corporation Commission Form included with the Request for Proposals.
- 3.83 **Warranty.** By signing its proposal in response to this Request for Proposals, the offeror represents and warrants that all information the offeror submits on its completed State Corporation Commission Form is true and complete at the time the offeror submits its proposal and will remain true and complete throughout the duration of any contract between the County and the offeror that results from this Request for Proposals. The offeror agrees that the process by which compliance with Title 13.1 and Title 50 of the Code of Virginia is checked during the solicitation stage (including without limitation the State Corporation Commission Form provided) is streamlined and not definitive, and the County's use and acceptance of such form, or its acceptance of the offeror's statement describing why the offeror was not legally required to be authorized to transact business in the Commonwealth of Virginia, shall not be conclusive of the issue and shall not be relied upon by the offeror as demonstrating compliance.

4.1 Submission of Proposals.

4.2 **Copies.** Offerors shall submit an original proposal, clearly identified as such and signed in blue ink by the offeror's contractually binding authority. In addition, offerors shall submit additional copies of their proposals in such number as may be specified in the Statement of Needs.

4.3 **Labeling.** All proposals must be sealed and labeled (on the outside of the sealed container), with the label displaying the following information:

Proposal for Auctioneer Services-Surplus Property
Name of offeror
Address of offeror
Receipt and Closing Date:

4.4 **Recipient.** All proposals are to be addressed and delivered by the date and time specified on the Cover Sheet to the Purchasing Agent identified on the Cover Sheet.

4.5 **Transmittal Letter.** The proposal should include a transmittal letter that lists the following:

Firm's Name
Firm's Address
Contact Name and Telephone Number
Fax Number and E-mail Address

4.6 **Closing Date.** To be considered, a proposal must arrive at the address set forth in section 4.3 ("Recipient") on or before the time and date set forth on the Cover Sheet to this Request for Proposals. The County will not accept a proposal that is late. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt of their proposals. The offeror shall not make any other distribution of proposals. However, materials or information received from a prospective contractor as result of a request by the Contracting Officer shall not be considered a violation of this section.

4.7 **Return of Proposal.** All proposals submitted pursuant to this Request for Proposals will become the property of the County and will not be returned.

5.1 Evaluation and Selection Process.

5.2 **Opening.** At the designated time and date, the Purchasing Agent will open and list the proposals for the record. This is not a public opening. The proposals will then be forwarded to the County Administrator and evaluation panel to initiate the review and selection process. Proposals received after the date and time specified in section 4.5 ("Closing Date") are late and will be returned unopened at the offeror's expense.

5.3 **Evaluation.** During the evaluation phase, an evaluation panel will review and score the proposals in accordance with the evaluation criteria set forth in the Request for Proposals.

Some offerors may be eliminated at this stage. Once the evaluation panel has completed this initial scoring, the evaluation panel may engage in discussions with offerors not eliminated by the initial scoring to clarify specific matters presented in those offerors' proposals. Discussions may include oral interviews or presentations or written communications as specified in the Request for Proposals or, if not so specified, at the sole discretion of the County. The evaluation panel will use information gained during these discussions together with information presented in the proposal to rank offerors in accordance with the evaluation criteria stated in the Request for Proposals. The evaluation panel reserves the right to visit the premises of the offeror if the evaluation panel determines that it is necessary to do so.

5.4 Negotiation with Offerors.

5.4.1 **In General.** The County may undertake negotiations with offerors whose proposals show them to be qualified, responsible and capable of performing the work in accordance with the stated criteria.

5.4.2 **Procedure.** Unless the Purchasing Agent in consultation with the County Administrator and County Attorney determines that only one offeror is fully qualified or that one offeror is clearly more highly qualified than the others under consideration, selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposals, including price if so stated in the Request for Proposals. Negotiations shall then be conducted with each of the offerors so selected.

6.1 Award and Execution of Contract.

6.2 Award.

6.2.1 **In General.** The County will make the award to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the County, taking into consideration price and the evaluation factors set forth in this Request for Proposals.

6.3 **Rejection of Proposals.** The County reserves the right to reject any or all proposals, in whole or in part, and to delete items prior to making the award, whenever it is deemed in the sole opinion of the County to be in its best interest.

6.4 **Nondiscrimination in Award.** The County shall not discriminate against any offeror in the solicitation or award of a contract based on this Request for Proposals because of race, religion, color, sex, national origin, age, disability, faith-based organizational status or any other basis prohibited by state law relating to discrimination in employment or because the offeror employs ex-offenders unless the using agency has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

- 6.5 **Notice of Award.** A contract is awarded only when the Director of Procurement Services signs the contract. The Contracting Officer may provide notice of the County's decision to award a contract prior to award of that contract by posting a notice of intent to award on the website of the Department of Procurement Services. A notice of intent to award means that the County intends to award the contract to the offeror named in the notice ten calendar days after the notice is posted. Offerors are responsible for monitoring the website of the Department of Procurement Services for content posted thereon.
- 6.6 **Contractual Obligation.** The proposal submitted by the selected contractor and this Request for Proposals shall become an attachment to the contract signed by the County and the selected offeror. Price quotations and other time-dependent information contained in proposals should be valid for a minimum of 90 days from the closing date of this Request for Proposals. The County may undertake negotiations with offerors whose proposals show them to be qualified, responsible and capable of performing the work in accordance with the stated criteria. The County shall not be liable for any costs incurred by offerors in connection with the preparation or submission of proposals and related materials or negotiations.
- 6.7 **When Contractual Obligation Arises.** No contract shall result from the submission of any proposal and no liability shall accrue with respect thereto until a written contract and any other necessary documents have been fully and completely executed by both the successful offeror and the County.
- 6.8 **Contract Execution Requirements.** Upon notice of the award of a contract pursuant to this Request for Proposals, the successful offeror shall sign the final contract document, a sample of which is included with this Request for Proposals, upon receipt thereof from the Contracting Officer, register in the County's online Supplier Portal, and furnish the insurance documents required by the General Terms and Conditions included with this Request for Proposals. The offeror shall furnish the County with the signed contract and the required insurance documents and must have registered in the County's online Supplier Portal within 15 calendar days after the date of the notice of award or within such further time as the County may allow. Once the County has received the signed contract and insurance documents from the successful offeror, the County's representative will then sign the contract. The signature of the County's representative on the contract constitutes the award of the contract.

END OF INSTRUCTIONS TO OFFERORS

PART III
GENERAL TERMS AND CONDITIONS

1.1 Duration of Contract.

1.2 **Commencement and Expiration.** This Contract shall commence on the Commencement Date set forth in the Goods and Services Contract and shall expire three (3) years later, unless terminated earlier in accordance with the provisions of this Contract.

1.3 **Extension of Contract.** The County reserves the right to extend the Contract for any reason for a period or periods up to two (2) renewal terms of three (3) years each. This extension clause may be exercised when the County determines that an extension of the Contract is advantageous to the County, provided that the Contractor may elect not to accept an extension.

2.1 Contractor Responsibilities.

2.2 **Independent Contractor.** The Contractor shall provide the services required under this Contract as an independent contractor.

2.3 **Advertising.** The Contractor shall not use any indication of its services to the County for commercial or advertising purposes. However, the Contractor may list the County as a reference account for prospective customers.

2.4 **Anti-Kickback Provision.** The Contractor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any company or person other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gifts or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the County shall have the right to annul or void this Contract without liability or, in its sole discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

2.5 **Compliance with Laws.** The Contractor shall comply with the provisions of any statutes, ordinances, rules, regulations, or other laws enacted or otherwise made effective by any local, state, or federal governmental entity which may be applicable to the performance of this Contract and shall obtain all necessary licenses and permits thereunder.

2.6 Contractor Misrepresentation.

2.6.1 **In General.** If the Contractor knowingly makes a material misrepresentation in submitting information to the County, such misrepresentation will be sufficient grounds for rescinding the award of this Contract.

2.7 Drug-Free Workplace.

Policy. The Contractor certifies that it has taken and will continue to take appropriate and effective action to educate its employees about the dangers of drug abuse in the workplace, (ii) provide its employees with effective drug counseling, rehabilitation and employee assistance programs, any or all, (iii) discipline employees who violate the requirement of a drug- free workplace, and (iv) minimize, to the greatest extent possible, the risks of drugs entering the workplace. The Contractor is also prohibited from contracting with any other party that fails to comply with this policy. Failure by the Contractor or its subcontractor to comply with the provisions outlined above will be cause for termination of the Contract.

2.8 Human Rights.

2.8.1 **Civil Rights Act Compliance.** During the performance of this Contract, the Contractor agrees, pursuant to Resolution No. 74-R8-11 adopted February 25, 1974 by the Council of the County of Giles, to comply fully with Titles VI and VII of the Civil Rights Act of 1964, as amended, and all regulations promulgated thereunder.

The essence of this requirement is found in the United States Code Annotated, Title 42, Section 2000e-2, which states in part:

“a. It shall be an unlawful employment practice for an employer:

- (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; or
- (2) to limit, segregate, or classify his employees or applicants for employment in anyway which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race, color, religion, sex or national origin.”

By entering into this Contract, the Contractor certifies that it has complied with Titles VI and VII of the Civil Rights Act of 1964, as amended.

2.9 **Terms.** To the extent that payment is required, the County shall pay the Contractor as follows: Net 45 days.

3.1 **Taxes.** All prices shall be submitted exclusive of direct Federal, State and Local Taxes. The County shall not be liable for the payment of any taxes levied by any local, state, or federal governmental entity against the Contractor, and the Contractor shall pay all such taxes; furthermore, should the County nevertheless pay any such taxes, the Contractor shall reimburse the County therefor.

3.2 **Invoices.** The Contractor shall submit invoices that include a unique invoice number, the applicable County purchase order number, and the Contractor's federal Taxpayer Identification Number. All invoices submitted by the Contractor must set forth each item billed in sufficient detail to enable the County to ensure that the item was ordered and corresponds with the contract price for such item. If the Contractor does not include all of the required information on the invoice, the County may reject and return the invoice unpaid. The Contractor shall submit the original invoice to the County's Department of Finance at:

County of Giles
Accounts Payable
1 Taylor Ave., Suite 2
Pearisburg, VA 24134

4.1 Indemnification and Insurance.

4.2 **Indemnification.** The Contractor shall indemnify, defend and hold harmless the County, its officers, agents and employees from and against any and all losses, liabilities, claims, damages and expenses (including court costs and reasonable attorneys' fees) arising from any material default or breach by the Contractor of its obligations specified in this Contract, as well as all claims arising from errors, omissions, negligent acts or intentional acts of the Contractor, its officers, agents and employees. Further, the Contractor shall assume the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of the Contractor, its subcontractors, its agents or its employees under or in connection with this Contract. The Contractor shall hold harmless and indemnify the County, and its agents, volunteers, servants, employees, and officers from and against any and all claims, losses or expenses, including but not limited to court costs and attorneys' fees, which any of them may suffer, pay or incur as the result of claims or suits due to, arising out of or in connection with any and all such damage, real or alleged. The Contractor shall, upon written demand by the County, assume and defend at the Contractor's sole expense any and all such claims or legal actions.

4.3 **Insurance.** The Contractor shall provide and maintain throughout the life of this Contract insurance in the kinds and amounts specified in this section with an insurer licensed to transact insurance business in the Commonwealth of Virginia. Each insurance policy, endorsement and certificate of insurance shall be signed by duly authorized representatives of such insurers and shall be countersigned by duly authorized local agents of such insurers.

4.3.1 **Costs and Premiums.** The Contractor shall pay all premiums and other costs of such insurance. The consideration paid or to be paid to the Contractor for the performance of the Contract includes the premiums and other costs of such insurance, and neither the County shall be responsible therefor.

4.3.2 **Policy Requirements.** All insurance contracts and policies shall provide, or be endorsed to provide, as follows:

- (i) Subrogation against the County shall be waived.
- (ii) The County, and its officers, employees, agents and volunteers shall be listed as an additional insured, except for Workers Compensation and Professional Liability.
- (iii) Coverage will not be canceled, non-renewed or materially modified in a way adverse to the County without 30 days' written notice to the County.
- (iv) The insolvency or bankruptcy of any of the insured shall not release the insurer from its obligation to satisfy claims otherwise within the coverage of such policies.

No insurance contract or policy shall be expanded to afford coverage which is greater than the maximum coverage approved for writing in the Commonwealth of Virginia.

4.3.3 **Evidence to Be Furnished.**

4.2.3.1 **Endorsements.** The Contractor shall furnish the County with a copy of the policy endorsement listing the County, and its officers, employees, agents and volunteers as an additional insured for each policy, other than Workers Compensation and Professional Liability, required under this section 4.2 ("Insurance"). The Contractor shall furnish the County with copies of such other endorsements as may be required under this Contract upon request by the County therefor.

4.2.3.2 **Certificates of Insurance.** The Contractor shall furnish the County with a certificate of insurance evidencing the above coverage, indicating that the County, and its officers, employees, agents and volunteers are listed as additional insured for each policy, other than Workers Compensation and Professional Liability, and that the coverage will not be canceled, non-renewed or materially modified in a way adverse to the County without 30 days' written notice to the County. All certificates of insurance shall reference "Auctioneer Service Contract".

4.2.3.3 **Contracts and Policies.** The Contractor is not required to furnish the County with copies of insurance contracts or policies required by this section 4.2 ("Insurance") unless requested at any time by the County's Purchasing Agent.

4.2.4 **Schedule of Coverage.** The Contractor shall provide and maintain the following types of insurance in accordance with the requirements of this section 4.2 ("Insurance"):

- (i) Commercial General Liability Insurance with a combined limit of not less than \$500,000 per occurrence.
- (ii) Automobile Liability Insurance with a combined limit of not less than \$500,000 per occurrence.
- (iii) Statutory Workers' Compensation and Employers' Liability Insurance with the Alternate Employer Endorsement WC 000301.
- (iv) Either (a) for professional services, Professional Liability Insurance with limits of not less than \$500,000 per claim, or (b) for non-professional services, Errors and Omissions Insurance with limits of not less than \$500,000 per occurrence.

5.1 **Assignment, Delegation and Subcontracting.**

5.2 **By County.** The County may assign their rights or delegate their duties, in whole or in part, under this Contract by written notice delivered to the Contractor. Such transfer of rights or duties shall take effect upon the date specified in the notice or upon the assumption, if necessary, of the delegated duties by the assignee, whichever is later.

5.3 **By Contractor.** The Contractor shall not assign its rights or delegate its duties, or any part thereof, under this Contract without the prior written consent of the County. Further, the Contractor shall not assign, sublet or transfer its interest or any part thereof in this Contract by means or as part of any sale, merger, consolidation, assignment or any other event that would result in new or different ownership, control, operation or administration of the Contractor's business affairs without the prior written consent of the County.

5.4 **Subcontracting.** This Contract shall not be subcontracted without the prior written approval of the County's Director of Procurement Services.

6.1 Remedies and Termination.

6.2 **Default.** In case of default of the Contractor or if the Contractor fails to deliver the supplies or services ordered by the time specified, the County, after due notice in writing, may procure them from other sources and hold the Contractor responsible for any excess cost occasioned thereby. This remedy shall be in addition to any other remedies available to the County.

6.3 Termination with Cause.

6.3.1 **Notice.** The County may terminate this Contract with cause at any time for the Contractor's failure to perform its obligations under this Contract or to otherwise adhere to the terms and conditions of this Contract by delivery of written notice to the Contractor of the intent of the County to so terminate. Such notice shall be delivered at least seven calendar days prior to the date of termination and shall otherwise be given in accordance with the requirements of this Contract for the delivery of notices.

6.3.2 **Cure.** If the Contractor cures the failure to perform or otherwise adhere to the terms and conditions of this Contract to the satisfaction of the County, indicated in writing to the Contractor, during this seven calendar day period, then the notice of termination with cause shall be deemed null and void.

6.3.3 **Effect.** Upon such termination, the County shall be liable only to the extent of costs which may be reimbursable under this Contract that have been submitted by the Contractor and approved by the County up to the time of termination and only upon delivery to the County of all completed or partially completed work performed by the Contractor. The County shall have full right to use such work in any manner when and where it may designate without claim on the part of the Contractor for additional compensation.

6.4 Termination without Cause.

6.4.1 **Notice.** The County may terminate this Contract without cause by delivery of written notice to the Contractor of the County's intent to so terminate. Such notice must be delivered at least 90 calendar days prior to the date of termination and must otherwise be given in accordance with the requirements of this Contract for the delivery of notices.

6.4.2 **Effect.** Upon such termination, the County shall be liable only to the extent of any (i) costs which may be reimbursable under this Contract that have been submitted by the Contractor and approved by the County up to the time of termination and (ii) fees to which the Contractor may be entitled under this Contract as a result and only upon delivery to the County of completed or partially completed work. The County shall have full right to use such work in any manner when and where it may designate without claim on the part of the Contractor for additional compensation. No termination notice will relieve the Contractor of the obligation to deliver or perform on all outstanding orders issued prior to the effective date of termination.

6.5 Termination by Contractor.

6.5.1 **Notice.** The Contractor may terminate this Contract if the County does not appropriate sufficient funds for the County to perform its obligations under this Contract by delivery of written notice to the County of the Contractor's intent to so terminate. Such notice shall be delivered at least 45 calendar days prior to the date of termination and shall otherwise be given in accordance with the requirements of this Contract for the delivery of notices.

6.6 **Waiver.** The waiver by any party of any term or condition of this Contract shall not be deemed to constitute either a continuing waiver thereof or a waiver of any further or additional right that such party may hold under this Contract.

7.1 Dispute Resolution.

7.2 **Governing Law.** All issues and questions concerning the construction, enforcement, interpretation and validity of this Contract, or the rights and obligations of the County and the Contractor in connection with this Contract, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia.

7.3 **Construction and Interpretation.** Each of the parties has had the opportunity to have its legal counsel review this Contract on its behalf. If an ambiguity or question of intent arises with respect to any provision of this Contract, this Contract will be construed as if drafted jointly by the parties. Neither the form of this Contract, nor any language herein, shall be construed or interpreted in favor of or against any party hereto as the sole drafter thereof.

7.4 **Forum and Venue Choice.** Any and all disputes, claims and causes of action arising out of or in connection with this Contract, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in a federal or state court located in the County of Giles, Virginia. The Contractor accepts the personal

jurisdiction of any court in which an action is brought pursuant to this article for purposes of that action and waives all jurisdiction- and venue-related defenses to the maintenance of such action.

8.1 Miscellaneous Provisions.

8.2 **Captions.** This Contract includes the captions, headings and titles appearing herein for convenience only, and such captions, headings and titles shall not affect the construal, interpretation or meaning of this Contract.

8.3 **Force Majeure.** If any party is unable to perform its obligations under this Contract due to acts of God or circumstances beyond its reasonable control, such obligations shall be suspended as long as those circumstances persist, provided that the delaying party promptly notifies the other party of the delay and the causes. Except where the delay is caused by an act or omission of the delaying party, any costs arising from such delay shall be borne by the party incurring the delay.

8.4 **Merger / Entire Agreement.** This Contract, including the exhibits incorporated herein, constitutes both a complete and exclusive statement and the final written expression of all the terms of this Contract and of the entire understanding between the County and the Contractor regarding those terms. No prior written agreements or contemporaneous or prior oral agreements between the County and the Contractor regarding this Contract's subject matter shall be of any effect.

8.5 **Modification.** This Contract shall not be amended, modified, supplemented, or otherwise changed except in the form of a County Contract Modification signed by the authorized representatives of the County and the Contractor in accordance with the County's Purchasing Policies and Procedures.

8.6 **No Third-Party Beneficiaries.** Notwithstanding any other provision of this Contract, the County and the Contractor hereby agree that: (i) no individual or entity shall be considered, deemed or otherwise recognized to be a third-party beneficiary of this Contract; (ii) the provisions of this Contract are not intended to be for the benefit of any individual or entity other than the County or the Contractor; (iii) no individual or entity shall obtain any right to make any claim against the County or the Contractor under the provisions of this Contract; and (iv) no provision of this Contract shall be construed or interpreted to confer third-party beneficiary status on any individual or entity. For purposes of this section, the phrase "individual or entity" means any individual or entity, including, but not limited to, individuals, contractors, subcontractors, vendors, sub-vendors, assignees, licensors and sub-licensors, regardless of whether such individual or entity is named in this Contract.

8.7 Notices.

8.7.1 **In General.** Any written notice by any party to the Contract shall be sufficiently given by any one or combination of the following, whichever shall first occur: (i) delivered by hand to the last known business address of the person to whom the notice is due, (ii) delivered by hand to the person's authorized agent, representative or officer wherever they may be found or (iii) enclosed in a postage prepaid envelope addressed to such last known business address and delivered to a United States Postal Service official or mailbox. Notice is effective upon such delivery.

8.7.2 **Address.** All notices to the County shall be directed to:

Purchasing Agent
County of Giles
315 N. Main St.
Pearisburg, VA 24134

All notices to the Contractor shall be directed to the contact person stated at the address given in the Contractor's proposal.

END OF GENERAL TERMS AND CONDITIONS