



INVITATION TO BID

ITB 18-023

**STREET SWEEPING AND DEBRIS REMOVAL SERVICES
FOR PUBLIC WORKS STORMWATER PROJECTS
Date January 31, 2018 @ 2:00 PM. EST.**

Pre-Bid meeting will be held January 17, 2018 @ 10:00 am Location: City of Brookhaven City Hall, 4362 Peachtree Road NE, Brookhaven, Georgia 30319

**Information concerning this solicitation may be found at:
<http://www.Brookhavenga.gov>**

This website will have RFQ, Q&A and any clarifications, schedule changes and other valuable information. **Bidders should check these electronic pages daily!**

Deadline for questions regarding proposals is January 17, 2018, 5:00 pm Est.

Questions shall be directed to City of Brookhaven Purchasing Manager,
Purchasing@brookhavenga.gov

All spaces below are to be filled in and Qualifications Letter on page two must be signed where indicated. Failure to sign and return proposal letter may cause rejection.

Request for Proposal Submitted by:

Company Name: _____

Contact Name: _____

Address: _____

Telephone: _____

E-Mail: _____

Invitation to Bid
ITB 18-023

The City of Brookhaven is soliciting competitive sealed bids from qualified contractors for **Street Sweeping and Debris Removal Services** for the Department of Public Works.

Bids should be typed or submitted in ink and returned in a sealed container marked on the outside with the ITB 18-023 and Company Name. **Bids will be received until 2:00 P.M. local time on January 31, 2018 at the City of Brookhaven, 4362 Peachtree Rd, Brookhaven, Georgia 30319.** Any bid received after this date and time will not be accepted. Bids will be publicly opened immediately following the due time. Apparent bid results will be available soon after on our website www.brookhavenga.gov.

Bidders are expected to be familiar with the Bid Documents and to provide the City with any questions regarding the Bid Documents by the deadline for questions to be submitted.

Questions regarding bids should be directed to the Purchasing Manager, at purchasing@brookhavenga.gov no later than January 17, 2018 by close of business 5:00 pm. Bids are legal and binding upon the bidder when submitted. All bids should be submitted in duplicate two (2) copies.

The written bid documents supersede any verbal or written prior communications between the parties.

Award will be made to the vendor submitting the lowest responsive and responsible bid. The City reserves the right to reject any or all bids to waive technicalities and to make an award deemed in its best interest. Bids may be split or awarded in entirety. The City reserves the option to negotiate terms, conditions and pricing with the lowest responsive, responsible bidder(s) at its discretion.

We look forward to your bid and appreciate your interest in the City of Brookhaven.

Purchasing Manager

**** Please return all documents. Please submit two full (2) documents****

SCOPE OF WORK

The City of Brookhaven is seeking bids for street sweeping and debris removal services throughout designated areas within the City of Brookhaven. The total mileage of required sweeping and debris removal consists of approximately 234 curb miles of arterial and collector roads/streets within the City of Brookhaven.

As a component of this scope of work, trash and debris will be swept from the area between the curb and the pavement consisting of the width of the sweeper itself. All debris, trash and litter will be removed for proper disposal in an appropriate landfill designated to receive these items.

All Bids for these services will be submitted as a Cost-Per-Curb-Mile Unit Cost. Proposals will also include a Cost-Per-Curb-Mile for any additional sweeping and debris removal services which the City of Brookhaven may designate.

Prospective bidders are encouraged to visit the arterial and collector streets to help in determining the scope of work, site conditions, work space, equipment access, etc.

General Notes:

- 1.1 The City of Brookhaven is implementing a program for street sweeping and debris removal services throughout designated areas with the City of Brookhaven. The total mileage for required quarterly sweeping and debris removal consists of approximately 234 curb miles of arterial and collector roads/streets within the City of Brookhaven. This Scope of Services intends to provide the services required for this street sweeping and debris removal program.

1.2 Scope of Services Tasks and Conditions

The following list of tasks is provided to express the intent of the Scope of Services and is not provided to be all inclusive:

- As a component of this Scope of Services, the Contractor will utilize a minimum of three (3) street sweepers to be operated simultaneously in order to minimize the time of operation and the disruption of traffic. The three street sweepers may be dispersed throughout the city as necessary. The Contractor will provide cell phone numbers of the individual drivers to the Department of Public Works prior to operation.
- The Contractor may occasionally be required to perform street sweeping services on an emergency basis, such as removal of debris after a storm. A predetermined “emergency operations” fee will be negotiated between the Contractor and the City of Brookhaven. The Three-Street-Sweeper minimum indicated above will also be applicable to emergency operations.
- There will be a requirement to submit the total cubic yardage of street debris (bill of lading) accumulated during the street sweeping period. This is a requirement for inventory of debris from the Environmental Protection Division (EPD) of the Department of Natural Resources (DNR).

- The Contractor should have the capability to conduct street sweeping activities during the night beginning approximately 8:00 p.m. in order to avoid disruption of daytime traffic.
- Trash and debris will be swept or vacuumed from the area between the curb and the pavement consisting of the width of the sweeper itself.
- All debris, trash and litter will be removed for proper disposal in an appropriate landfill designated to receive these items.
- The Contractor is responsible for calling any utility locations, if required, prior to the start of each work. It shall be the Contractor 's responsibility to coordinate his work with any utility owner who may be in conflict with the scope of work. No claims will be considered for extra compensation.
- All traffic control shall be provided by the Contractor in accordance with the City of Brookhaven Department of Public Works. Assistance from police officers will not be provided by the City. Any required traffic control plans must be approved by the City of Brookhaven Department of Public Works.
- It is the intent of this contract to include all labor, materials, equipment, tools, transportation, and supplies as required as necessary to complete all of the work in accordance with the plans, specifications as directed, and the terms of this contract.
- The Contractor shall be responsible for providing and locating dumpsters for the disposal of the debris, trash, and litter removed by sweeping activities. Dumpsters may be able to be located on City Park property with prior approval of the Parks Director. The Contractor will be responsible for locating and securing the dumpsters to minimize/avoid the dumping of public trash. The cost of the dumpster and debris removal shall be included in the unit cost per curb mile. No claims will be considered for extra compensation.
- Upon completion of each work period, any excess items which might be left over from the street sweeping activities shall be removed and disposed of properly by the Contractor. The cost for such removal and disposal of such items will be included in other unit price bid. No claims will be considered for extra compensation.
- Under this scope, "Department", "Engineer", and "Resident Engineer" shall mean the "City of Brookhaven, Georgia or City of Brookhaven, Georgia, Public Works Director or Public Works Designee".
- To the greatest extent practical, the Contractor shall have all vehicles marked with their company name and also with City of Brookhaven magnetic signs. The City will provide magnetic signs for the Contractor to place on their vehicles.

- The Contractor will conduct one (1) overall contract meeting shortly after award of the contract.
- The City of Brookhaven will not provide restroom facilities.
- The Contractor shall perform project housekeeping/clean-up on a daily basis. A 24-hour contact must be provided to the City of Brookhaven for all issues as needed with regards to the project for any safety, signage, or other emergencies as needed.
- The Contractor 's performance will be measured based on the following:
 - Compliance with the Scope of Work.
 - Meeting agreed-upon schedule dates.
- The contractor shall obtain permission from any private property owner on whose property the street sweeping equipment may be parked. Failure to obtain permission from property owners may result in citations.

1.3

Proof of Commercial General Liability Insurance with coverage of not less than ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence, and with contractual liability coverage for Contractor's covenants to and indemnification of the City under the Contract.

The awarded bidder will be required to provide insurance coverage as required by the contract documents. Insurance Company must be licensed to do business in Georgia, licensed to do business by the Georgia Secretary of State, authorized to do business in Georgia by the Georgia Insurance Department, listed in the Department of the Treasury's Publication of Companies Holding Certificates of Authority as Acceptable Surety on Federal Bonds and as Acceptable Reinsuring Companies and have an A.M. Best rating of A-V or higher-

COST PROPOSAL

All Bids for these services will be submitted as a Cost-Per-Curb-Mile Unit Cost. Proposals will also include a Cost-Per-Curb-Mile for any additional sweeping and debris removal services which the City of Brookhaven may designate.

Cost-Per-Curb-Mile Unit Cost \$ _____

Cost-Per-Curb-Mile \$ _____

Certification of Non-Collusion in Quote Preparation _____

Signature

Date

Termination for Cause: The City may terminate this agreement for cause upon ten days prior written notice to the contractor of the contractor's default in the performance of any term of this agreement. Such termination shall be without prejudice to any of the City's rights or remedies by law.

Termination for Convenience: The City may terminate this agreement for its convenience at any time upon 30 days written notice to the contractor. In the event of the City's termination of this agreement for convenience, the contractor will be paid for those services actually performed. Partially completed performance of the agreement will be compensated based upon a signed statement of completion to be submitted by the contractor, which shall itemize each element of performance.

Termination for fund appropriation: The City may unilaterally terminate this Agreement due to a lack of funding at any time by written notice to the Contractor. In the event of the City's termination of this Agreement for fund appropriation, the Contractor will be paid for those services actually performed. Partially completed performance of the Agreement will be compensated based upon a signed statement of completion to be submitted by the Service Provider which shall itemize each element of performance.

Acknowledgement is hereby made of the following Addendum(s) received since issuance of the Contract Documents (identified by number)

Addendum No. Date _____

In compliance with the attached specifications, the undersigned offers and agrees, within ninety (90) days of the date of quote opening, to furnish any or all of the items upon which prices are quoted, at the price set opposite each item, delivered to the designated point(s) within the time specified in the quote schedule.

Legal Business Name _____

Federal Tax ID _____

Address _____

Does your company currently have a location within the City of Brookhaven? Yes No

Representative Signature _____

Printed Name _____

Telephone Number _____

Fax Number _____

Email Address _____

REFERENCES

List below customers for whom you have provided related products or services.

1. COMPANY NAME: _____
 ADDRESS: _____

 CONTACT PERSON: _____
 PHONE NO.: _____
 E-MAIL: _____

2. COMPANY NAME: _____
 ADDRESS: _____

 CONTACT PERSON: _____
 PHONE NO.: _____
 E-MAIL: _____

3. COMPANY NAME: _____
 ADDRESS: _____

 CONTACT PERSON: _____
 PHONE NO.: _____
 E-MAIL: _____

Company
Name: _____



O.C.G.A. § 50-36-1(e)(2) Affidavit Verifying Status for City Public Benefit
This form is required for ALL LICENSES/PERMITS/CONTRACTS by State Law

By executing this affidavit under oath, as an applicant for a(n)
[type of public benefit(s)], as referenced in
O.C.G.A. § 50-36-1, from the City of Brookhaven, Georgia, the undersigned applicant
verifies one of the following with respect to my application for a public benefit:

1) I am a United States citizen

(Must include copy of either current State Driver's License, Passport, or Military ID)

2) I am a legal permanent resident of the United States**

(Must include a copy of your current State Driver's License and a copy of your Permanent Resident Card or Employment Authorization Card)

3) I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency. **

(Must include a copy of your current State Driver's License and a copy of your Permanent Resident Card or Employment Authorization Card)

**My alien number issued by the Department of Homeland Security or other federal immigration agency is:

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in (City), (State).

Signature of Applicant Date

Printed Name of Applicant

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE DAY OF , 20.

NOTARY PUBLIC/SEAL My Commission Expires:

ATTENTION

FAILURE TO RETURN THE FOLLOWING DOCUMENTS MAY RESULT IN BID BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION:

1. FAILURE TO USE CITY BID SCHEDULE.
2. FAILURE TO RETURN APPLICABLE COMPLIANCE SHEETS/SPECIFICATION SHEETS.
3. FAILURE TO ACKNOWLEDGE APPLICABLE ADDENDA.
4. FAILURE TO PROVIDE INFORMATION ON ALTERNATES OR EQUIVALENTS.
5. THE CITY SHALL BE THE SOLE DETERMINANT OF TECHNICALITY VS. NON-RESPONSIVE BID.
6. FAILURE TO PROVIDE BID BOND, WHEN REQUIRED, WILL RESULT IN BID BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION. BID BONDS ARE NOT REQUIRED ON ALL BIDS. BOND REQUIREMENTS ARE CLEARLY STATED ON THE INVITATION TO BID. IF YOU NEED CLARIFICATION, CONTACT PURCHASING.

CITY OF BROOKHAVEN
PURCHASING DEPARTMENT
GENERAL INSTRUCTIONS FOR BIDDERS

These Instructions will apply unless a particular item is specifically addressed in the solicitation document or not relevant to the particular type of good or service.

1. PREPARATION OF BIDS:

- A. Each bidder shall examine the drawings, specifications, schedule and all instructions. Failure to do so will be at the bidder's risk, as the bidder will be held accountable for their bid response.
- B. Each bidder shall furnish all information required by the bid form or document. Each bidder shall sign the bid and print or type his or her name on the schedule. The person signing the bid must initial erasures or other changes. An authorized agent of the company must sign bids.
- C. Individuals, firms and businesses seeking an award of a City of Brookhaven contract may not initiate or continue any verbal or written communications regarding a solicitation with any City officer, elected official, employee or other City representative without the permission of Purchasing between the date of the issuance of the solicitation and the date of the final contract award. Violations will be reviewed by the Purchasing Manager. 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.

2. DELIVERY:

- A. Each bidder should state time of proposed delivery of goods or services.
- B. Words such as "immediate," "as soon as possible," etc. shall not be used. The known earliest date or the minimum number of calendar days required after receipt of order (delivery A.R.O.) shall be stated (if calendar days are used, include Saturday, Sunday and holidays in the number).

3. EXPLANATION TO BIDDERS:

Any explanation desired by a bidder regarding the meaning or interpretation of the invitation for bids, drawings, specifications, etc. must be requested by the question cutoff deadline stated in the solicitation in order for a reply to reach all bidders before the close of bid. Any information given to a prospective bidder concerning an invitation for bid will be furnished to all prospective bidders as an addendum to the invitation if such information is necessary or if the lack of such information would be prejudicial to uninformed bidders. The written bid documents supersede any verbal or written communications between parties. Receipt of addendum should be acknowledged in the bid. Although Purchasing will make every effort to send any addendum to known bidders, it is the bidder's ultimate responsibility to ensure that they have all applicable addenda prior to bid submittal. This may be accomplished via contact with Purchasing prior to bid submittal.

4. SUBMISSION OF BIDS:

- A. Bids shall be enclosed in sealed envelopes, addressed to the City of Brookhaven Purchasing Office with the name of the bidder, the date and hour of opening and the invitation to bid number on the face of the envelope. Telegraphic/faxed bids will not be considered. Any addenda should be enclosed in the sealed envelopes as well.
- B. ADD/DEDUCT: Add or deduct amounts indicated on the outside of the envelope are allowed and will be applied to the lump sum amount. Amount shall be clearly stated and should be initialed by an authorized company representative.
- C. Samples of items, when required, must be submitted within the time specified and, unless otherwise specified by the City, at no expense to the City. Unless otherwise specified, samples will be returned at the bidder's request and expense if items are not destroyed by testing.

- D. Items offered must meet required specifications and must be of a quality, which will adequately serve the use and purpose for which intended.
- E. Full identification of each item bid upon, including brand name, model, catalog number, etc. must be furnished to identify exactly what the bidder is offering. Manufacturer's literature may be furnished.
- F. The bidder must certify that items to be furnished are new and that the quality has not deteriorated so as to impair its usefulness.
- G. Unsigned bids will not be considered except in cases where bid is enclosed with other documents, which have been signed. The City will determine this.
- H. The City of Brookhaven is exempt from federal excise tax and Georgia sales tax with regard to goods and services purchased directly by the City. Suppliers and contractors are responsible for federal excise tax and sales tax, including taxes for materials incorporated in City construction projects. Suppliers and contractors should contact the State of Georgia Sales Tax Division for additional information.
- I. Information submitted by a bidder in the bidding process shall be subject to disclosure after the public opening in accordance with the Georgia Open Records Act. Each page of proprietary information must be identified. Entire bid may not be deemed proprietary.

5. WITHDRAWAL OF BID DUE TO ERRORS:

- A. The bidder shall give notice in writing of his claim of right to withdraw his bid without penalty due to an error within two (2) 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 material 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 he elects to withdraw his bid. If a bid is withdrawn under the authority of this provision, the lowest remaining responsive bid shall be deemed to be low bid.
- B. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
- C. Supplier has up to forty-eight (48) hours to notify Purchasing of an obvious clerical error made in calculation of bid in order to withdraw a bid after bid opening. Withdrawal of bid for this reason must be done in writing within the forty-eight (48) hour period. Suppliers who fail to request withdrawal of bid by the required forty-eight (48) hours shall automatically forfeit bid bond. Bid may not be withdrawn otherwise.
- D. Bid withdrawal is not automatically granted and will be allowed solely at the City of Brookhaven's discretion.

6. TESTING AND INSPECTION:

Since tests may require several days for completion, the City reserves the right to use a portion of any supplies before the results of the tests are determined. Cost of inspections and tests of any item, which fails to meet the specifications, shall be borne by the bidder.

7. F.O.B. POINT:

Unless otherwise stated in the invitation to bid and any resulting contract, or unless qualified by the bidder, items shall be shipped F.O.B. Destination. The seller shall retain title for the risk of transportation, including the filing for loss or damages. The invoice covering the items is not payable

until items are delivered and the contract of carriage has been completed. Unless the F.O.B. clause states otherwise, the seller assumes transportation and related charges either by payment or allowance.

8. PATENT INDEMNITY:

The contractor guarantees to hold the City, its agents, officers or employees harmless from liability of any nature or kind for use of any copyrighted or un-copyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of the contract, for which the contractor is not the patentee, assignee or licensee.

9. BID BONDS AND PAYMENT AND PERFORMANCE BONDS (IF REQUIRED):

A five percent (5%) bid bond, a one hundred percent (100%) performance bond, and a one hundred percent (100%) payment bond shall be furnished to the City of Brookhaven for any bid as required in bid package or document. Failure to submit appropriate bonding will result in automatic rejection of bid. Bonding company must be authorized to do business in Georgia by the Georgia Insurance Commission, listed in the Department of the Treasury's publication of companies holding certificates of authority as acceptable surety on Federal bonds and as acceptable reinsuring companies, and have an A.M. Best rating as stated in the insurance requirement of the solicitation.

10. DISCOUNTS:

In connection with any discount offered, time will be computed from the date of delivery and acceptance at destination or from the date correct invoice or voucher is received, whichever is the later date. Payment is deemed to be made for the purpose of earning the discount, on the date of the City check.

11. AWARD:

- A. Award will be made to the lowest responsive and responsible bidder. The quality of the articles to be supplied, their conformity with the specifications, their suitability to the requirements of the City, and the delivery terms will be taken into consideration in making the award. The City may make such investigations as it deems necessary to determine the ability of the bidder to perform, and the bidder shall furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any bid if the evidence submitted by, or investigation of such bidder fails to satisfy the City that such bidder is properly qualified to carry out the obligations of the contract.
- B. The City reserves the right to reject or accept any or all bids and to waive technicalities, informalities and minor irregularities in bids received.
- C. The City reserves the right to make an award as deemed in its best interest, which may include awarding a bid to a single bidder or multiple bidders; or to award the whole bid, only part of the bid, or none of the bid to single or multiple bidders, based on its sole discretion of its best interest.

12. DELIVERY FAILURES:

Failure of a contractor to deliver within the time specified or within reasonable time as interpreted by the Purchasing Manager, or failure to make replacement of rejected articles/services when so requested, immediately or as directed by the Purchasing Manager, shall constitute authority for the Purchasing Manager to purchase in the open market articles/services of comparable grade to replace the articles/services rejected or not delivered. On all such purchases, the contractor shall reimburse the City within a reasonable time specified by the Purchasing Manager for any expense incurred in excess of contract prices, or the City shall have the right to deduct such amount from monies owed the defaulting contractor. Alternatively, the City may penalize the contractor one percent (1%) per day for a period of up to ten (10) days for each day that delivery or replacement is late. Should public necessity demand it, the City reserves the right to use or consume articles delivered which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Manager.

13. CITY FURNISHED PROPERTY:

No material, labor or facilities will be furnished by the City unless so provided in the invitation to bid.

14. REJECTION AND WITHDRAWAL OF BIDS:

Failure to observe any of the instructions or conditions in this invitation to bid may constitute grounds for rejection of bid.

15. CONTRACT:

- A. Each bid is received with the understanding that the acceptance in writing by the City of the offer to furnish any or all of the commodities or services described therein shall constitute a contract between the bidder and the City which shall bind the bidder on his part to furnish and deliver the articles quoted at the prices stated in accordance with the conditions of said accepted bid. The City, on its part, may order from such contractor, except for cause beyond reasonable control, and to pay for, at the agreed prices, all articles specified and delivered.
- B. It is understood that the bidder has reviewed the contract documents with the understanding that the City of Brookhaven requires that all agreements between the parties must be entered into via this document. If any exceptions are taken to any part, each must be stated in detail and submitted as part of the bid. If no exceptions are stated, it is assumed that the bidder fully agrees to the provisions contained in the "Sample Contract" in its entirety.
- C. When the contractor has performed in accordance with the provisions of this agreement, the City of Brookhaven shall pay to the contractor, within thirty (30) days of receipt of any department approved payment request and based upon work completed or service provided pursuant to the contract, the sum so requested, less the retainage stated in this agreement, if any.

16. NON-COLLUSION:

Bidder declares that the bid is not made in connection with any other bidder submitting a bid for the same commodity or commodities, and that the bid is bona fide and is in all respects fair and without collusion or fraud. An affidavit of non-collusion shall be executed by each bidder. Collusion and fraud in bid preparation shall be reported to the State of Georgia Attorney General and the United States Justice Department.

17. DEFAULT:

The contract may be canceled or annulled by the Purchasing Manager in whole or in part by written notice of default to the contractor upon non-performance or violation of contract terms. An award may be made to the next low responsive and responsible bidder, or articles specified may be purchased on the open market similar to those so terminated. In either event, the defaulting contractor (or his surety) shall be liable to the City for costs to the City in excess of the defaulted contract prices; provided, however, that the contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause. Failure of the contractor to deliver materials or services within the time stipulated on his bid, unless extended in writing by the Purchasing Manager, shall constitute contract default.

18. TERMINATION FOR CAUSE:

The City may terminate this agreement for cause upon ten days prior written notice to the contractor of the contractor's default in the performance of any term of this agreement. Such termination shall be without prejudice to any of the City's rights or remedies by law.

19. TERMINATION FOR CONVENIENCE:

The City may terminate this agreement for its convenience at any time upon 30 days written notice to the contractor. In the event of the City's termination of this agreement for convenience, the contractor will be paid for those services actually performed. Partially completed performance of the agreement will be compensated based upon a signed statement of completion to be submitted by the contractor, which shall itemize each element of performance.

20. DISPUTES:

Except as otherwise provided in the contract documents, any dispute concerning a question of fact arising under the contract which is not disposed of shall be decided after a hearing by the Purchasing

Manager, who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the contractor. The decision of the Purchasing Manager shall be final and binding; however, the contractor shall have the right to appeal said decision to a court of competent jurisdiction.

21. SUBSTITUTIONS:

Bidders offering and quoting on substitutions or who are deviating from the attached specifications shall list such deviations on a separate sheet to be submitted with their bid. The absence of such a substitution list shall indicate that the bidder has taken no exception to the specifications contained herein.

22. INELIGIBLE BIDDERS:

The City may choose not to accept the bid of a bidder who is in default on the payment of taxes, licenses or other monies due to the City. Failure to respond to three (3) consecutive times for any given commodity/service may result in removal from the supplier list under that commodity/service.

23. BUSINESS LICENSE:

Each successful bidder shall provide evidence of a valid City of Brookhaven business license if the bidder maintains an office within the City of Brookhaven. Unincorporated, out of City, and out of State bidders are required to provide evidence of a certificate to do business in any town, County or municipality in the State of Georgia, or as otherwise required by City ordinance or resolution.

24. ALTERATIONS OF SOLICITATION AND ASSOCIATED DOCUMENTS:

Alterations of City documents are strictly prohibited and will result in automatic disqualification of the firm's solicitation response. If there are "exceptions" or comments to any of the solicitation requirements or other language, then the firm may make notes to those areas, but may not materially alter any document language.

25. TAX LIABILITY:

Local and state governmental entities must notify contractors of their use tax liability on public works projects. Under Georgia law, private contractors are responsible for paying a use tax equal to the sales tax rate on material and equipment purchased under a governmental exemption that is incorporated into a government construction project: excluding material and equipment provided for the installation, repair, or expansion of a public water, gas or sewer system when the property is installed for general distribution purposes. To the extent the tangible personal property maintains its character (for example the installation of a kitchen stove), it remains tax-exempt. However, if the installation incorporates the tangible personal property into realty, e.g., the installation of sheetrock, it becomes taxable to the private contractor.

See O.C.G.A. 48-8-3(2) and O.C.G.A. 48-8-63

26. GENERAL CONTRACTORS LICENSE:

All General Contractors must have a current valid license from the State Licensing Board for Residential and General Contractors, unless specifically exempted from holding such license pursuant to Georgia law (O.C.G.A. Section 43-41-17).

27. INDEMNIFICATION:

To the fullest extent permitted by law, the Contractor shall, at his sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless the City, the engineer, and their agents and employees from and against all claims, damages, actions, judgments, costs, penalties, liabilities, losses and expenses, including, but not limited to, attorney's fees arising out of or resulting from the performance of the work, provided that any such claim, damage, action, judgment, cost, penalty, liability, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting there from, and (2) is caused in whole or in part by any act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless whether such claim is caused in part by a party indemnified hereunder. Such obligation shall not be

construed to negate, abridge or otherwise reduce any of the rights or obligations of indemnity which would otherwise exist as to any party or person described in this agreement. In any and all claims against the City, the engineer, or any of their agents or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation contained herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under Worker's Compensation Acts, disability benefit acts, or other employee benefit acts.

28. ENVIRONMENTAL SUSTAINABILITY

The City of Brookhaven is committed to environmental sustainability. The City believes we have a unique opportunity to further expand our leadership in the area of environmentally preferable purchasing, and through our actions, elicit changes in the marketplace. By further incorporating environmental considerations into public purchasing, the City of Brookhaven will positively impact human health and the environment, remove unnecessary hazards from its operations, reduce costs and liabilities, and improve the environmental quality of the region. As such the City encourages the incorporation of environmental sustainability into proposals.