

ORDINANCE NUMBER: PUR-2016
GCID NUMBER: 2016-0219

GWINNETT COUNTY
BOARD OF COMMISSIONERS
LAWRENCEVILLE, GEORGIA

ORDINANCE ENTITLED: **Purchasing Ordinance (7th Revision)**

READING AND ADOPTION: **MARCH 15, 2016**

At the regular meeting of the Gwinnett County Board of Commissioners held in the Gwinnett Justice and Administration Center, Auditorium, 75 Langley Drive, Lawrenceville, Georgia.

Name	Present	Vote
Charlotte Nash, Chairman	YES	YES
Jace Brooks, District 1	YES	YES
Lynette Howard, District 2	YES	YES
Tommy Hunter, District 3	YES	YES
John Heard, District 4	YES	YES

On motion of Commissioner Howard, which carried a 5-0 vote, the following Ordinance is hereby adopted:

AN ORDINANCE TO REPEAL CHAPTER 2, ARTICLE VII OF THE GWINNETT COUNTY CODE OF ORDINANCES ENTITLED "GWINNETT COUNTY PURCHASING ORDINANCE (6TH REVISION)" AND REPLACE IT IN ITS ENTIRETY WITH THE "GWINNETT COUNTY PURCHASING ORDINANCE (7TH REVISION)"; AND FOR OTHER PURPOSES.

WHEREAS, the Gwinnett County Purchasing Ordinance (hereinafter the "Purchasing Ordinance") governs all acquisitions and dispositions by Gwinnett County of commodities, equipment and services and all related contracts and agreements including those that may generate revenue; and

WHEREAS, the Gwinnett County Purchasing Ordinance (6th Revision) was codified on December 14, 2010; and

WHEREAS, a revision to the Purchasing Ordinance is necessary to expand the competitive procurement exemption for licensed health professionals to include veterinary services for the Gwinnett County Animal Shelter; and

WHEREAS, a revision to the Purchasing Ordinance is necessary to clarify the competitive procurement exemption for financial instruments and to add competitive procurement exemptions for resale items, equipment disassembly, evaluation and repair, and economic well-being and quality of life professional services; and

WHEREAS, a revision to the Purchasing Ordinance is necessary to clarify the criteria for placing a vendor on the County's ineligible source list and for disqualifying a vendor from award of a County contract; and

WHEREAS, a revision to the Purchasing Ordinance is necessary to ensure that the disclosure requirements of bidders and proposers are consistent with the provisions of the Gwinnett County Ethics Ordinance; and

WHEREAS, a revision to the Purchasing Ordinance is necessary to ensure compliance with the Illegal Immigration Reform and Enforcement Act and other applicable federal and state laws; and

WHEREAS, a revision to the Purchasing Ordinance is required to improve efficiency in Gwinnett County's procurement procedures to further the County's policy of obtaining the best value in terms of quality, service and cost when expending public funds.

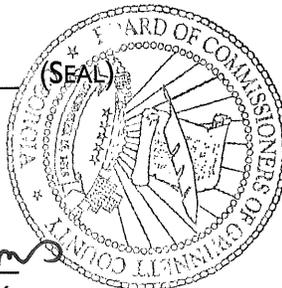
NOW, THEREFORE, BE IT ORDAINED by the Gwinnett County Board of Commissioners that Chapter 2, Article VII of the Gwinnett County Code of Ordinances entitled "Gwinnett County Purchasing Ordinance (6th Revision)" is hereby repealed in its entirety and replaced with Chapter 2, Article VII of the Gwinnett County Code of Ordinances entitled "Gwinnett County Purchasing Ordinance (7th Revision)".

SO ADOPTED this 15th day of March, 2016.

GWINNETT COUNTY BOARD OF COMMISSIONERS

BY: Charlotte J. Nash
CHARLOTTE J. NASH, CHAIRMAN

ATTEST:
BY: Diane Kemp
DIANE KEMP, COUNTY CLERK



APPROVED AS TO FORM:
BY: Theresa Ruth Williams
GWINNETT COUNTY STAFF ATTORNEY

Gwinnett County Purchasing Ordinance
(7th Revision)

March, 2016

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PART I

GENERAL PROVISIONS

SECTION I SCOPE

This Ordinance shall govern all acquisitions and dispositions by Gwinnett County of commodities, equipment and services and all related contracts and agreements including those that may generate revenue. This Ordinance supersedes and repeals all previously existing ordinances to the extent they are inconsistent with the provisions herein.

SECTION II EXEMPTIONS

The following supplies and services are exempted from this Ordinance.

- A. Works of art for public places, or other creative/artistic endeavors that require a particular and demonstrated skill or talent to include, but not limited to, artists, musicians, and writers
- B. Printed copyright material including published books, maps, periodicals and technical pamphlets (not including software for computer systems), except where a greater savings can be realized by a quantity purchase
- C. Real property, real estate brokerage and appraising, abstract of titles for real property, title insurance for real property and other related costs of acquisition of real property
- D. Dues, memberships and board member fees
- E. Subscriptions
- F. Services provided directly to individual citizens and employees including reimbursements and other miscellaneous payments, including but not limited to services provided in response to general liability insurance claims, solid waste services, and recreation and park attendants and instructor services
- G. Utilities, where there is no reasonable basis for competitive procurement, for example electric power, water, and sewerage

- H. Licensed health professionals, to include veterinary services
- I. Legal services, litigation, and related legal expenses
- J. Financial Instruments: Professional services and instruments/products related to the County's financial well-being as governed by policies approved by the Board of Commissioners related to Debt Management, Investments, and the Master Trust Agreement. This exemption includes the purchase of professional services related to complex financial transactions and associated instruments. The areas covered by this exemption include debt, debt management, debt service, investments, banking, assets, and pension assets. Examples of service providers include Financial Advisory Services; Underwriting Services; Broker Dealers; Arbitrage Calculation Services; Banking Services; Merchant Processing Services; Sinking Fund Custodian, Remarketing Agent, Liquidity Provider, Trustee, Paying Agent, Construction Fund Custodian, Escrow Agent, Verification Agent, and Registrar; Investment Advisory Services, and Pension Advisory Services
- K. Training, facilitators for meetings, travel, lodging or meal expense covered by other County policies and regulations
- L. Items for sale such as surplus items or items for resale such as those sold at tennis centers that require a particular manufacturer or provider to enhance their marketability
- M. Advertisements and legal advertisements including but not limited to bid/proposal solicitations, Planning Commission, Zoning Board of Appeals, and other boards that are required by law to publicly advertise their meetings or actions in the legal organ
- N. Public works construction contracts to the extent governed by O.C.G.A. §36-91-1 *et seq.*
- O. Antiques and other unique assets of historical value, including restoration of these items
- P. Materials or services required for confidential and secure investigations, apprehensions and detentions of individuals suspected of or convicted of criminal offenses by law enforcement personnel

- Q. Expenses associated with the disassembly, evaluation, and/or repair of equipment components
- R. Professional services explicitly directed at improving the economic well-being and quality of life in the County through efforts that include, but are not limited to the following: enhancement of economic activity, job creation, job retention, business retention & expansion, neighborhood development, tax base enhancements, marketing, etc.

SECTION III

INTERPRETATION

A. PURPOSE

This Ordinance shall be construed and applied to promote its underlying purposes and policies, which are:

1. To obtain the best value in terms of quality, service and price when expending public funds
2. To foster effective, fair and broad-based competition for public procurement within the free enterprise system
3. To provide safeguards for the maintenance of quality, integrity and equity, as defined by the County's Ethics Ordinance, in the purchase and disposition of County property

B. RULES OF CONSTRUCTION

In this Ordinance unless the text requires otherwise:

1. Words in the singular number include the plural, and those in the plural include the singular
2. Words of a particular gender include any gender and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender
3. "May" shall be permissive and not mandatory
4. "Shall" shall be mandatory and not permissive
5. Terms, which are not specifically defined herein, shall have their usual and customary meanings

SECTION IV APPLICATION OF FEDERAL AND STATE LAW

This Ordinance shall conform to all current applicable provisions of the laws of the United States and of the State of Georgia, and the provisions hereof shall be so construed wherever possible. In the event any portion of this Ordinance shall be declared invalid for its failure to conform to state or federal law, such invalidity shall not affect the remaining portions hereof. Notwithstanding any other provision of this Ordinance, the County may enter into any contract, follow any procedure, or take any action that is otherwise at variance with this Ordinance if necessary or convenient to receiving funds from the government of the United States or the State of Georgia.

SECTION V DEFINITIONS

The words defined in the appendix section of this Ordinance shall have the meanings that are set forth wherever they appear in this Ordinance.

SECTION VI PUBLIC ACCESS TO PROCUREMENT INFORMATION

Interested persons shall have access to information regarding procurement transactions of Gwinnett County in accordance with the County policy and the Georgia Open Records Act, O.C.G.A. §50-18-70 *et seq.*

SECTION VII ETHICS

It is the policy of Gwinnett County to seek the best overall value when procuring goods and services. Toward this end, the County finds and declares that its objectives will best be achieved through an open, competitive process with a broad range of responsible vendors wishing to furnish products and services to the County. Gwinnett County will set up and conduct a procurement program that maximizes service benefit to the community and awards contracts to vendors who offer the best value.

- A. Gwinnett County declares that County employees and officials along with those wishing to do business with the County have the shared responsibility for avoiding biased, anticompetitive or unethical practices.

- B. Gwinnett County employees, officials, and their family members are prohibited from seeking, requesting, or receiving any material payment, gift, job offer, security, promise of future benefit, or any other tangible or intangible thing of value when such receipt has the potential to influence a procurement decision or to gain undue advantage in a procurement competition, and as outlined in the County's Ethics Ordinance.
- C. Prospective vendors must compete for County business within the parameters of the solicitation process and are prohibited from seeking to obtain inside information, attempting to skew the writing of specifications or influencing a procurement decision through any means outside the process established for the particular solicitation. This principle applies to any contractor, subcontractor, representative, employee or agent that may be associated with a procurement transaction.
- D. The County's Ethics Ordinance shall be consulted for requirements related to disclosures by bidders and proposers on County contracts and individuals and firms who do business with the County.
- E. Ethical business practices are important both during a solicitation and after the decision to grant an award. To this end, the County seeks to establish relationships with business partners whose ongoing ethical standards of business conduct are congruent with those outlined here. The Director of Financial Services is charged with establishing methods for ongoing monitoring for non-compliance with these principles. The prohibition against the offering of or the acceptance of kickbacks, gratuities, payments or any other thing of value extends beyond and outside any specific procurement or solicitation.
- F. A vendor's contract compliance history with Gwinnett County and other contractual parties is a valid element in the decision to award a solicitation.
- G. Gwinnett County stipulates that the furtherance of its strategic goals for job creation, stability and growth in the tax

base, business retention, and other fiscal and economic development objectives may be considered during the procurement process. The Director of Financial Services is authorized to establish procurement initiatives consistent with the County's strategic economic development objectives. These procurement practices shall be applied consistently and equitably, and shall have a direct relationship to the County's goals.

- H. Gwinnett County employees, officials, and their family members are generally prohibited from participation in any procurement decision or any gain of undue advantage in a procurement competition as a result of contemporaneous employment with a potential or actual business partner.
- I. It is unethical for any County employee to purchase commodities or services from a County contract for personal use.
- J. With the exception of solicitations for the sale of real property, individuals, firms and businesses seeking an award of a Gwinnett County contract may not initiate or continue any verbal or written communications regarding a solicitation with any County officer, elected official, employee or other County representative other than the Purchasing Associate named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the Board of Commissioners. The Purchasing Director will review violations. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award. Solicitations for the sale of real property may allow for verbal or written communications with the appropriate Gwinnett County representative.

SECTION VIII

APPROPRIATE EXPENDITURES

All purchases shall comply with the Gwinnett County Expenditure Policy. To ensure that all purchases made are appropriate expenditures, each Elected Official or Department Director shall ensure that purchases made within his or her authority conform to the principles of the Expenditure Policy.

SECTION IX BUDGETED EXPENDITURES

It is the responsibility of each Elected Official or Department Director to ensure all purchases made for or by their agency or department are consistent with, and support the current approved budget prior to committing funds. Specific approval is required for certain capital purchases, as provided in the Budget Resolution.

PART 2

PROCUREMENT ORGANIZATION

SECTION I

AUTHORITY AND RESPONSIBILITY OF PURCHASING DIVISION AND PURCHASING DIVISION DIRECTOR

The Purchasing Division of the Department of Financial Services shall serve all of Gwinnett County Government by obtaining required commodities and services in accordance with State of Georgia law and this Ordinance. The Purchasing Division Director shall, except as otherwise specified herein, be responsible for the administration of all transactions governed by the provisions of this Ordinance and shall serve as the principle procurement officer of the County. Unless otherwise provided, any duties and powers of the Purchasing Division Director may be delegated by him/her to subordinate purchasing staff members and other employees. The Purchasing Division Director shall be subject to the authority and supervision of the Director of Financial Services, who reports to the County Administrator.

SECTION II

PROCUREMENT PROCEDURES

The Purchasing Division Director is authorized to establish, implement and enforce written operational procedures relating to acquisitions and dispositions subject to this Ordinance. Such procedures shall, to the extent consistent with applicable law and this Ordinance, be based upon generally accepted public purchasing principles and practices and shall become effective upon approval by the Financial Services Director. Additionally, these procedures may be revised, as necessary, through the same process used for their initial approval.

SECTION III

DISCLAIMER OF RESPONSIBILITY FOR IMPROPER PURCHASING

The Board of Commissioners may disclaim responsibility and liability for any purchase, expenditure, or agreement for expenditure arising from a procurement made in its name, or in the name of any governmental body under its authority, by an unauthorized person or any person acting outside this Ordinance or the authorization or delegation as provided in this Ordinance. The expense of any such disclaimed transaction will become the personal liability of the individual who acted improperly.

SECTION IV

PURCHASING POLICY & REVIEW COMMITTEE

A Purchasing Policy and Review Committee shall be established and comprised of members (selected from user departments by the County Administrator, Director of Financial Services and the Purchasing Division Director) who shall serve for a two year staggered term. The Committee shall meet periodically to review purchasing procedures and make recommendations for changes; resolve problems regarding the purchasing process; make recommendations for standardization of commodities; scheduled buying; qualified products list; annual contracts; vendor performance; including recommendation to place vendors with performance problems on the Ineligible Source List and other problems or requirements related to Purchasing.

PART 3

PROCUREMENT METHODS

SECTION I

SUMMARY OF METHODS OF PROCUREMENT

In most cases, this Ordinance recognizes seven methods of procurement and the conditions where each method shall be used.

A. COMPETITIVE SEALED BIDDING

In most cases the competitive sealed bid is the preferred method of procurement in the public sector and should be used whenever possible as it allows qualified, responsive bidders to compete on the basis of price. Generally, the following conditions must be met:

1. Clear and adequate specifications are available
2. Two or more responsible bidders are willing to participate in the process
3. Cost of materials, supplies, equipment, services or project is greater than \$100,000.00
4. Revenue is greater than \$100,000.00

B. COMPETITIVE SEALED PROPOSAL

When use of the competitive sealed bid is either not practical or not advantageous to the County, a contract may be entered into by use of the competitive sealed proposal. Use of the proposal is dependent upon such factors as:

1. Whether quality, availability or capability is overriding in relation to price in procurement of technical supplies or technical or professional services
2. Whether the initial installation needs to be evaluated together with subsequent maintenance and service capabilities and what priorities should be given these requirements in the County's best interest
3. Whether a fixed price or cost type contract is more advantageous

4. Whether the market place will respond better to a solicitation permitting not only a range of alternate proposals, but evaluation and discussion of them before making the award
5. Cost of equipment, services or project is greater than \$100,000.00
6. Revenue is greater than \$100,000.00

C. INFORMAL PURCHASE

Those purchases \$100,000.00 or less do not justify the administrative time and expense for the conduction of competitive sealed bids or proposals. The Purchasing Division Director is authorized to establish the methods and procedures to be used in handling informal purchases. Unless otherwise specifically provided, such purchases will be obtained competitively through telephone quotations or informal written solicitations.

D. SOLE SOURCE PURCHASE

A sole source procurement may be used when only one vendor or supplier is able to fill requirements for the intended use. Sole source may be used for compatibility with equipment for repair purposes, or for compatibility with existing systems. Standardization may require a sole source procurement, depending upon the intended use.

Standardization, which is either established as a result of past procurement(s) or by approval of the Purchasing Policy and Review Committee, can be a satisfactory justification for a sole source.

E. EMERGENCY PURCHASE

An emergency exists when there is a threat to the health, welfare or safety of people or property, or when there is a material disruption of goods or services. The competitive process should be followed whenever possible in an emergency as long as the ability to respond to the emergency is not seriously impaired.

F. COOPERATIVE PURCHASE

The County may participate in a cooperative purchase for the acquisition of commodities, supplies and services through an authorized contract of any other governmental entity or agency whether federal, state or local provided a competitive procurement process has been followed and determined to be in the best interest of the County. Documentation to substantiate this decision will be maintained by the Purchasing Division.

G. GOVERNMENTAL AND AFFILIATED ENTITY PURCHASE

The County may purchase services and incidental commodities from other federal, state or local governments, associations and non-profit organizations when determined to be in the best interest of the County. Documentation to substantiate this decision will be maintained by the Purchasing Division.

SECTION II

MANDATORY PRE-QUALIFICATION PROCESS

A. PUBLIC WORKS CONSTRUCTION CONTRACTS GOVERNED BY OCGA §36-91-20 ET SEQ.

The Purchasing Division Director is hereby delegated the authority to administer a process for mandatory pre-qualification of prospective bidders for public works construction contracts pursuant to OCGA §36-91-20(f).

B. ALL OTHER CONTRACTS

The Purchasing Division Director is authorized to determine that a process for mandatory pre-qualification for competitive sealed bids and competitive sealed proposals of bidders or proposers is appropriate for the procurement of a particular commodity or service, subject to these requirements:

1. Criteria for pre-qualification shall be reasonably related to the project or the quality of the work
2. Criteria for pre-qualification shall be available to any prospective bidder requesting such information

3. There shall be a method of notifying prospective bidders of the criteria for pre-qualification
4. There shall be a procedure for a disqualified bidder to respond to his or her disqualification to the Purchasing Division Director; however, such procedure shall not include a formal appeal

No bid or proposal shall be eligible for consideration by the County from a prospective bidder who has not been pre-qualified on the procurement in question where the Invitation to Bid or Request for Proposals specified that pre-qualification would be mandatory, and any bid or proposal received shall be returned to the prospective bidder unopened.

SECTION III

COMPETITIVE SEALED BIDDING

A. ACQUISITIONS GREATER THAN \$100,000.00

Any commodity that is expected to cost or generate revenue greater than \$100,000.00 shall be acquired through the competitive sealed bid process except as otherwise provided in this Ordinance.

B. DISSEMINATION OF INVITATION TO BID

Public notice of an Invitation to Bid shall be given as required by Georgia law. The public notice shall contain a general description of the purchase and state the location where documents may be obtained and the date, time and place of bid opening. Any required bonding and insurance shall be included in the public notice. Notification of formal solicitations shall be posted in the Gwinnett Justice and Administration Center. Any other methods of advertisement identified as likely to result in additional competition may be used in addition to required advertisement, at the discretion of the Purchasing Division Director.

C. RECEIPT OF BID

No written bid shall be eligible for consideration by the County unless it is placed in a sealed envelope or package and actually received by the Purchasing Division by the date and time specified in the Invitation to Bid. All bids shall be stamped or annotated with the date and time of receipt and secured until the designated opening time. A bid delivered

late shall under no circumstances be eligible for consideration by the County.

D. BID OPENING

Bids shall be opened publicly in the presence of one or more witnesses on the date and at the time and place designated in the Invitation to Bid. The name of each bidder, the purchase price contained in each bid, and such other information as the Purchasing Division Director deems appropriate shall be announced as the bids are opened. A record of bid information shall be recorded and available for public inspection.

E. MODIFICATION OF BID

Any clerical mistake that is patently obvious on the face of a bid, subject to the limitations described below, may be corrected upon written request and verification, submitted by the bidder. A non-material omission in a bid may be clarified and/or corrected if the Purchasing Division Director determines the clarification and/or correction to be in the County's best interest. Omissions affecting or relating to any of the following shall be deemed material and shall not be corrected after bid opening:

1. Price information
2. Any required bonding

F. WITHDRAWAL OF BID

Bids may be withdrawn at any time prior to the bid opening. After bids have been publicly opened, withdrawal of bid shall be based upon the following:

The bidder shall give notice in writing of his claim of right to withdraw his bid due to an error within two business days after the conclusion of the bid opening procedure. Bids may be withdrawn from consideration if the price was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the bid, which

unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn. The bidder's original work papers shall be the sole acceptable evidence of error and mistake if request is made to withdraw the bid. If a bid is withdrawn under the authority of this provision, the lowest remaining responsive bid shall be deemed to be the low bid.

G. BID EVALUATION

Bids shall be evaluated based on the requirements set forth in the Invitation to Bid. No criteria may be used in bid evaluation that is not specifically set forth in the solicitation.

H. BID CANCELLATION

An Invitation to Bid may be canceled prior to opening date or any or all bids may be rejected in whole or in part as may be specified in the solicitation, where it is in the best interest of the County in accordance with regulations promulgated by the Purchasing Division or, as a result of improper conduct on the part of a County employee. The reasons for any cancellation shall be made part of the bid file.

I. BID AWARD

1. Responsive and Responsible Bidder(s)

Subject to approval by the Gwinnett County Board of Commissioners, bids shall be awarded to the responsible bidder(s) who have submitted the lowest cost responsive bid(s), highest revenue responsive bid(s), or whose bid represents the best value to the County.

2. Approval of Bid

All bid awards for amounts greater than \$100,000.00 (cost or revenue) shall be approved by the Gwinnett County Board of Commissioners.

3. Rejection or Deferral of Bid

The Purchasing Division Director may reject bids, or may defer bid awards to allow time for additional evaluation or review of bids or for other business purposes, consistent with the best interest of the County.

4. Disqualification of Bid

a) The following types of bids shall be disqualified for consideration for a bid award:

1. A bid which is incomplete in any material aspect, element, or fact
2. A bid submitted without required bonds
3. A bid submitted by an individual, firm or business on the Ineligible Source List
4. A bid submitted by an individual, firm or business having been determined in violation of Part I, Section VII of this Ordinance
5. A bid submitted by an individual, firm or business who has litigation pending against the County, or anyone representing a firm or business in litigation against the County, not arising out of the procurement process, settlement on property title, or condemnation proceeding where the County is not subject to financial penalty.

5. Tie Bids

In the event two (2) responsive bids are tied for the lowest price and the other terms and conditions of the two (2) bids are substantially the same, the bid shall be awarded to the local firm if only one of the bidders has an office located within the boundaries of Gwinnett County. If both or neither of the tied bidders are local firms, the Purchasing staff shall request the firms best and final offers, and the award shall be to the lowest bid.

Definition of Local Firm:

1. Any business or firm having an office located within the boundaries of Gwinnett County and has a current Gwinnett County Occupational Tax Certificate on the closing date of the solicitation for which the offer has been submitted
2. Any business or firm with an office located within the boundaries of a municipality that is within the geographical boundaries of Gwinnett County and whose physical location is within the geographical boundaries of Gwinnett County and has a current Occupational Tax Certificate (or its equivalent) issued by the municipality on the closing date of the solicitation for which the offer has been submitted

SECTION IV

COMPETITIVE SEALED PROPOSAL

A. ACQUISITIONS GREATER THAN \$100,000.00

Any item or service which is expected to cost or generate revenue greater than \$100,000.00, when the competitive sealed bid process is not applicable nor in the best interest of the County, shall be acquired through the competitive sealed proposal process except as otherwise provided in this Ordinance.

B. DISSEMINATION OF PROPOSAL

Proposals shall be disseminated through a Request for Proposal. Public notice shall be advertised as required by Georgia law. The public notice shall contain a general description of the item or service to be purchased, and state the location where documents may be obtained and the date, time and place of proposal receipt. Notice of any required bonding and insurance shall be included in the public notice. Notification of formal solicitations shall be posted in the Gwinnett Justice and Administration Center. Any other methods of advertisement that are likely to result in additional competition may be used in addition to the required

advertisement, at the discretion of the Purchasing Division Director.

C. RECEIPT OF PROPOSAL

No written proposal shall be eligible for consideration by the County unless it is placed in a sealed envelope or package and actually received by the Purchasing Division by the date and time specified in the Request for Proposals. All proposals shall be stamped or annotated with the date and time of receipt and secured until the designated opening time. A proposal delivered late shall under no circumstances be eligible for consideration by the County.

D. PROPOSAL OPENING

Proposals shall be opened publicly in the presence of one or more witnesses on the date and at the time and place designated in the Request for Proposals. Only the name of each Proposer shall be announced.

E. PROPOSAL CANCELLATION

A Request for Proposals may be canceled prior to opening date or any or all proposals may be rejected in whole or in part as may be specified in the solicitation, where it is in the best interest of the County in accordance with regulations promulgated by the Purchasing Division or as a result of improper conduct on the part of a County employee. The reasons for any cancellation shall be made part of the proposal file.

F. PROPRIETARY INFORMATION

Gwinnett County is required to comply with the Georgia Open Records Act, O.C.G.A. §50-18-70 et seq. and therefore may not be able to protect information submitted in any response.

G. EVALUATION OF PROPOSAL

I. Initial Evaluation

Each proposal shall be evaluated to determine whether it is responsive to the specifications and other terms and conditions contained in the Request for Proposals.

With the approval of the Purchasing Associate named in the solicitation, the evaluating team may communicate with each proposer to clarify and amplify each Proposer's proposal. No information concerning any other Proposer's proposal shall be communicated in any way to the Proposer.

2. Request for Supplemental Information

Additional information may be requested of Proposers. The Purchasing Division will initiate such requests.

H. AWARD OF PROPOSAL

1. Responsive and Responsible Proposal

Award shall be made to the responsive and responsible proposer whose proposal is determined to be the most advantageous to the County based upon the evaluation factors set forth in the Request for Proposal.

In the event there are two or more firms whose scores rounded to the nearest whole number result in a tie score, the award will be based on lowest cost.

2. Approval of Proposal

The Gwinnett County Board of Commissioners shall approve all awards where cost or revenue is greater than \$100,000.00.

3. Rejection or Deferral of Proposal

The Purchasing Division Director may reject, or may defer award for any proposal when he or she deems such action to be in the best interest of the County.

4. Disqualification of Proposal

The following types of proposals shall be disqualified for consideration for award:

- a. A proposal submitted without required bonds

- b. A proposal submitted by an individual, firm or business on the Ineligible Source List
- c. A proposal which is incomplete in any material fact
- d. A proposal submitted by an individual, firm or business having been determined in violation of Part I, Section VII of this Ordinance
- e. A proposal submitted by an individual, firm or business who has litigation pending against the County, or anyone representing a firm or business in litigation against the County, not arising out of the procurement process, or settlement on property title or condemnation proceedings where the County would not be subject to financial penalty.

SECTION V

INFORMAL PURCHASE

A. GENERAL

Procurements that involve amounts \$100,000.00 or less do not require a formal sealed bid/proposal process. However, the processes used for this type of procurement will include as much competition as is consistent with the anticipated cost of the procurement and the best interest of the County.

B. PROHIBITION OF IMPROPER USE OF INFORMAL PURCHASE PROCESS

Purchases may not be artificially divided as to constitute an informal purchase, thereby circumventing the dollar limit requirement for competitive sealed bids/proposals.

C. PROCEDURES

Procurement within this category shall be made in accordance with the informal purchase procedures established by the Purchasing Division Director. These procedures will cover purchases delegated to user departments as well as those handled through the central procurement process.

Such operational procedures shall provide for obtaining adequate and reasonable competition for the supply, service or construction being purchased. Further, such operational

procedures shall require the preparation and maintenance of written records to adequately document the competition obtained, properly account for the funds expended and facilitate audit/review of the transaction.

D. TYPES OF INFORMAL PURCHASES

Informal purchases are classified by two categories:

1. Those that may be made directly by the user department
2. Those that are required to be made through the central procurement process

E. INFORMAL PURCHASE BY USER DEPARTMENTS

1. AUTHORITY

Each user department is granted the authority, at the discretion of the Department Director, to handle purchases where the cost is less than \$5,000.00.

2. PROHIBITION OF MISUSE

Purchases may not be artificially divided in order to qualify for handling by the user departments. Neither shall this process be used for frequently recurring acquisitions that warrant volume purchases or periodic term contracts.

F. INFORMAL PURCHASES BY PURCHASING STAFF

Purchasing staff shall obtain commodities and services competitively through telephone solicitations where cost is \$5,000.00 but less than \$10,000.00. A minimum of three quotations is required unless adequate source supply is not available. Purchasing staff shall obtain commodities and services competitively through written quotations where cost is \$10,000.00 to \$100,000.00. A minimum of three written quotations is required unless adequate source supply is not available.

SECTION VI SOLE SOURCE PURCHASE

Based upon evidence that a particular commodity or service may be obtained from only one source and no similar commodity or service available from a different source will adequately meet an acquiring office's requirements and specifications, the Purchasing Division Director may decide that the commodity or service be purchased sole source or by brand name based upon supporting documentation from the requesting department. The Board of Commissioners shall approve all purchases where cost is greater than \$100,000.00.

SECTION VII EMERGENCY PURCHASE

The Purchasing Division Director shall have the authority to purchase commodities and services where there exists an emergency constituting a threat to public health, safety or welfare or to the soundness and integrity of public property or to the delivery of essential services and where the adverse effects of such emergency may worsen materially with the passage of time.

Acquisitions shall be made using such competitive procedures as circumstances reasonably permit. Emergencies shall be documented by the user department and submitted to the Purchasing Division.

When emergency circumstances exist that do not permit the Purchasing Division to procure a required commodity, service, or repair, the user Department Director is authorized to make such emergency purchase.

For emergencies where cost exceeds the amount authorized to a user department, written documentation shall be approved by the user Department Director and submitted to the Purchasing Division explaining the nature of the emergency. All emergencies where cost is greater than \$100,000.00 require ratification of the Board of Commissioners.

SECTION VIII COOPERATIVE PURCHASE

The County may participate in a cooperative purchase for commodities, supplies and services when determined that it is in the best interest of the County. The sponsoring entity, whether federal, state or local must have performed a competitive procurement process and entered into a contract that stipulates allowance for other governmental entities to purchase from the

supplier at the same price and under the same terms and conditions as extended to itself. If such arrangement has not been made a part of the contract, written permission from the sponsoring entity and the awarded supplier must be obtained. Documentation to substantiate this decision will be maintained by the Purchasing Division.

Cooperative purchases where the cost is greater than \$100,000.00 shall be approved by the Gwinnett County Board of Commissioners.

SECTION IX

GOVERNMENTAL AND AFFILIATED ENTITY PURCHASE

The County may purchase services and incidental commodities from other federal, state or local governments, associations and non-profit organizations when determined to be in the best interest of the County. Documentation to substantiate this decision will be maintained by the Purchasing Division.

Such purchases where cost is greater than \$100,000.00 shall be approved by the Gwinnett County Board of Commissioners.

PART 4

PROFESSIONAL SERVICES

SECTION I DEFINITION

“Professional services” refer to a service consisting in material part of advice, evaluation, planning, design, or other effort involving the exercise of judgment, discretion, and knowledge, including, without limitation, a service provided by a person whose profession is licensed or regulated by the state or federal government.

SECTION II GENERAL

It is the policy of this County to award contracts for professional services on the basis of demonstrated competence and qualifications at a fair and reasonable price with ultimate selection based on the best interest of the County and receipt of maximum value.

SECTION III SELECTION PROCESS

- A. The selection process for professional services shall follow the same process as that for competitive sealed proposals presented in Part 3, Section IV.
- B. The Purchasing Division Director, subject to the approval of the Director of Financial Services, shall establish methods for weighting the variables and factors utilized for evaluation of proposals.

SECTION IV RESPONSIBILITY FOR PROCESS

The user departments will have primary responsibility for establishing proposal requirements and evaluation of the proposals while Purchasing will ensure that the process is handled in accordance with this policy. Any agent or firm employed to assist in any procurement project shall be required to adhere to the requirements of this policy.

PART 5

CONSTRUCTION ACQUISITION

SECTION I DELEGATIONS OF AUTHORITY

Department Directors shall have the authority to establish procedures, with the concurrence of the Purchasing Division Director, for utilizing the various construction delivery methods that will best serve the County's interests. These procedures may include but are not limited to establishing a process for mandatory pre-qualification of contractors. Department Directors also have the authority to determine, with the concurrence of the Purchasing Division Director, the construction delivery method to be utilized in awarding a given public works contract. In all cases Department Directors shall be required to obtain the concurrence of the Purchasing Division Director prior to establishing any method of delivery.

SECTION II DISCRETIONARY REQUIREMENTS

The County may, in its discretion, require bid, performance, and payment bonds for any construction contract where cost is less than \$100,000.00. The Insurance Manager for the County shall set specific requirements.

PART 6

CONTRACTING REQUIREMENTS

SECTION I

BONDING REQUIREMENTS

A. BID BONDS

When the County requires bonding, any bid submitted shall be given a good and faithful surety or sureties approved by the County. Such bid bond shall secure the faithful acceptance by the bidder or proposer of a bid or proposal award and shall be issued for the protection of the County. The bid bond shall be in an amount as specified in the bid or proposal. Bonds shall be of a forfeiture type. All sureties should be licensed to do business in the State of Georgia, must have the ratings established by the Department of Financial Services and be listed in the Department of Treasury's publication of companies holding certificates of authority as acceptable reinsuring companies. In lieu of the bid bond described above, a bidder or proposer may submit with the bid or proposal a cashier's check payable to the County in an amount as specified in the bid or proposal. To the extent permitted by Georgia law, a guaranteed letter of credit in the proper amount will act as a bid bond, provided that the form of such letter of credit and the lending institution have been approved by the County in advance.

Release of bonds to the successful bidder shall be conditioned upon the bidder's execution of a contract within 30 days following the County's award.

B. PERFORMANCE AND PAYMENT BOND

- I. Any required performance bond shall be issued with good and sufficient surety or sureties approved by the County, in favor of the County and in at least the amount of the total purchase price or as specified in the solicitation and payable under the bid or proposal. Such performance bond shall be conditioned upon the bidder's faithful performance of the terms of the bid or proposal and the contract executed in connection therewith. All sureties should be licensed to do business in the State of Georgia, must have the ratings established by the Department of Financial Services and be listed in the Department of Treasury's

publication of companies holding certificates of authority as acceptable surety on federal bonds and as acceptable reinsuring companies.

2. Any required payment bond shall be issued with good and sufficient surety or sureties approved by the County, in favor of the County and in at least the amount of the total purchase price or as specified in the solicitation and payable under the bid or proposal. Such payment bond shall be for the benefit of all persons supplying labor, materials, machinery and equipment in the prosecution of the work to be done under the bid or proposal. All sureties should be licensed to do business in the State of Georgia, must have the ratings established by the Department of Financial Services and be listed in the Department of Treasury's publication of companies holding certificates of authority as acceptable surety on federal bonds and as acceptable reinsuring companies.

C. INSURANCE REQUIREMENTS

The Insurance Manager shall determine what types and amounts of insurance coverage are reasonably necessary for the protection of the County's interests for all acquisitions covered by this Purchasing Ordinance. All sureties must be licensed to do business in the State of Georgia and have the ratings established by the Department of Financial Services. The Insurance Manager shall have the authority to waive any requirements regarding insurance.

D. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

It is the policy of Gwinnett County that all contractors and subcontractors who contract with the County in connection with the physical performance of services must comply with the Illegal Immigration Reform and Enforcement Act, and all applicable Federal and State laws. Therefore, the County shall not enter into a contract for the physical performance of services within the State of Georgia unless the contractor provides evidence on a County-provided Affidavit form that it and its subcontractors have registered for and are participating in the federal work authorization program as defined by O.C.G.A. § 13-10-90 et seq.

SECTION II

RESPONSIBILITY OF BIDDERS

A. DETERMINATION OF NON-RESPONSIBILITY

If a bidder or offeror who otherwise would have been awarded a contract is found to be non-responsible, a written determination of non-responsibility shall be prepared by the Purchasing Director. A copy of the determination shall be made part of the contract and vendor performance files.

B. VENDOR PERFORMANCE RATING

The Purchasing Director is authorized to establish a vendor performance rating system for use in evaluating those vendors who fail to perform or perform unsatisfactorily. The rating system may be used for evaluation and award of bids and contracts.

C. PENALTIES FOR NON-PERFORMANCE

The Purchasing Director shall establish penalties for non performance for delivery failures or default in contract.

D. INELIGIBLE SOURCE LIST

I. ESTABLISHMENT OF LIST

The following persons shall be placed on an Ineligible Source List pursuant to the provisions of this section for a reasonable period not to exceed three years, based upon the recommendation of the Purchasing Policy & Review Committee and the approval of the Director of Financial Services:

- a. Any person who submits a bid or proposal in bad faith;
- b. Any person who breaches a contract with the County, or who has poor contract performance that has been documented by the County;
- c. Any person who repeatedly refuses to accept a bid or proposal award;
- d. Any person who has established a pattern or practice of unethical or immoral business practices;

- e. Any person who has been convicted of a crime involving moral turpitude;
- f. Any person who is owned, controlled or managed, in whole or in part, by any other person described in (a) through (e) above; and
- g. Any person who violates Section I.D (Employment of Unauthorized Aliens Prohibited) above.

Any such person shall not be eligible to provide any commodities or services to the County during the period such person remains on the Ineligible Source List.

SECTION III COLLUSIVE OR ANTI-COMPETITIVE PRACTICES

Each bidder shall certify in writing that such bidder has not engaged in any collusive or anti-competitive practices in responding to a solicitation for bids or proposals.

SECTION IV APPROVAL OF CONTRACTS

A. GENERAL PROVISIONS

All contracts shall be reviewed and approved as to form by the Law Department prior to execution on behalf of the County. A contract shall conform to state and federal law and to County ordinances and shall otherwise contain such provisions as are reasonably necessary to protect the interest of the County.

B. COUNTY ADMINISTRATOR AUTHORITY

The County Administrator or his/her designee shall have the authority to sign contracts up to \$100,000.00.

C. DIRECTOR OF FINANCIAL SERVICES AUTHORITY

The Director of Financial Services or his/her designee shall have the authority to sign contracts up to \$50,000.00.

SECTION V

CHANGE ORDERS AND CONTRACT MODIFICATIONS

A. GENERAL PROVISIONS

Except as hereinafter provided, any change order or other modification of a contract term shall be approved by the Gwinnett County Board of Commissioners.

B. COUNTY ADMINISTRATOR AUTHORITY

The County Administrator or his/her designee shall have authority to approve all change orders to purchase orders and contracts up to an absolute value of \$100,000.00.

C. DIRECTOR OF FINANCIAL SERVICES AUTHORITY

The Director of Financial Services and/or his/her designee shall have authority to approve all change orders to purchase orders and contracts up to an absolute value of \$50,000.00.

D. PURCHASING DIVISION DIRECTOR AUTHORITY

The Purchasing Division Director shall have authority to approve all change orders to purchase orders and contracts up to an absolute value of \$10,000.00.

SECTION VI

EMERGENCY CIRCUMSTANCES FOR CHANGE ORDERS

Where time is of the essence or emergency circumstances exist which will not permit delay of a project, the user Department Director shall notify the County Administrator before proceeding to authorize work. Subsequent Board of Commissioners ratification and approval must be obtained at the following public meeting. If work has not been satisfactorily completed by the scheduled meeting, then the Board of Commissioners must be informed and ratification scheduled at the earliest possible time.

SECTION VII

SPECIFICATIONS

All specifications shall be prepared so as to promote overall economy for the purposes intended and encourage competition in satisfying the County's needs and shall not be overly restrictive. This policy applies to all specifications including but not limited to those prepared for the County by architects, engineers, designers and draftsmen.

SECTION VIII TYPES AND USE OF SPECIFICATIONS

The Purchasing Division Director is authorized to establish procedures for the applicability and appropriate use of “qualified products lists”, “brand name or equal” specifications and “brand name” specifications.

SECTION IX RENEWALS AND EXTENSIONS

A. GENERAL PROVISIONS

Some contracts contain renewal clauses describing the conditions under which it may be renewed. The user department(s) must certify in writing to the Purchasing Division that the contractor(s) has performed satisfactorily and met all of the requirements set forth in the original award.

In rare instances, contracts may require an extension for such a period as may be necessary to afford the County a continuous supply of items or services in the event of the termination or near termination of the award/contract. The user department(s) must justify extensions in writing to the Purchasing Division.

The Purchasing Division, if in agreement, may seek approval as outlined in Section IX, B below.

B. APPROVAL AUTHORITY

The Board of Commissioners shall approve all contract renewals or extensions where cost is greater than \$100,000.00.

The Purchasing Division Director shall approve all other contract renewals and extensions.

SECTION X TERMINATION OF CONTRACTS

Upon recommendation by the user department(s), the Purchasing Division Director shall have the authority to cancel a contract for any reason to include but not limited to cause, convenience, and lack of appropriation of funds; and shall process the cancellation pursuant to the contract terms and conditions.

PART 7

DISPOSITION OF PROPERTY

SECTION I

SALE OF REAL PROPERTY

A. PUBLIC SALE REQUIRED

Disposition of real property owned by the County shall be conducted by public sale in accordance with Section §36-9-3, Official Code of Georgia annotated, or as otherwise provided by state law.

B. EXCEPTIONS TO PUBLIC SALE

The following transactions shall not be governed by subsection (A):

1. A redemption of real property acquired by County under tax deed
2. A grant of easement or license
3. A grant or conveyance of right-of-way or for other transportation purchases
4. A conveyance to any other unit of government
5. A conveyance of recreational set-aside property to a homeowner's association in the manner permitted by state law
6. A lease that constitutes a usufruct under state law

C. PROCEDURES

Except as otherwise specifically provided by state law, the County shall not dispose of any real property unless the Board of Commissioners has declared such real property to be unserviceable. Other than dispositions governed by subsection (A) or by specified provisions of state law, any disposition may be made at public or private sale, upon such terms as the Board of Commissioners shall deem to be in the County's best interest.

SECTION II

SALE OF SURPLUS REAL PROPERTY BY REAL ESTATE BROKER

Real property, specifically properties which are remnants of land from total takes on Gwinnett County road projects, may be disposed of by sale by real estate broker in accordance with Georgia law Section O.C.G.A. §32-7-4 *et seq.*

A. REQUIREMENTS FOR REAL ESTATE BROKERS

Real estate brokers must be licensed in accordance with Georgia law Section O.C.G.A. §43-40-1 *et seq.*

B. DECLARATION OF SURPLUS PROPERTY

Property is declared surplus by the Gwinnett County Board of Commissioners in a regularly scheduled meeting.

C. NOTIFICATION TO FORMER OR SUBSEQUENT OWNER

The former or subsequent owner is notified in writing of intent to sell, as he/she has the first right to purchase the property at the fair market value price. If the former or subsequent owner waives this right, then adjoining property owners are notified that the property will be sold by real estate broker or by competitive sealed bid.

D. SELECTION OF BROKER

Broker shall be selected competitively, by the sealed proposal process, as outlined in Part 3, Section IV.

E. ADVERTISING AND LISTING OF PROPERTY

Commencing at the time of the listing of the property as provided in §O.C.G.A. 32-7-4, the County shall publicly advertise once a week for two weeks in the legal organ of the county the property and the name of the broker handling the property. Property shall be listed for a period of at least three (3) months. Property cannot be sold for less than fair market value excluding commission fee. If property does not sell during the listing time, the County may renegotiate the commission to a lower fee, extend the Exclusive Agreement with the real estate broker or recommend to the Board of Commissioners that disposal be by competitive sealed bid or public auction.

F. APPROVAL OF SALE

All sales of properties shall be approved by the Board of Commissioners at a regular scheduled public meeting.

SECTION III

DISPOSITION OF PERSONAL PROPERTY

A. DECLARATION OF UNSERVICEABILITY

The Board of Commissioners shall determine whether a particular item or category of personal property can no longer be used advantageously by the County and has therefore become unserviceable. The Board of Commissioners may establish criteria establishing unserviceability for categories of personal property which may become unserviceable on a regular, frequently recurring basis, and may delegate to the County Administrator the determination of whether a particular commodity meets the criteria of unserviceability for its category.

B. DISPOSITION

Unserviceable personal property may be sold by public sale, sealed bidding, spot bidding or any other means deemed most advantageous to the County under the particular circumstances as determined by the Board of Commissioners. A sale to a private person shall be for the highest net purchase price reasonably obtainable by the County. A sale to another unit of government shall be for a fair and reasonable purchase price that need not be as high as the purchase price obtainable from a private person. All sales for personal property items where the original unit purchase cost is \$10,000.00 or less shall be approved by the County Administrator. The Board of Commissioners shall approve sales for personal property where original unit cost exceeds \$10,000.00.

SECTION IV

LEASES OF COUNTY OWNED REAL PROPERTY

The Board of Commissioners may offer to lease county-owned real property if:

- A. The sale of the real property is not in the best interest of the County but the real property is not currently being used by the County

- B. The real property has been newly acquired but not immediately put to use by the County, and may reasonably be leased on a month-to-month or short-term basis

A lessee's interest under any lease executed under this Section shall constitute a usufruct only.

Where County-owned real estate is to be leased for nonpublic use, the Director of Support Services shall cause public notice of the availability of the real property to be published, soliciting inquiries and offers. The Director shall include as part of the solicitation the requirement that improvements to the real estate be insured for the County's benefit at the Lessee's expense. The solicitation shall also describe any restrictions to be placed on the use of the real property. The Director shall report to the Board of Commissioners all offers to lease the real estate and shall make recommendations as to which offer is in the County's best interest. The Board of Commissioners shall approve the offer that it deems to be in the best interest of the County. Such approval shall constitute authority for the Chairman to execute a lease and any instruments on behalf of the County necessary to accept and effectuate the offer.

PART 8

ELECTRONIC COMMERCE

SECTION I

ELECTRONIC TRANSMISSIONS OF INFORMATION

Electronic commerce shall include but not limited to on-line vendor registration, acceptance of bids and proposals by electronic mail, electronic or virtual purchasing malls and catalogs, internet auctions and reverse auctions, notifications of solicitations and download capability and acceptance of electronic (digital) signatures.

Notwithstanding any other provisions, this chapter applies to records generated, stored, processed, communicated, or used for any purpose by Gwinnett County for purchasing, acquisition, services, or disposition of personal property. This shall apply to all Gwinnett County contracts except for Public Works contracts.

The Financial Services Director or his/her designee is authorized to promulgate procedures to coordinate, create, implement, and facilitate the use of common approaches and technical infrastructure, as appropriate, to enhance the utilization of electronic commerce, electronic records, electronic signatures, and electronic security procedures by and for Gwinnett County for these purposes.

The Purchasing Division Director shall be authorized to develop, implement, and facilitate procedures for the use of electronic records, electronic signatures, and security procedures for all other purposes. The Purchasing Division Director is authorized to promulgate methods, means, and standards for secure electronic procurement transactions.

SECTION II

ELECTRONIC SIGNATURES AND RECORDS

An electronic record satisfies any rule requiring a document to be in writing. An electronic signature satisfies any rule of law requiring a signature. Any electronic record is signed as a matter of law if it contains a secure electronic signature.

An electronic signature is deemed to be secure if it is created by application of a security procedure that is commercially reasonable and provided the electronic signature can be verified. Further, it is considered secure if it can be linked to the electronic

record to which it relates in a manner such that, if the record is changed, the electronic signature is invalidated.

An electronic record is deemed to be secure if it is created by application of a security procedure that is commercially reasonable and agreed to by Gwinnett County. The electronic record will be deemed secure when it can be verified not to have been altered since a specified point in time.

PART 9

DEFINITIONS

1. Absolute Value: The numerical value of an acquisition or change order request without regard to its sign.
2. Acquiring Office: The department, division, board, authority, or other unit of Gwinnett County government under whose authority, on whose behalf, or for whose use a commodity, service, or real property is requested or acquired or a contract or agreement relating thereto is obtained.
3. Acquisition: A transaction in which the County purchases, orders, contracts for, or otherwise agrees to obtain for value any commodity, service, or real property or combination thereof.
4. Best & Final Offer: In competitive negotiation, the final proposal submitted after negotiations are completed that contains the vendor's most favorable terms for price and services or products to be delivered.
5. Bid: Submission of information from a bidder that describes the bidder's commodities or services, and any other information necessary to respond to the specifications and other requirements set forth in an Invitation to Bid.
6. Brand Name or Equal Specification: A specification limited to one or more items by manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet County requirements, and which provides for the submission of equivalent products.
7. Brand Name Specifications: A specification limited to one or more items by manufacturers' names or catalogue numbers.
8. Business: Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
9. Change Order: A written order signed by a person authorized to act on behalf of the County directing the contractor to make changes that the "Changes" clause of the contract authorizes.
10. Commodity: A discrete and distinct item of tangible personal property, including, without limitation, any such item which is intended to become an integrated part of another item of tangible personal property or of any improvement to real property.

11. Confidential Information: Any information which is available to an employee only because of the employee's status as an employee of Gwinnett County and is not a matter of public knowledge or available to the public on request.
12. Consultant: A person who has expertise because of education or experience that uniquely qualifies him or her to provide specialized services or advice.
13. Contract: Any agreement, purchase order, lease, or other document which creates or is intended to create binding reciprocal obligations including, without limitation, any document evidencing a bid or proposal award which has been accepted by the bidder.
14. Contractor: Any person who is party to a contract.
15. Cooperative Purchase: An arrangement whereby two or more public procurement units purchased from the same supplier using a single Invitation to Bid or Request for Proposal.
16. Direct or Indirect Participation: Involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
17. Employee/Official: An individual drawing a salary or wage from Gwinnett County, whether elected or not; any non-compensated individual performing personal services for Gwinnett County or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of Gwinnett County; and any non-compensated individual serving as an elected official of Gwinnett County.
18. Gratuity: A payment, loan, subscription, advance, deposit of money, service or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
19. Immediate Family: A spouse, children, parents, brothers and sisters, mother in-law and father in-law.
20. Invitation to Bid: All information and documentation disseminated by the County to solicit bids.
21. Local Firm: 1. Any business or firm having an office located within the boundaries of Gwinnett County and has a current Gwinnett County Occupational Tax Certificate on the closing date of solicitation for which the offer has been submitted. 2. Any business or firm with an office located within the boundaries of a municipality that is within the geographical boundaries of Gwinnett County and whose physical location is within the geographical boundaries of Gwinnett County

and has a current Occupational Tax Certificate (or its equivalent) issued by the municipality on the closing date of solicitation for which the offer has been submitted.

22. Material: 1. Property that is incorporated into or attached to an end item, or consumed in performing a contract 2. What a thing is made from, the substance of anything manufactured or built 3. Goods used in the manufacturing process, either directly, such as raw materials, or indirectly, such as factory supplies.
23. Material Fact: One that constitutes substantially the consideration of the contract, or without which it would not have been made.
24. Multiyear Contract: An agreement that lasts longer than a twelve-month period as permitted by O.C.G.A § 36-60-13 and has been duly approved under the authority of this Ordinance. The life term (multiple years) dollar amount must be used to determine the appropriate approval authority.
25. Offeror: Any person who has submitted a bid or proposal to the County or otherwise offered to form a contract with the County.
26. Person: Any individual or legal entity.
27. Professional Service: A service consisting in material part of advice, evaluation, planning, design, or other effort involving the exercise of judgement, discretion, and knowledge, including, without limitation, a service provided by a person whose profession is licensed or regulated by the state or federal government.
28. Proposal: Submission of information from a proposer (including a consultant) which states how that proposer intends to fulfill the specifications and other requirements described in a Request for Proposal.
29. Purchase Shopping Cart: A document by which an acquiring office requests the acquisition of commodities or services or specifies the requirements to be filled by the acquisition of commodities or services.
30. Qualified Products List: An approved list of supplies, services or construction items described by model or catalogue numbers, which prior to competitive solicitation, the County has determined will meet the applicable specification requirements.
31. Ratification: The approval by the Board of Commissioners of a prior purchase of a commodity or service by the County without actual or apparent authority.
32. Request for Proposals: All information and documentation disseminated by the County to solicit proposals.

33. Request for Qualifications: All information and documentation disseminated by the County to solicit qualifications.
34. Responsible Bidder: A person who has the capability in all respects to perform fully the contract requirements, and the experience, reliability, capacity, facilities, equipment and credit which will assure good faith performance.
35. Responsible Director: The director or acting director who has supervisory authority over a County Department and responsibility for acquiring materials, supplies, equipment and services.
36. Responsive Bidder: A person who has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation to bids or request for proposals.
37. Services: The furnishing of labor, time or effort by a contractor that is not intended to accomplish the delivery of a specified tangible product other than reports which are merely incidental to the required performance, including, without limitation, a professional or consulting service.
38. Specification: In connection with an Invitation to Bid or Request for Proposal, a list or description of the characteristics of the commodities or services which will meet the County's requirements.
39. Supplies: All property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land.
40. Term Contract: a contract in which a source of supply is established for a specified period of time for specified services or supplies; usually characterized by an estimated or definite minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price.
41. Unit of Government: The government of the United States of America or any department, agency, or division thereof, the State of Georgia or any department, agency, political subdivision, municipal corporation, or authority thereof.
42. User Department (or Operating Department): Any agency or office, whether headed by an appointed or elected official, for which the governing authority has budgetary responsibility, except that this definition excludes the Purchasing Division within the Department of Financial Services.