

**CITY OF KENNESAW
GEORGIA**

ORDINANCE NO. 2018-19, 2018

**ORDINANCE OF THE CITY OF KENNESAW REGARDING AN AMENDMENT TO
CHAPTER 1 "GENERAL PROVISIONS," ARTICLE VI "FINANCE,"
SECTION 2-155 "PURCHASES AND EXPENDITURES, PROCEDURE"
OF THE CODE OF ORDINANCES**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW,
COBB COUNTY, GEORGIA, AS FOLLOWS:**

WHEREAS, the State of Georgia recently passed House Bill 489 in 2018 which was signed into law to become effective on July 1, 2018;

WHEREAS, the City through its Mayor and City Council hereby desire to amend its existing Purchasing Ordinance to conform with the requirements of State law; and

**NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF
THE CITY OF KENNESAW, COBB COUNTY, GEORGIA, AS FOLLOWS:**

Pursuant to the Official Charter of the City of Kennesaw, Section 2.11, the City of Kennesaw hereby amends Section 2-155 as follows:

Sec. 2-155. - Purchases and expenditures, procedure.

(a) *Non-budgeted* purchases:

- (1) The City Council fully understands and identifies that every event cannot be foreseen, but the City Council also understands that the budget is the basis for the City's financial actions for each respective fiscal year. As such, non-budgeted purchases must be kept at a bare minimum, and must need to undergo the closest scrutiny to determine how necessary each non-budgeted purchase may be.
- (2) When a department head determines the necessity to purchase a non-budgeted operating or capital item s/he must justify this need to the City Manager. If the purchase is deemed necessary, the budget will be amended or adjusted as set forth in section 2-145 to accommodate the non-budgeted purchase.
- (3) The City Manager shall notify Mayor and Council of any non-budgeted capital purchases s/he has authorized in excess of \$5,000.00 at a regular meeting and shall obtain formal ratification of this action through a budget amendment from mayor and council.

(b) *Budgeted* purchases:

- (1) The city hereby establishes a centralized purchasing system where all city purchases will be coordinated by the city manager's office subject to the regulations outlined herein.
- (2) The City Manager shall be responsible for implementing and enforcing all purchasing rules and regulations and will maintain and distribute to all eligible vendors purchasing rules and regulations as may be written specifically for those vendors.
- (3) The City Manager shall establish internal procedures for review of all proposed expenditures to be known as the encumbrance process. The encumbrance process shall have the effect of reserving city funds to cover authorized purchases made within approved appropriations levels based on a modified accrual basis of accounting.

(c) *The encumbrance process:*

- (1) It shall be the policy of the City that all purchasing be done in a competitive environment with qualified vendors being given a reasonable opportunity to do business with the City.
- (2) In order to initiate a purchase, an employee must complete the city requisition form, sign it and forward it to their department head for approval. The completed requisition form must have the cost of each product or item noted on the form. If approved, the department head or designee shall sign the requisition form, identify and indicate the accounting code (budgeted line item) for this expense and forward it to the City Manager's office for processing. If the actual cost of the purchase is lower than that indicated, the correction will be made to the original purchase order by the finance division. Purchases over \$3,000.00 shall require the specific approval of the City Manager.
- (3) A purchase order shall be initiated; thus encumbering the specific line item appropriation to be charged with the transaction. In the event there are insufficient funds left within the cited accounting code (budgeted line item), the purchase order shall not be issued and the requisition form shall be returned to the respective department head.
- (4) In the event the cited accounting code (budgeted line item) does not have sufficient funds in it to allow the proposed purchase, the department head may either: (1) decide not to purchase the item until the next fiscal year, or (2) request that the city manager adjust the departmental budget, or (3) make the appropriate budget amendment as allowed under section 2-145. Resubmitting the requisition form with a different accounting code is not permitted. In order to maintain an accurate incremental budget process, purchases should be made against the appropriate accounting code, thus accurately identifying where reductions and increases in specific line items are warranted for future budget years.

(d) *Purchase orders:*

- (1) All purchases require department head or designee approval.
- (2) Budgeted purchases of less than \$150.00 shall not require a purchase order. However, such purchases shall be documented with proper evidence (ticket, invoice, receipt) and with specific approval of the purchase by the applicable department head. Said approval will also reflect assignment of the purchase to the appropriate departmental budget line item number. The invoice will be forwarded to the finance division for payment. Purchases made under this category are to be made on a competitive basis unless the City has an established purchasing contract with the applicable vendor.
- (3) All budgeted purchases over \$150.00 shall be accompanied by a purchase order. The purchase order must include a P.O. number, the name of the vendor, the name or a description of the item or service being purchased, and the actual or estimated cost of the item or service. Purchase orders for purchases less than \$3,000.00 shall be made as field purchase orders within the department. (A field purchase order is one that is issued by an operating department and does not require executive review and approval.) Copies of field purchase orders must be forwarded to the finance division promptly after issuance for encumbrance purposes. Purchase orders for over \$3,000.00 shall be obtained from the City manager's office after the purchase has been approved in the process described above.
- (4) The finance department shall reject payment of any purchase over \$150.00 that does not include an authorized purchase order that exceeds budgetary limitations, or is not authorized by the budget. Exceptions to this rule are routine purchases such as City's utility payments, professional services rendered, or other purchases which may be of a like nature not otherwise limited herein.
- (5) Bonafide emergencies as set forth in wording under subsection (f)(1) shall be an exception to the encumbrance process.

(e) *Criteria for purchases and bids.*

- (1) The following requirements for purchases and bidding shall be in effect.

Purchases less than \$3,000.00. Purchases less than \$3,000.00 shall be authorized by the respective department heads who are required to document in writing their efforts to obtain at least three written quotes or bids for each purchase. Documentation of competitive pricing based on common specifications will be attached to the requisition and all associated paperwork, including the invoice.

Purchases between \$3,000.00 and \$24,999.00. The department head, together with the city manager, shall authorize purchases between \$3,000.00 and \$24,999.00. All such purchases shall require informal (non-advertised, non-sealed) bids. Supporting

bid documentation must be in written form and attached to purchase order. A minimum of three bids must be obtained from qualified vendors who regularly offer or carry the items or services to be purchased.

Purchases *over \$25,000.00*. Any purchase in excess of \$25,000.00 shall be approved/awarded by the Mayor and City Council in a regular or special meeting, unless it is made under a Cobb County, State, Federal G.S.A. negotiated contract purchasing system, or pursuant to O.C.G.A. § 36-69A-4, as may be amended from time to time. Such purchases shall require formal competitive sealed bids, which shall be advertised in the Georgia Procurement Registry pursuant to O.C.G.A. 36-80-26, and as may be amended from time to time. However, any public works construction contract governed by O.C.G.A. 36-91-22 shall be advertised both in the Georgia Procurement Registry as prescribed by O.C.G.A. 36-80-26, and as may be amended from time to time, and be advertised in the county organ (presently, the Marietta Daily Journal) at least one time no less than one week prior to the date and the time of public bid opening, in accordance with State law. In addition, the City shall make other reasonable efforts to make qualified vendors aware of the purchasing opportunity, including direct notification of potential vendors in the Kennesaw area. Purchases in this category must be based on standard specifications that allow maximum competition among qualified vendors whose products or services meet established performance requirements.

- (2) It is the policy of the city that any purchase greater than \$25,000.00 that binds the city by contract shall be approved/awarded by the Mayor and Council in a regular or special called meeting.
- (3) Additionally, following advertisement and time for bids, no item shall be determined a sole source purchase without the approval of the City Manager. In this case, there must be full documentation of the lack of a competitive market submitted to the City Manager and/or Mayor and City Council, as applicable.
- (4) It is the policy of the city that the above purchasing limitations and authority guidelines be followed in all circumstances. Under no circumstances should purchases be split or divided to avoid established bid limits.
- (5) Upon not receiving any sealed bids following two lawfully advertised bids, and following approval by the Mayor and Council, the City Manager shall be authorized without additional advertisement to seek and obtain sealed competitive bids from at least three vendors who commonly deal in such supplies, materials, equipment or vehicles. No purchase in excess of \$25,000.00 shall be authorized to be purchased in this method. Further, this policy shall not be applicable to public works projects, as defined by O.C.G.A. § 36-91-1, et seq., and as may be amended from time to time.

(6) No contract shall be awarded to a bidder that is delinquent on any taxes, permit or license fees owed to the city; is in arrears on an existing contract with the city; or has failed to satisfy all liens against the bidder's property executed by the city.

(f) *Emergency purchases.*

(1) A bonafide emergency is a situation, which arises where it would seriously jeopardize the safety, health and welfare of the departmental mission or where it would otherwise adversely affect the work of the department to utilize normal purchases channels. The department head and/or City Manager will determine the existence of an emergency situation or condition. Department heads will not use the emergency purchase procedure to abuse or otherwise purposely circumvent the established purchasing procedures.

(2) Procedure: Purchase of goods, supplies and materials is consummated and receipt obtained. A confirmation letter from the department head explaining the nature of the emergency is prepared, with receipt and or other necessary paperwork attached and forwarded to the City Manager the next working day. The city manager shall report the emergency purchases to the Mayor and members of the City Council no later than the next regularly scheduled meeting.

(g) *Local vendor preference policy.*

(1) Because bids awarded to local vendors contribute to the City of Kennesaw tax base and promote the local economy, the City of Kennesaw Mayor and Council have determined that, under certain circumstances, such local vendors shall be given preference when bidding against non-local vendors. A local vendor shall be defined as a vendor maintaining a physical presence within the city limits of the City of Kennesaw, including but not limited to the maintenance of one or more offices within the city limits and the continuous employment of not fewer than two persons at such office(s) for more than six months prior to the submission of a bid. The mere maintenance of a post office box within the City of Kennesaw shall not qualify a vendor to be local for purposes of this policy.

(2) For purchases or contracts under \$100,000.00 where a local vendor's bid meets all specifications and is within five percent of the lowest responsive and responsible non-local bidder, the City is authorized to negotiate with the local vendor(s) to match the lowest bid submitted by a non-local vendor. The lowest bidding local vendor shall be given one business day from the opening of such bids in which to notify the city manager or designee that it agrees to match the low bid submitted by any non-local vendor. If such local vendor shall not agree to match the low bid, then the next lowest local vendor within five percent, if any, shall be given one business day therefrom to notify the City Manager or designee that it agrees to match the low bid submitted by any non-local vendor, and so on until all local vendors have had an opportunity to match the low bid.

- (3) To be eligible for consideration under this policy, bids submitted by local vendors must meet all other terms, quality, and conditions of the bid. Such preference shall not sacrifice quality.
- (4) This preference shall not apply to road construction or public works projects otherwise governed by Georgia Law or to the purchase of any other goods and/or services for which preference is prohibited by Georgia Law.
- (5) The local vendor preference policy shall be stated in all applicable solicitations for bids.

(Code 1986, § 3-1-20; Ord. of 8-1-88; Ord. of 1-7-91; Ord. No. 1998-04, 6-1-98; Ord. No. 2001-05, § 1, 5-7-01; Ord. No. 2001-19, 8-20-01; Ord. No. 2007-33, 11-5-07; Ord. No. 2007-36, Exh. A, 12-3-07; Ord. No. 2016-16, § 1, 6-20-16)

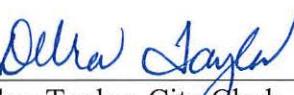
SECTION 1. BE IT ORDAINED that all ordinances, parts of ordinances, or regulations in conflict herewith are repealed as of the effective date of this ordinance.

SECTION 2. BE IT FURTHER ORDAINED that should any section of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

SECTION 3. BE IT FURTHER ORDAINED that this ordinance shall become effective immediately from and after its adoption and execution by the Mayor, pursuant to Section 2.11 of the City Charter of the City of Kennesaw.

PASSED AND ADOPTED by the Kennesaw City Council on this 6th day of August, 2018.

ATTEST:



Debra Taylor, City Clerk

CITY OF KENNESAW:



Derek Easterling, Mayor

