

## CATOOSA COUNTY PURCHASING POLICY ORDINANCE

DEFINITION OF TERMS: The definitions under O.C.G.A. § 36-91-2 shall apply to this Ordinance.

### **LEVEL 1 PURCHASES: PURCHASES AND REQUESTS FOR PROPOSALS COSTING \$15,000.00 OR LESS.**

Level 1 purchases of supplies, appliances, work projects, public work projects and new equipment costing \$15,000.00 or less shall be approved by the County Manager and do not require Board of Commissioner approval or advertisement of contract opportunities. However nothing herein shall prohibit the County Manager from advertising or posting the contract opportunities on the County Web Site or in the County Organ. The County Manager shall decide the number of times the contract opportunity shall be advertised, if any. Level 1 purchases of supplies, appliances, work projects and new equipment costing \$500.00 or less may be approved and executed by employees and department heads designated by the County Manager provided that all purchases by the designees shall be reported to the County Manager at the end of each month in which the purchase was made. Department heads or others requesting Level 1 Purchases shall, where feasible, solicit three proposals for the purchase. The County Manager shall report monthly to the Board of Commissioners all purchases made by the County as Level 1 purchases.

### **LEVEL 2 PURCHASES: PURCHASES AND REQUESTS FOR PROPOSALS COSTING MORE THAN \$15,000.00 BUT NOT MORE THAN \$50,000.00.**

Level 2 purchases of supplies, appliances, work projects, public work projects and new equipment costing more than \$15,000.00 but not more than \$50,000.00 shall be awarded by competitive sealed bids. The contract opportunities and/or request for proposals shall be made by publishing the contract opportunity and/or the request for proposal in the legal organ of the County. There shall be a minimum of one publication of the contract opportunity and/or request for proposal in the legal organ occurring at least ten (10) days prior to the opening of the sealed bids or proposals. Contract opportunities and requests for proposals may also be advertised on the Internet. If made on the Internet the contract opportunities shall be posted continuously for at least fourteen days (14) days prior to the opening of sealed bids or proposals. Inadvertent or unintentional loss of Internet service during the advertisement period shall not require the contract award or bid or proposal opening to be delayed. All bids or proposals shall be publically opened and published. The contract opportunity and/or proposal shall be let to the lowest responsible bidder by the Board of Commissioners. Bid bonds, performance bonds and payment bonds shall not be required unless required by the County in the contract opportunity or request for proposal. The Board of Commissioners reserves the authority to reject all bids or proposals or reject any bid or proposal that is nonresponsive. The Board of Commissioners reserves the right to reject in bid or proposal that in the judgment of the Board of Commissioners is not responsible. The Board of Commissioners further reserves the right to waive technicalities and informalities in the bidding process.

**LEVEL 3 PURCHASES: PURCHASES AND REQUESTS FOR PROPOSALS COSTING MORE THAN \$50,000.00 (EXCLUDING PUBLIC WORKS PROJECTS COSTING MORE THAN \$100,000.00)**

Level 3 purchases of supplies, appliances, work projects, public work projects and new equipment costing more than \$50,000.00 and/or request for proposals costing more than \$50,000.00 (excluding public works projects costing more than \$100,000.00) shall be awarded by competitive sealed bids. The contract opportunities and/or request for proposals shall be made by publishing the contract opportunity and/or the request for proposal in the legal organ of the County. If made in the County legal organ there shall be a minimum of two publications, with the first publication occurring at least fourteen (14) days prior to the opening of the sealed bids or proposals. Contract opportunities and/or requests for proposals may also be advertised on the Internet. If made on the Internet the contract opportunities shall be posted continuously for at least four weeks prior to the opening of sealed bids or proposals. Inadvertent or unintentional loss of Internet service during the advertisement period shall not require the contract award or bid or proposal opening to be delayed. All bids or proposals shall be publically opened and published. The contract opportunities and/or proposals shall be let to the lowest responsible bidder by the Board of Commissioners. Bid bonds as defined in O.C.G.A. § 36-91-2(a)(3), performance bonds as defined in O.C.G.A. § 36-91-2(a)(11) and payment bonds as defined in O.C.G.A. § 36-91-2(a)(10) shall be required. The Board of Commissioners reserves the authority to reject all bids or proposals or reject any bid or proposal that is nonresponsive. The Board of Commissioners reserves the right to reject any bid or proposal that in the judgment of the Board of Commissioners is not responsible. The Board of Commissioners further reserves the right to waive technicalities and informalities in the bidding process. The Board of Commissioners shall have the authority to reject all bids or proposals or any bid or proposal that is nonresponsive or not responsible and to waive technicalities and informalities.

**LEVEL 4 PURCHASES: USED EQUIPMENT: (See Amendment dated 4/5/16)**

Level 4 purchases of used equipment, used cars, used trucks, used tractors, used construction equipment or other used items costing \$15,000.00 or less may be purchased upon the approval of the County Manager at a public auction or at a private sale provided that the terms of the sale, including the name of the seller, description of the equipment and purchase price, are advertised in the legal organ of the county at least once after the closing of the private purchase. Level 4 purchases of used equipment, used cars, used trucks, used tractors, used construction equipment or other used items costing \$500.00 or less may be approved and executed by employees and department heads designated by the County Manager provided that all purchases by the designees shall be reported to the County Manager at the end of each month in which the purchase was made and advertised as required herein. Level 4 purchases of used equipment, used cars, used trucks, used tractors, used construction equipment or other used items costing more than \$15,000.00 may be purchased upon the approval of the Board of Commissioners at a public auction or at a private sale provided that the terms of the sale, including the name of the seller, description of the equipment and purchase price, are advertised in the legal organ of the county least once after the closing of the private purchase.

## **LEVEL 5 PURCHASES: PUBLIC WORKS PROJECTS COSTING MORE THAN \$100,000.00**

### **DEFINITIONS:**

As used for Level 5 Public Works Projects the following terms apply:

- (1) "Alternate bids" means the amount stated in the bid or proposal to be added to or deducted from the amount of the base bid or base proposal if the corresponding change in project scope or alternate materials or methods of construction is accepted.
- (2) "Base bid" or "base proposal" means the amount of money stated in the bid or proposal as the sum for which the bidder or proposer offers to perform the work.
- (3) "Bid bond" means a bond with good and sufficient surety or sureties for the faithful acceptance of the contract payable to, in favor of, and for the protection of the governmental entity for which the contract is to be awarded.
- (4) "Change order" means an alteration, addition, or deduction from the original scope of work as defined by the contract documents to address changes or unforeseen conditions necessary for project completion.
- (5) "Competitive sealed bidding" means a method of soliciting public works construction contracts whereby the award is based upon the lowest responsive, responsible bid in conformance with the provisions of subsection (b) of Code Section 36-91-21.
- (6) "Competitive sealed proposals" means a method of soliciting public works contracts whereby the award is based upon criteria identified in a request for proposals in conformance with the provisions of subsection (c) of Code Section 36-91-21.
- (7) "County" means Catoosa County, Georgia.
- (7) "Emergency" means any situation resulting in imminent danger to the public health or safety or the loss of an essential governmental service.
- (8) "Governing authority" means the Board of Commissioners of Catoosa County, Georgia.
- (9) "Governmental entity" means Catoosa County, Georgia.
- (10) "Payment bond" means a bond with good and sufficient surety or sureties payable to the governmental entity for which the work is to be done and intended for the use and protection of all subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the public works construction contract.
- (11) "Performance bond" means a bond with good and sufficient surety or sureties for the faithful performance of the contract and to indemnify the governmental entity for any damages occasioned by a failure to perform the same within the prescribed time. Such bond shall be payable to, in favor of, and for the protection of the governmental entity for which the work is to be done.
- (12) "Public works construction" means the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to any public real property other than those projects covered by Chapter 4 of Title 32 or by Chapter 37 of Title 50. Such term does not include the routine operation, repair, or maintenance of existing structures, buildings, or real property, or any energy savings performance contract or any improvements or installations performed as part of an energy savings performance contract.
- (13) "Responsible bidder" or "responsible offeror" means a person or entity that has the capability in all respects to perform fully and reliably the contract requirements.
- (14) "Responsive bidder" or "responsive offeror" means a person or entity that has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals.

(15) "Scope of project" means the work required by the original contract documents and any subsequent change orders required or appropriate to accomplish the intent of the project as described in the bid documents.

(16) "Scope of work" means the work that is required by the contract documents.

(17) "Sole source" means those procurements made pursuant to a written determination by a governing authority that there is only one source for the required supply, service, or construction item.

Reference: O.C.G.A. § 36-91-2

#### CONTRACTS TO BE IN WRITING AND AVAILABLE FOR INSPECTION:

(a) All public works construction contracts subject to OC.G.A § 36-91-2 entered into by the County with private persons or entities shall be in writing and on file and available for public inspection at a place designated by the County.

#### PUBLIC ADVERTISEMENT:

(b)(1) Prior to entering into a public works construction contract other than those exempted by Code Section 36-91-22, the County shall publicly advertise the contract opportunity. Such notice shall be posted conspicuously in the office of the Board of Commissioners and shall be advertised in the legal organ of the county or by electronic means on an Internet website of the County or an Internet website identified by the County which may include the Georgia Procurement Registry as provided by Code Section 50-5-69.

(2) Contract opportunities that are advertised in the legal organ shall be advertised a minimum of two times, with the first advertisement occurring at least four weeks prior to the opening of the sealed bids or proposals. The second advertisement shall follow no earlier than two weeks from the first advertisement.

(3) Contract opportunities that are advertised solely on the Internet shall be posted continuously for at least four weeks prior to the opening of sealed bids or proposals. Inadvertent or unintentional loss of Internet service during the advertisement period shall not require the contract award or bid or proposal opening to be delayed.

(4) Contract opportunities that will be awarded by competitive sealed bids shall have plans and specifications available on the first day of the advertisement and shall be open to inspection by the public. The plans and specifications shall indicate if the project will be awarded by base bid or base bid plus selected alternates and:

(A) A statement listing whether all anticipated federal, state, or local permits required for the project have been obtained or an indication of the status of the application for each such permit including when it is expected to be obtained; and

(B) A statement listing whether all anticipated rights of way and easements required for the project have been obtained or an indication of the status as to when each such rights of way or easements are expected to be obtained.

(5) Contract opportunities that will be awarded by competitive sealed proposals shall be publicly advertised with a request for proposals which request shall include conceptual program information in the request for proposals describing the requested services in a level of detail appropriate to the project delivery method selected for the project.

(6) The advertisement shall include such details and specifications as will enable the public to know the extent and character of the work to be done.

(7) All required notices of advertisement shall also advise of any mandatory prequalification requirements or pre-bid conferences as well as any federal requirements pursuant to subsection (d) of Code Section 36-91-22. Any advertisement which provides notice of a mandatory pre-bid conference or prequalification shall provide reasonable advance notice of said conference or for the submittal of such prequalification information.

#### CONSTRUCTION DELIVERY METHODS

(c) The County is authorized to utilize any construction delivery method, provided that all public works construction contracts subject to the requirements of this chapter that:

- (1) Place the bidder or offeror at risk for construction; and
- (2) Require labor or building materials in the execution of the contract shall be awarded on the basis of competitive sealed bidding or competitive sealed proposals. The County shall have the authority to reject all bids or proposals or any bid or proposal that is nonresponsive or not responsible and to waive technicalities and informalities.

#### ADDENDA MODIFYING PLANS PROHIBITED; EXCEPTIONS:

(d) The County shall not issue or cause to be issued any addenda modifying plans and specifications within a period of 72 hours prior to the advertised time for the opening bids or proposals, excluding Saturdays, Sundays, and legal holidays. However, if the necessity arises to issue an addendum modifying plans and specifications within the 72 hour period prior to the advertised time for the opening of bids or proposals, excluding Saturdays, Sundays, and legal holidays, then the opening of bids or proposals shall be extended at least 72 hours, excluding Saturdays, Sundays, and legal holidays, from the date of the original bid or proposal opening without need to readvertise as required by subsection (b) of this Code section.

#### CHANGE ORDERS:

(e) Bid and contract documents may contain provisions authorizing the issuance of change orders, without the necessity of additional requests for bids or proposals, within the scope of the project when appropriate or necessary in the performance of the contract. Change orders may not be used to evade the purposes of this article.

#### MANDATORY PREQUALIFICATION

(f) The County may, in its discretion, adopt a process for mandatory prequalification of prospective bidders or offerors; provided, however, that:

- (1) Criteria for prequalification must be reasonably related to the project or the quality of work;
- (2) Criteria for prequalification must be available to any prospective bidder or offeror requesting such information for each project that requires prequalification;
- (3) Any prequalification process must include a method of notifying prospective bidders or offerors of the criteria for or limitations to prequalification; and
- (4) Any prequalification process must include a procedure for a disqualified bidder to respond to his or her disqualification to a representative of the County; provided, however, that such procedure shall not be construed to require the County to provide a formal appeals procedure. A prequalified bidder or offeror can not be later disqualified without cause.

Reference: O.C.G.A. § 36-91-3

**PENALTY FOR FAILURE TO COMPLY WITH COMPETITIVE AWARD REQUIREMENTS:**

(a) No public works construction contracts shall be let without complying with the competitive award requirements contained in this Policy. Any contractor who performs any work of the kind in any other manner and who knows that the public works construction contract was let out without complying with the notice and competitive award requirements of this Policy shall not be entitled to receive any payment for such work.

**REQUIREMENTS:**

(b) All competitive sealed bidding process for Level 5 purchases or work shall comply with the following requirements:

- (1) The County shall publicly advertise an invitation for bids;
- (2) Bidders shall submit sealed bids based on the criteria set forth in such invitation;
- (3) The County shall open the bids publicly and evaluate such bids without discussions with the bidders; and
- (4) The contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids; provided, however, that if the bid from the lowest responsible and responsive bidder exceeds the funds budgeted for the public works construction contract, the County may negotiate with such apparent low bidder to obtain a contract price within the budgeted amount. Such negotiations may include changes in the scope of work and other bid requirements.

**MAKING COMPETITIVE SEALED PROPOSAL:**

(c)(1) In making any competitive sealed proposal, the County shall:

- (A) Publicly advertise a request for proposals, which request shall include conceptual program information in the request for proposals describing the requested services in a level of detail appropriate to the project delivery method selected for the project, as well as the relative importance of the evaluation factors;
  - (B) Open all proposals received at the time and place designated in the request for proposals so as to avoid disclosure of contents to competing offerors during the process of negotiations; and
  - (C) Make an award to the responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the County, taking into consideration the evaluation factors set forth in the request for proposals. The evaluation factors shall be the basis on which the award decision is made. The contract file shall indicate the basis on which the award is made.
- (2) As set forth in the request for proposals, offerors submitting proposals may be afforded an opportunity for discussion, negotiation, and revision of proposals. Discussions, negotiations, and revisions may be permitted after submission of proposals and prior to award for the purpose of obtaining best and final offers. In accordance with the request for proposals, all responsible offerors found by the County to have submitted proposals reasonably susceptible of being selected for award shall be given an opportunity to participate in such discussions, negotiations, and revisions. During the process of discussion, negotiation, and revision, the County shall not disclose the contents of proposals to competing offerors.

PREVENTING OR ATTEMPTING TO PREVENT COMPETITIVE BIDDING:

(d) Whenever a public works construction contract for the County subject to the requirements of this chapter is to be let out by competitive sealed bid or proposal, no person, by himself or herself or otherwise, shall prevent or attempt to prevent competition in such bidding or proposals by any means whatever. No person who desires to procure such work for himself or herself or for another shall prevent or endeavor to prevent anyone from making a bid or proposal therefor by any means whatever, nor shall such person so desiring the work cause or induce another to withdraw a bid or proposal for the work.

OATH REQUIRED:

(e) Before commencing the work, any person who procures such public work by bidding or proposal shall make an oath in writing that he or she has not directly or indirectly violated subsection (d) of this Code section. The oath shall be filed with the County officer whose duty it is to make the payment. If the contractor is a partnership, all of the partners and any officer, agent, or other person who may have represented or acted for them in bidding for or procuring the contract shall also make the oath. If the contractor is a corporation, all officers, agents, or other persons who may have acted for or represented the corporation in bidding for or procuring the contract shall make the oath. If such oath is false, the contract shall be void, and all sums paid by the County on the contract may be recovered by appropriate action.

(f)(1) Unless otherwise required by law, the County shall not in its bid documents, specifications, project agreements, or other controlling documents for a public works construction contract:

(A) Require or prohibit bidders, offerors, contractors, subcontractors, or material suppliers to enter into or adhere to prehire agreements, project labor agreements, collective bargaining agreements, or any other agreement with one or more labor organizations on the same or other related construction projects; or

(B) Discriminate against, or treat differently, bidders, offerors, contractors, subcontractors, or material suppliers for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations on the same or other related construction projects.

(2) Nothing in this subsection shall prohibit bidders, offerors, contractors, subcontractors, or material suppliers from voluntarily entering into agreements described in paragraph (1) of this subsection.

(3) The Board of Commissioners or the Board's designee may exempt a particular public works construction contract from the requirements of any or all of the provisions of paragraph (1) of this subsection if the governmental entity finds, after public notice and a hearing, that special circumstances require an exemption to avert an imminent threat to public health or safety. A finding of special circumstance under this paragraph shall not be based on the possibility or presence of a labor dispute concerning the use of contractors or subcontractors who are nonsignatories to, or otherwise do not adhere to, agreements with one or more labor organizations or concerning employees on the particular project who are not members of or affiliated with a labor organization.

OFFICER, OFFICIAL OR EMPLOYEE OF COUNTY PROHIBITED FROM PROFIT OR PAY ON CONTRACT:

(g) If any officer, official or employee of the County lets out any public works construction contract subject to the requirements of this article and receives, takes, or contracts to receive or take, either directly or indirectly, any part of the pay or profit arising out of any such contract, he or she shall be guilty of a misdemeanor.

VALIDITY OF CONTRACT

(h) No public works construction contract with the County shall be valid for any purpose unless the contractor shall comply with all bonding requirements of this Policy. No such contract shall be valid if the County lets out any public works construction contract subject to the requirements of this Policy without complying with the requirements of this Policy.

Reference: O.C.G.A. § 36-91-21

PUBLIC WORKS UNDER \$100,000.00; EXCEPTIONS FOR CERTAIN WORK PROJECTS; SUBDIVIDING WORK PROHIBITED; EMERGENCIES.

(a) The requirements of Level 5 of this Policy shall not apply to public works construction projects, when the same can be performed at a cost of less than \$100,000.00. Public works construction projects shall not be subdivided in an effort to evade the provisions of this Policy.

(b) The County shall have the power and authority to purchase material for and use inmate labor from a correctional institution in performing public works construction projects; and in such cases, this Policy shall not apply. The County may contract with a governmental entity having a correctional institution for the use of inmate labor from such institution and use the inmates in the performance of any public works construction project; and in such cases, this Policy shall not apply.

(c) In the event that the labor used or to be used in a public works construction project is furnished at no expense by the state or federal government or any agency thereof, the County shall have the power and authority to purchase material for such public works construction project and use the labor furnished free to the County; and in such case, this Policy shall not apply.

(d) Where a public works construction contract involves the expenditure of federal assistance or funds, the receipt of which is conditioned upon compliance with federal laws or regulations regarding the procedures for awarding public works construction contracts, the County shall comply with such federal requirements and shall not be required to comply with the provisions of this Policy that differ from the federal requirements. The County shall provide notice that federal procedures exist for the award of such contracts in the advertisement required under this Policy. The availability and location of such federal requirements shall be provided to any person requesting such information.

(e) The requirements of this chapter shall not apply to public works construction projects necessitated by an emergency; provided, however, that the nature of the emergency shall be described in the minutes of the Board of Commissioners the governing authority of the County. Any contract let by the County pursuant to this subsection shall be ratified, as soon as



practicable, on the minutes of the Board of Commissioners, and the nature of the emergency shall be described therein.

(f) Except as otherwise provided in Chapter 4 of Title 32, the requirements of this Policy shall not apply to public works construction projects subject to the requirements of Chapter 4 of Title 32.

(g) The requirements of this Policy shall not apply to public works construction projects or any portion of a public works construction project self-performed by the County. If the County contracts with a private person or entity for a portion of such project, the provisions of this chapter shall apply to any such contract estimated to exceed \$100,000.00.

(h) The requirements of this Policy shall not apply to sole source public works construction contracts.

Reference: O.C.G.A. § 36-91-22

#### PREVIOUS EXPERIENCE AS DISQUALIFICATION:

In awarding contracts based upon sealed competitive bids or sealed competitive proposals, no responsible bidder shall be disqualified from a bid or proposal or denied prequalification based upon a lack of previous experience with a job of the size for which the bid or proposal is being sought if:

(1) The bid or proposal is not more than 30 percent greater in scope or cost from the responsible bidder's previous experience in jobs;

(2) The responsible bidder has experience in performing the work for which bids or proposals are sought; and

(3) The responsible bidder is capable of being bonded by a surety which meets the qualifications of the bid documents for a bid bond, a performance bond, and a payment bond as required for the scope of the work for which the bid or proposal is being sought.

Reference: O.C.G.A. § 36-91-23

#### LIQUIDATED DAMAGES AND LATE PROJECT COMPLETION:

Public works construction contracts may include both liquidated damages provisions for late construction project completion and incentive provisions for early construction project completion when the project schedule is deemed to have value. The terms of the liquidated damages provisions and the incentive provisions shall be established in advance as a part of the construction contract and included within the terms of the bid or proposal.

Reference: O.C.G.A. §36-91-24

#### BONDS

(a)(1) Any bid bond, performance bond, payment bond, or security deposit required for a public works construction contract shall be approved and filed with the County project manager or fiscal officer as designed in the request for proposal. At the option of the County, if the surety named in the bond is other than a surety company authorized by law to do business in this state pursuant to a current certificate of authority to transact surety business by the Commissioner of

Insurance, such bond shall not be approved and filed unless such surety is on the United States Department of Treasury's list of approved bond sureties.

(2) Any bid bond, performance bond, or payment bond required by this Policy shall be approved as to form and as to the solvency of the surety by an officer of the County. In the case of a bid bond, such approval shall be obtained prior to acceptance of the bid or proposal. In the case of payment bonds and performance bonds, such approval shall be obtained prior to the execution of the contract.

(b) Whenever, in the judgment of the County:

(1) Any surety on a bid, performance, or payment bond has become insolvent;

(2) Any corporate surety is no longer certified or approved by the Commissioner of Insurance to do business in the state; or

(3) For any cause there are no longer proper or sufficient sureties on any or all of the bonds, the County may require the contractor to strengthen any or all of the bonds or to furnish a new or additional bond or bonds within ten days. Thereupon, if so ordered by the County, all work on the contract shall cease unless such new or additional bond or bonds are furnished. If such bond or bonds are not furnished within such time, the County may terminate the contract and complete the same as the agent of and at the expense of the contractor and his or her sureties.

Reference: O.C.G.A. § 36-91-40

#### WHEN BID BONDS NOT REQUIRED:

When the County invites competitive sealed proposals for a public works construction project and the request for proposals for such project states that price or project cost will not be a selection or evaluation factor, no bid bond shall be required unless the County provides for a bid bond in the request for proposals and specifies the amount of such bond.

Reference: O.C.G.A. § 36-91-41

#### BID BONDS:

(a) Bid bonds shall be required for all public works construction contracts subject to the requirements of Level 5 Public Works Projects with estimated bids or proposals over \$100,000.00; provided, however, that the County entity may require a bid bond for projects with estimated bids or proposals of \$100,000.00 or less.

(b) In the case of competitive sealed bids, except as provided in Code Sections 36-91-52 and 36-91-53, a bid may not be revoked or withdrawn until 60 days after the time set by the County for opening of bids. Upon expiration of this time period, the bid will cease to be valid, unless the bidder provides written notice to the County prior to the scheduled expiration date that the bid will be extended for a time period specified by the County.

(c) In the case of competitive sealed proposals, the County shall advise offerors in the request for proposals of the number of days that offerors will be required to honor their proposals; provided, however, that if an offeror is not selected within 60 days of opening the proposals, any offeror that is determined by the County to be unlikely of being selected for contract award shall be released from his or her proposal.

(d) If the County requires a bid bond for any public works construction contract, no bid or proposal for a contract with the County shall be valid for any purpose unless the contractor shall give a bid bond with good and sufficient surety or sureties approved by the County. The bid bond shall be in the amount of not less than 5 percent of the total amount payable by the terms of the contract. No bid or proposal shall be considered if a proper bid bond or other security authorized in Code Section 36-91-51 has not been submitted. The provisions of this subsection shall not apply to any bid or proposal for a contract that is required by law to be accompanied by a proposal guaranty and shall not apply to any bid or proposal for a contract with any public agency or body which receives funding from the United States Department of Transportation and which is primarily engaged in the business of public transportation.

Reference: O.C.G.A. § 36-91-50

#### PERFORMANCE BONDS:

Performance bonds shall be required for all public works construction contracts subject to the requirements of this chapter with an estimated contract amount greater than \$100,000.00; provided, however, that the County may require a performance bond for public works construction contracts that are estimated at \$100,000.00 or less. No public works construction contract requiring a performance bond shall be valid for any purpose unless the contractor shall give such performance bond. The performance bond shall be in the amount of at least the total amount payable by the terms of the contract and shall be increased as the contract amount is increased.

Reference: O.C.G.A. § 36-91-70

#### IRREVOCABLE LETTER OF CREDIT IN LIEU OF BOND:

When the amount of the performance bond required under this article does not exceed \$750,000.00, the County may, in its sole discretion, accept an irrevocable letter of credit by a bank or savings and loan association, as defined in O.C.G.A. § 7-1-4, in the amount of and in lieu of the bond otherwise required.

Reference: O.C.G.A. § 36-91-71

#### PAYMENT BONDS

Payment bonds shall be required for all public works construction contracts subject to the requirements of this chapter with an estimated contract amount greater than \$100,000.00; provided, however, that the County may require a payment bond for public works construction contracts that are estimated at \$100,000.00 or less. No public works construction contract requiring a payment bond shall be valid for any purpose, unless the contractor shall give such payment bond; provided, however, that, in lieu of such payment bond, the County, in its discretion, may accept a cashier's check, certified check, or cash for the use and protection of all subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of work provided in the contract. The payment bond or other security accepted in lieu of a payment bond shall be in the amount of at least the total amount payable by the terms of

the initial contract and shall be increased if requested by the County as the contract amount is increased.

Reference: O.C.G.A. § 36-91-90

CONFLICT WITH GENERAL LAW:

In the event of a conflict between this Level 5 Purchasing Policy and the provisions of Title 36, Article 91 of the Official Code of Georgia Annotated the provisions of general law shall control.

So resolved and Ordained, this 5<sup>th</sup> Day of November, 2013.

Board of Commissioners of  
Catoosa County, Georgia

\_\_\_\_\_  
Honorable Keith Greene

ATTEST

\_\_\_\_\_  
Honorable Jeff Long

\_\_\_\_\_  
Melissa Hannah, Catoosa County Clerk

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Honorable Bobby Winters

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Honorable Jim Cutler

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Honorable Dewayne Hill

Used Equipment  
Amendment to  
Purchasing Policy  
Dated 4/5/16

## AMENDMENT TO CATOOSA COUNTY PURCHASING POLICY ORDINANCE

On November 13, 2013, the Board of Commissioners adopted the Catoosa County Purchasing Policy Ordinance (hereinafter the "Purchasing Policy"). The Purchasing Policy addressed the issue of used equipment, used cars, used trucks, used tractors, used construction equipment or other used items costing \$15,000.00 or less by designating these items as Level 4 purchases that could be approved by the County Manager. Purchases of used items for more than \$15,000.00 required the prior approval of the Board of Commissioners which approval is usually not practical to obtain in the market where used equipment, used cars, used trucks, used tractors, used construction equipment or other used items are customarily sold. The Board of Commissioners desires to provide a method for purchasing used items which cost more than \$15,000.00 but less than \$25,000.00 without prior Board of Commissioner approval while retaining Board of Commissioner oversight of purchases costing more than \$15,000.00.

BE IT THEREFORE ORDAINED AND RESOLVED, that the current provision providing for Level 4 purchases of used equipment, used cars, used trucks, used tractors, used construction equipment or other used items is repealed in its entirety and the following is substituted in its stead:

### **LEVEL 4 PURCHASES: USED ITEMS COSTING \$15,000.00 OR LESS:**

Level 4 purchases of used equipment, used cars, used trucks, used tractors, used construction equipment or other used items costing \$15,000.00 or less may be purchased upon the approval of the County Manager at a public auction or at a private sale provided that the terms of the sale, including the name of the seller, description of the equipment and purchase price, are advertised in the legal organ of the county at least once after the closing of the private purchase. Level 4 purchases of used equipment, used cars, used trucks, used tractors, used construction equipment or other used items costing \$500.00 or less may be approved and executed by employees and department heads designated by the County Manager provided that all purchases by the designees shall be reported to the County Manager at the end of each month in which the purchase was made and advertised as required herein.

BE IT FURTHER ORDAINED AND RESOLVED AS FOLLOWS:

By adding to the Catoosa County Purchasing Policy Ordinance a provision for Level 4A Purchases as follows:

**LEVEL 4A PURCHASES: USED ITEMS COSTING MORE THAN \$15,000.00 BUT LESS THAN \$25,000.00**

Level 4A purchases of used equipment, used cars, used trucks, used tractors, used construction equipment or other used items costing more than \$15,000.00 but less than \$25,000.00 may be purchased upon the approval of the County Manager at a public auction or at a private sale under the following conditions: (1) In the reasonable judgment of the County Manager, the prior approval of the Board of Commissioners cannot be obtained to authorize the purchase of the Level 4A purchase; (2) The proposed purchase of the Level 4A used item is of substantial benefit to the County considering the price of the proposed Level 4A purchase or the needs of the County for the item; (3) The terms of the sale, including the name of the seller, description of the property and purchase price are submitted to the Board of Commissioners for ratification at the next regular or special meeting of the Board of Commissioners after the date of the purchase; (4) The terms of the sale, including the name of the seller, description of the property and purchase price, are advertised in the legal organ of the county at least once after the closing of the purchase. Purchases of used equipment, used cars, used trucks, used tractors, used construction equipment or other used items costing more than \$25,000.00 may be purchased upon the approval of the Board of Commissioners at a public auction or at a private sale provided that the terms of the sale, including the name of the seller, description of the equipment and purchase price, are advertised in the legal organ of the county least once after the closing of the private purchase.

BE IT FURTHER ORDAINED AND RESOLVED, that all other provisions of the Catoosa County Purchasing Policy Ordinance remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

SO RESOLVED, this 5<sup>th</sup> day of April, 2016.


Board of Commissioners of  
Catoosa County, Georgia



Honorable Keith Greene



Honorable Jeff Long



Honorable Bobby Winters

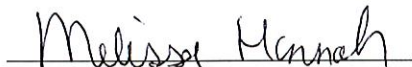


Honorable Jim Cutler



Honorable Ray Johnson

Attest:

  
Melissa Hannah, Clerk



Local Vendor  
Preference  
Amendment to  
Purchasing Policy  
Dated 8/20/19

**RESOLUTION OF THE CATOOSA COUNTY BOARD OF COMMISSIONERS**  
**AMENDING THE CATOOSA COUNTY PURCHASING POLICIES TO PROVIDE A**  
**PREFERENCE FOR LOCAL VENDORS AND FOR GEORGIA PRODUCTS**

WHEREAS, the Catoosa County Board of Commissioners (the “Board”) has previously adopted Policies and Procedures governing the governing the purchase, acquisition and/or promulgation of various goods and services for the County (the “Purchasing Policies”); and

WHEREAS, the Board has found and determined that it would be in the best interests of the County and its citizens to adopt certain preferences and privileges for local vendors and for products manufactured or produced in the State of Georgia in the bid/purchasing policies for County goods and services; and

WHEREAS, based upon the foregoing, the Board desires to amend the existing Purchasing Policies of Catoosa County to provide for local vendor preferences and preferences for goods produced and/or manufactured in the State of Georgia.

NOW, THEREFORE, BE IT RESOLVED, by the governing authority of Catoosa County, Georgia, that the amendments to the Catoosa County Purchasing Policy to establish Local Vendor preferences and preferences for goods manufactured and/or produced in the State of Georgia, a true and correct copy of which are attached hereto as Exhibit “A”, including all findings made therein, are hereby adopted by the Catoosa Count Board of Commissioners and incorporated into the existing Purchasing Policies of Catoosa County; and

BE IT FURTHER RESOLVED, that any and all provisions of the existing Purchasing Policies of Catoosa County which are in conflict with the Amendment attached hereto as Exhibit “A” are repealed in their entirety; and

BE IT FURTHER RESOLVED, that the Amendments adopted in this Resolution shall become effective upon their adoption and shall continue in full force and effect until such time as they are modified or repealed by the Board; and

BE IT FURTHER RESOLVED, that the Chairman, County Manager and appropriate County staff are authorized and directed and to take such further actions or execute such further documents as may be required to carry out the purposes of this Resolution.

**[SIGNATURES ON FOLLOWING PAGE]**

SO RESOLVED this 20<sup>th</sup> day of August, 2019.

CATOOSA COUNTY BOARD OF COMMISSIONERS

BY: \_\_\_\_\_  
Honorable Steven Henry, Chairman

ATTEST:

BY: \_\_\_\_\_  
Honorable Jeff Long, Commissioner

\_\_\_\_\_  
Melissa Hannah,  
Clerk

BY: \_\_\_\_\_  
Honorable Chuck Harris, Commissioner

BY: \_\_\_\_\_  
Honorable Jim Cutler, Commissioner

BY: \_\_\_\_\_  
Honorable Charlie Stephens, Commissioner

**EXHIBIT "A"**

**AMENDMENTS TO CATOOSA COUNTY PURCHASING POLICY TO ESTABLISH  
LOCAL VENDOR PREFERENCES AND PREFERENCES FOR GOODS  
MANUFACTURED AND/OR PRODUCED IN THE STATE OF GEORGIA**

**AMENDMENT TO THE PURCHASING POLICIES OF CATOOSA COUNTY TO  
ADOPT CERTAIN PREFERENCES AND PRIVILEGES FOR LOCAL VENDORS AND  
FOR GEORGIA PRODUCTS**

WHEREAS, Catoosa County, acting by and through its Board of Commissioners as its governing authority, has previously adopted certain Policies and Procedures governing the purchase, acquisition and/or promulgation of various goods and services, which said Policies and Procedures have been revised and amended from time to time (collectively, the “Purchasing Policies”); and

WHEREAS, the Board of Commissioners hereby finds, recognizes and determines that bids and contracts awarded to local vendors for County goods and services contribute to the Catoosa County tax base and promote the local economy; and

WHEREAS, based upon the foregoing findings, the Board of Commissioners has determined that, under certain circumstances, local vendors should be provided an additional privilege and/or preference when bidding against non-local vendors for County goods and services; and

WHEREAS, the Board of Commissioners further finds that utilizing Georgia products when contracting for certain supplies, materials, equipment and/or agricultural products further promotes and stimulates the State and local economy and the Board of Commissioners has therefore further determined that, under certain circumstances, a preference should be provided for goods produced or manufactured within the State of Georgia when considering bids for County goods and services; and

WHEREAS, based upon the foregoing findings, the Board of Commissioners desires to amend the County Purchasing Policies to adopt the Local Vendor and Georgia Product Preferences more particularly set forth herein:

**1. Local Vendor Privilege:**

(a) For the purposes of this Section, a “Local Vendor” is defined as a vendor maintaining a physical presence within Catoosa County, including but not limited to the maintenance of one (1) or more offices within Catoosa County and the continuous employment of not fewer than two (2) persons at such office(s) for more than six (6) months immediately prior to the submission of any bid subject to the provisions of this Section. The mere maintenance of a post office box for receiving mail within Catoosa County shall not qualify a bidder as a “Local Vendor” for the purposes of this Section.

(b) If a Local Vendor’s bid shall otherwise meet all specifications set forth in the bid advertisement or request for proposals and the amount of said bid is not more than four percent (4%) greater than the bid amount of the lowest responsive and responsible bidder, the Local Vendor having the lowest bid amount shall have one (1) business day from the date of the bid opening to notify the County Finance Director that it agrees to lower its bid amount to match the low bid amount submitted by the non-local vendor. In the event the lowest bidding Local

Vendor shall not elect to match the low bid amount of the non-local vendor or otherwise fails to notify the County Finance Director within the time frame set forth herein, then the remaining Local Vendors (if any) who submitted the next lowest bid amounts shall, in succession and following the order of their respective bid amounts submitted from lowest to highest, be given one (1) business day from the date of notification to notify the County Finance Director that it agrees to lower its bid amount to match the low bid amount submitted by the non-local vendor. If a Local Vendor timely notifies the County Finance Director of its intent to match the low bid amount submitted by the non-local vendor, no further notifications are required to remaining Local Vendors.

(c) This Section shall not apply to road construction or public works projects otherwise governed by Georgia law or to the purchase of goods and/or services for which a local vendor preference or privilege is otherwise prohibited by Georgia law.

**2. Preference for Georgia Products:** In accordance with the provisions of O.C.G.A. §36-84-1, et. seq., when contracting for or purchasing supplies, materials, equipment or agricultural products, excluding beverages for immediate consumption, Catoosa County shall give preference, as far as may be reasonable and practicable under the circumstances and without otherwise sacrificing quality, to such supplies, materials, equipment and agricultural products which are manufactured and/or produced in the State of Georgia.

State Contract  
Amendment to  
Purchasing  
Policy Dated  
8/4/20

**RESOLUTION OF THE CATOOSA COUNTY BOARD OF COMMISSIONERS**  
**AMENDING THE CATOOSA COUNTY PURCHASING POLICIES TO ADOPT**  
**PROVISIONS ALLOWING PURCHASES TO BE MADE UNDER STATE**  
**PROCUREMENT CONTRACTS**

WHEREAS, the Catoosa County Board of Commissioners (the “Board”) has previously adopted Policies and Procedures governing the governing the purchase, acquisition and/or promulgation of various goods and services for the County (the “Purchasing Policies”); and

WHEREAS, Georgia law allows certain goods, services, materials, supplies, equipment and other items to be purchased by local governments through State-wide procurement contracts when authorized by the Georgia Department of Administrative Services; and

WHEREAS, from time to time it is advantageous to, and in the best economic interests of the County to purchase and acquire goods, services, materials, supplies, equipment and other items through State-wide procurement contracts; and

WHEREAS, items purchased and acquired by the County through State-wide procurement contracts are otherwise exempt from the Purchasing Policies of the County since the same meet all requirements of Georgia law; and

WHEREAS, based upon the foregoing, the Board desires to amend the existing Purchasing Policies of Catoosa County to provide for State Contract purchases and provide for exemptions from the provisions of the Purchasing Policies in connection with said purchases.

NOW, THEREFORE, BE IT RESOLVED, by the governing authority of Catoosa County, Georgia, that the amendments to the Catoosa County Purchasing Policies to adopt provisions allowing purchases to be made under State-wide procurement contracts, a true and correct copy of which are attached hereto as Exhibit “A”, including all findings made therein, are hereby adopted by the Catoosa County Board of Commissioners and incorporated into the existing Purchasing Policies of Catoosa County; and

BE IT FURTHER RESOLVED, that any and all provisions of the existing Purchasing Policies of Catoosa County which are in conflict with the Amendment attached hereto as Exhibit “A” are repealed in their entirety; and

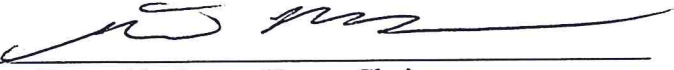
BE IT FURTHER RESOLVED, that the Amendments adopted in this Resolution shall become effective upon their adoption and shall continue in full force and effect until such time as they are modified or repealed by the Board; and

BE IT FURTHER RESOLVED, that the Chairman, County Manager and appropriate County staff are authorized and directed and to take such further actions or execute such further documents as may be required to carry out the purposes of this Resolution.

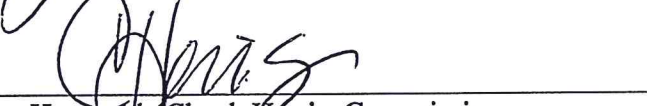


SO RESOLVED this 4<sup>th</sup> day of August, 2020.

CATOOSA COUNTY BOARD OF COMMISSIONERS

BY:   
Honorable Steven Henry, Chairman

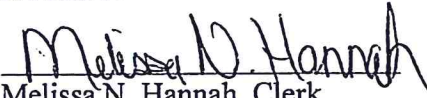
BY:   
Honorable Jeff Long, Commissioner

BY:   
Honorable Chuck Harris, Commissioner

BY:   
Honorable Jim Cutler, Commissioner

BY:   
Honorable Charlie Stephens, Commissioner

ATTEST:

  
Melissa N. Hannah, Clerk

**EXHIBIT "A"**

**AMENDMENTS TO CATOOSA COUNTY PURCHASING POLICY TO ADOPT  
CERTAIN PROVISIONS ALLOWING PURCHASES TO BE MADE UNDER STATE  
PROCUREMENT CONTRACTS**

**AMENDMENT TO THE CATOOSA COUNTY PURCHASING POLICIES TO ADOPT  
CERTAIN PROVISIONS ALLOWING PURCHASES TO BE MADE UNDER STATE  
PROCUREMENT CONTRACTS**

WHEREAS, Catoosa County, acting by and through its Board of Commissioners as its governing authority, has previously adopted certain Policies and Procedures governing the purchase, acquisition and/or promulgation of various goods and services, which said Policies and Procedures have been revised and amended from time to time (collectively, the “Purchasing Policies”); and

WHEREAS, Georgia State law (O.C.G.A. § 50-5-100, et. seq.) allows certain purchases to be made by local governments through State procurement contracts as approved by the Georgia Department of Administrative Services; and

WHEREAS, purchases made under State procurement contracts are not required to adhere to the County Purchasing Policies since they are made under State law pursuant to a contract which otherwise meets the bidding and other requirements of O.C.G.A. § 50-5-102 and other applicable State law; and

WHEREAS, the County has in the past purchased items under a State procurement contract when it has been advantageous from a pricing standpoint to do so, and the County desires have the option to purchase items under a State procurement contract in the future when appropriate and advantageous to the County; and

WHEREAS, the Board of Commissioners desires to amend the County Purchasing Policies to confirm that purchases made under a State procurement contract are permissible and that said purchases are not required to follow or otherwise comply with the provisions of the County Purchasing Policies since these purchases meet all requirements of Georgia law; and

WHEREAS, based upon the foregoing premises and findings, the Board of Commissioners desires to amend the County Purchasing Policies to provide for State procurement contract purchases and exemptions from provisions of the Purchasing Policies, all as more particularly set forth herein:

**1. State of Georgia Procurement Contract Purchases:**

(a) When it is determined to be in its best economic interests or to its economic advantage, the County is authorized to acquire and purchase any goods, services, supplies, equipment, materials or other items through any State-wide procurement contracts permitted and made available through the Georgia Department of Administrative Services pursuant to the provisions of O.C.G.A. § 50-5-100, et. seq. In addition, the State-wide procurement contract price made available through the Georgia Department of Administrative Services for an item or items may be used by the County to establish as maximum price for a good or service to be acquired by the County;

(b) Purchases made by the County through a State-wide procurement contract pursuant to this Section shall not be required to otherwise comply with the bidding and other requirements of these Purchasing Policies and shall be exempt from said Policies; and

(c) Notwithstanding the foregoing, depending on the item to be acquired or other circumstances, nothing contained in this Section shall prohibit the County from otherwise soliciting bids or proposals for goods, services, supplies, equipment or materials which are otherwise available under a State-wide procurement contract when it is determined to be in the best economic interests of the County.