STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2020-119

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED, SPECIFICALLY CHAPTER 2, "ADMINISTRATION," ARTICLE IV "PURCHASES AND PROPERTY DISPOSITION," DIVISION 3 "PURCHASING METHODS", TO REPEAL CONFLICTING LAWS, ORDINANCES, AND RESOLUTIONS; TO PROVIDE SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY, GEORGIA AND IT IS HEREBY ORDAINED

Section 1. The Code of Clayton County, Georgia, as amended, is hereby further amended by amending Chapter 2, "Administration," Article IV "Purchases and Property Disposition," Division 3, "Purchasing Methods" section 2-111, "Summary of general purchasing methods," to delete subsection (1) (b) in its entirety and insert a new subsection (1) (b) to read as follows:

(b) Competitive sealed proposal. When the following factors exist or 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. Factors include:

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;*
3. *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;*
4. *cost of equipment or services is in excess of $74,999.99; and/or*
5. *revenue is expected to be in excess of $74,999.99.*

Unless otherwise provided herein, formal sealed proposals must be obtained for any item or service which is expected to cost in excess of $74,999.99 or is expected to generate revenue greater than $74,999.99, unless the competitive sealed proposal process is either not applicable or is determined by the director not to be in the best interest of the county as outlined herein. Information related to the process for competitive sealed proposals is outlined herein in section 2-114.

Section 2. The Code of Clayton County, Georgia, as amended, is hereby further amended by amending Chapter 2, "Administration,", Article IV "Purchases and Property Disposition," Division 3, "Purchasing Methods, section 2-111, "Summary of general purchasing methods," subsection (2) "Non-competitive procurement methods," to delete subsection (a) in its entirety and substituting a new subsection (a) to read as follows:

a. *Sole source purchase. A sole source purchase may be used when only one supplier is able to fill the requirements for the intended commodities, goods and/or services. All sole source purchases must be authorized by the director. Prior to authorization, written justification must be signed by the department director and submitted to the department of central services for evaluation. Sole source purchases where cost is in excess of $74,999.99 or is expected to generate revenue greater than $74,999.99 must be approved by the board of commissioners prior to the purchase. Information related to the process for sole source purchases is outlined herein in section 2-116.*

Section 3. The Code of Clayton County, Georgia, as amended, is hereby further amended by amending Chapter 2, "Administration,", Article IV "Purchases and Property Disposition," Division 3, "Purchasing Methods, section 2-111, "Summary of general purchasing methods," subsection (2) "Non-competitive procurement methods," to delete subsection (d) in its entirety and substituting a new subsection (d) to read as follows:

d. *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 the cooperative purchase is determined by the director to be in*

the best interest of the county. The director or his/her designee must certify that the acquisition of commodities, supplies or services are an exact match of those items offered to the other governmental entity or agency. Cooperative purchases where cost is in excess of $74,999.99 or is expected to generate revenue greater than $74,999.99 must be approved by the board of commissioners prior to the purchase. Information related to the process cooperative purchases is outlined herein in section 2-119.

Section 4. The Code of Clayton County, Georgia, as amended, is hereby further amended by amending Chapter 2, "Administration,", Article IV "Purchases and Property Disposition," Division 3, "Purchasing Methods, section 2-111, "Summary of general purchasing methods," subsection (2) "Non-competitive procurement methods," to delete subsection (e) in its entirety and substituting a new subsection (e) to read as follows:

e. *Governmental and affiliated entity purchase. The county may purchase services and incidental commodities from other federal and state or local governments when determined to be in the best interest of the county. Governmental and affiliated entity purchases where cost is in excess of $74,999.99 or is expected to generate revenue greater than $74,999.99 must be approved by the board of commissioners prior to the purchase. Information related to the process for governmental and affiliated entity purchases is outlined herein in section 2-120.*

Section 5. The Code of Clayton County, Georgia, as amended, is hereby further amended by amending Chapter 2, "Administration,", Article IV "Purchases and Property Disposition," Division 3, "Purchasing Methods, section 2-113, "Competitive sealed bidding process," by deleting subsection (b) in its entirety and substituting a new subsection (b) to read as follows:

b. Dissemination of invitation to bid. Public notice of an invitation to bid shall be given as required by Title 50, Article 3, Chapter 5 of the Official Code of Georgia as may hereinafter be amended. The public notice shall contain a general description of the purchase, shall state the location where documents may be obtained and the date, time and place of bid opening. Notice of any required bonding and insurance shall be included in the public notice. A copy

of such notice shall be posted on the county's website and in the office of the department of central services. In addition, the director, at his/her discretion, may elect to place an advertisement inviting bids in a newspaper of general circulation or utilize other methods of advertisement identified as likely to result in additional competition.

Section 6. The Code of Clayton County, Georgia, as amended, is hereby further amended by amending Chapter 2, "Administration,", Article IV "Purchases and Property Disposition," Division 6, "Contracting Requirements," section 2-136 "Change orders and contract modifications," to delete subsection (d) in its entirety and substitute a new subsection (d) to read as follows:

d. *Change Orders for SPLOST and Public Works construction project contracts. The Board of Commissioners shall have the authority to establish a County controlled owner's contingency fund for any SPLOST funded construction project or a Public Works construction project at the time the project budget is approved. The chairman and chief operating officer shall have the authority to approve any change order using the owner's contingency fund for a SPLOST funded project or a Public Works construction project up to an absolute value of 10% of the original project budget for an alteration, addition, or deduction from the original scope of work as defined by the contract documents, and for modifications to the term or time of the contract, to address changes or unforeseen conditions necessary for project completion. Change orders shall not be artificially divided so as to remain under the 10% threshold. The director of central services shall have the authority to approve any change order using the owner's contingency fund for a SPLOST funded construction project or a Public Works construction project up to an absolute value of $100,000 of the original contract price for an alteration, addition, or deduction from the scope of work as defined by the contract documents, and for modifications to the term or time of the contract for a total period of time not to exceed sixty (60) days to address changes or unforeseen conditions necessary for project completion. All such change orders shall be ratified by official action of the board of commissioners at the*

next board of commissioners' meeting as part of the monthly reporting from the Director of Central Services and/or the chief operating officer. Change orders shall not be artificially divided so as to remain under the $100,000.00 threshold.

Section 7. All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

Section 8. If any part of this Ordinance shall be declared unconstitutional by the valid judgment of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

Section 9. This Ordinance shall become effective immediately upon its approval by the Board of Commissioners.

SO ORDAINED, this the 7 day of July, 2020.

CLAYTON COUNTY BOARD OF COMMISSIONERS

JEFFREY E. TURNER, CHAIRMAN

DEMONT DAVIS, VICE CHAIRMAN

SONNA GREGORY, COMMISSIONER

GAIL HAMBRICK, COMMISSIONER

FELICIA FRANKLIN WARNER, COMMISSIONER

ATTEST:

Brenda James

BRENDA B. JAMES, CLERK