



INVITATION TO BID

ITB 19-287

Blackburn Park Fencing

Invitation to Bid Due: March 19, 2019 @ 12 pm EST.

Deadline for Questions: March 12, 2019 @ 5:00 pm EST.

Questions must be directed to:

City of Brookhaven via e-mail: purchasing@brookhavenga.gov

Questions will only be accepted via email to ensure the same information is given to everyone. A questions addendum will be issued shortly after the deadline and posted on the City's Purchasing Page.

Bidders must review the Blackburn Fencing Project Manual

Instructions to Proposers

All spaces below are to be completed and the Invitation to Bid Letter page must be signed where indicated. Failure to sign and return Invitation to Bid Letter may cause rejection of the Invitation to Bid.

Invitation to Bid of:

Company Name: _____

Contact Name: _____

Address: _____

Telephone: _____ Facsimile: _____

Email: _____

Submit Request for Qualifications to:

City of Brookhaven Purchasing Office
4362 Peachtree Road
Brookhaven, GA 30319

THIS PAGE MUST BE RETURNED WITH YOUR BID

Invitation to Bid
ITB 19-287

The City of Brookhaven is soliciting competitive sealed bids from qualified contractors for **Blackburn Park Fencing** for the Department of Recreation and Parks.

Bids should be typed or submitted in ink and returned in a sealed container marked on the outside with the ITB number and Company Name. Bids will be received until 12:00 P.M. EST, local time on March 19, 2019 at the City of Brookhaven, 4362 Peachtree Road, Brookhaven, Georgia 30319. Any bid received after this date and time will not be accepted. Bids will be publicly opened and read at 12:00 P.M. EST. Apparent bid results will be available by request.

Bidders are expected 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 March 12, 2019 5:00 pm EST.** Bids are legal and binding upon the bidder when submitted. **Bidders must submit one (1) original signed (unbound) document and all bid information should be submitted on one (1) Flash Drive or Disk. Total submittals, one document and one flash drive or disk.**

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

Award will be made to the supplier 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.

This bid will require bonds. Please see bonding documents at the end of this procurement.

SCOPE OF WORK

General Notes:

1. Work is expected to begin within **10 days** of approval of the contract and all work must be completed within ninety (90) calendar days.
2. The contractor is responsible for calling for utility locations prior to the start of each work. It shall be the contractor's responsibility to coordinate his work with any utility owner whom may be in conflict with his work. No claims will be considered for extra compensation.
3. Any item which must be removed during the construction work shall be removed by the contractor. All costs shall be included in the bid. No claims will be considered for extra compensation.
4. All traffic control shall be provided by the contractor in accordance with GDOT's "shelf" Special Provision 150. Assistance from police officers will not be provided by the City. Post mounted traffic control signs are not required. In addition to the required traffic control signs, contractor shall put out City provided "Brookhaven Working for You" signs at each work location during active construction.
5. The City intends to award one contract for this work but reserves the right to divide the work among multiple contractors.
6. It is the intent of this contract for each bid to include all labor, materials, equipment, tools, transportation, and supplies as required as necessary to complete the work in accordance with the plans, specifications as directed, and the terms of this contract.
7. Upon the completion of each work, any excess items which might be left over from the construction related work shall be removed and disposed of properly by the Contractor. The cost for such removal and disposal of such items will be included in the bid. No claims will be considered for extra compensation.
8. Under this scope, "Department", "Engineer", "Resident Engineer" and "Project Landscape Architect" shall mean the "City of Brookhaven, Georgia, Recreation and Parks Director or City of Brookhaven, Georgia or Recreation and Parks Designee".
9. Working hours are limited to Monday to Friday, 7:30 AM to 8:30 PM unless prior approval is granted by the Department of Recreation and Parks. Lane closures on non-neighborhood streets will only be permissible between the hours of 9 a.m. and 4 p.m.

10. Contractor shall have all vehicles marked with their company name.
11. The Contractor will conduct, at Brookhaven City Hall, one (1) overall contract pre-construction meeting shortly after award of the contract.
12. The City of Brookhaven will not provide restroom facilities.
13. 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 in regard to the project for any safety, signage, or other emergency as needed.
14. The Contractor's performance will be measured based on the following:
 - Compliance with the Scope of Work and GDOT Specifications
 - Meeting the agreed upon schedule dates
 - Submission of all deliverables as specified
15. The Contractor shall obtain permission from any private property owner on whose property construction equipment may be parked. Failure to obtain permission from property owners may result in citations.
16. The City of Brookhaven reserves the right to extend this contract by mutual consent for a limited period of time, not to exceed six (6) months, and extend the contract for additional work to the awarded vendor. This action should be taken in writing prior to the expiration of the current contract.
17. 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.
18. All Bidders are required to submit a Bid Bond or a certified check made payable to the City of Brookhaven in the amount of five percent (5%) of the total amount bid. The Bid Bond or certified check must be enclosed in the envelope with the sealed bid.
19. The awarded bidder will be required to furnish a contract Performance Bond and Payment Bond, each in the sum of 100% of the total amount bid and provide insurance coverage as required by the contract documents. Bonding 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.
20. The awarded bidder will be required to submit Maintenance Bond valid for 12 months in the amount of the total bid.

21. The contractor will be required to provide Performance and Payments Bonds five (5) days after contract has been award.
22. The Contractor shall have 90 calendar days from the notice to proceed to complete the project. Failure to complete the required construction as specified will result in the assessment of Liquidated Damages at the rate of \$500.00 per calendar.
23. 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.
24. The City intends to award one contract for this work but reserves the right to divide the work among multiple contractors.

Blackburn Park Fencing Brookhaven, Georgia

Ladies and Gentlemen:

In compliance with your Invitation to Bid for the above named project, having examined the drawings, specifications, related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project, including the availability of materials and labor, we hereby propose to furnish all labor, materials, and supplies and to construct the project in accordance with the contract documents, specifications, and drawings, as prepared by Lose Design, within the time and prices stated below.

We acknowledge the receipt to Addenda numbered _____ through _____.

We acknowledge the right of the Owner to accept any proposal, to reject any or all proposals, and to waive any informality in bidding.

After the Notice to Proceed is received, we will complete the project within ninety (90) calendar days. We further agree to pay liquidated damages to the Owner in the sum of five hundred dollars (\$500.00) for each consecutive calendar day of delay, as provided in the Section 011000 - Summary.

PROJECT DESCRIPTION

The bid package is for all work necessary to remove the existing split rail fencing along the perimeter of Blackburn Park, wood posts, and timber rails along the perimeter adjacent to Ashford – Dunwoody Road. The improvements are shown on the bid documents, issue date February 21, 2019 and Specifications, issue date February 21, 2019.

BASE BID

The base bid for this project includes the scope of work as described above in the project description. The bid also includes all permits, fees, bonds, inspections, and final approvals by all agencies having jurisdiction. There are no alternate bid items for this project.

ALLOWANCE NO. 1: UNSEEN CONDITIONS

Review Section 012100 – ALLOWANCES for a full description of Allowance No. 2

LUMP SUM

The bid shall consist of a lump sum price for provision of the Base Bid Items as described above (Base Bid). The lump sum prices shall include the furnishing of all materials, supplies, and services, and shall include all items of cost, overhead, and profit for the manufacturer and any subcontractors involved.

TOTAL BASE BID _____ **Dollars**
(\$ _____)

TOTAL ALLOWANCE NO. 1 BID **Twenty-Five Thousand and 00/100 Dollars**
(\$25,000)

TOTAL BID (INCLUDING ALLOWANCE)
_____ **Dollars**
(\$ _____)

Company: _____

Contact Name: _____

Company Address: _____

Company Telephone #: _____ **Fax #:** _____

Email address: _____

Georgia License Number: _____

Name of Person Signing Bid: _____

Signature: _____

Title of Person Signing Bid: _____

Date: _____

The City of Brookhaven "CONTRACT FOR CONSTRUCTION" will be the form used as the contract for this project.

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. Section includes
 - 1. Project information.
 - 2. Work covered by Contract Documents.
 - 3. Project Time and Liquidated Damages
 - 4. Access to Site
 - 5. Work restrictions.
 - 6. Specification and drawing conventions.

1.3 PROJECT INFORMATION

- A. Project Identification: BLACKBURN PARK FENCING INSTALLATION
- B. Project Location: 3493 ASHFORD DUNWOODY ROAD, BROOKHAVEN, GEORGIA 30319
- C. Owner: CITY OF BROOKHAVEN PARKS AND RECREATION DEPARTMENT

Owner's Contact: BRIAN BORDEN, DIRECTOR
CITY OF BROOKHAVEN PARKS AND RECREATION
3360 OSBORNE ROAD
BROOKHAVEN, GEORGIA 30319

- D. Designer of Record:

Site Development: AARON ST. PIERRE, ASLA, LANDSCAPE ARCHITECT
LOSE & ASSOCIATES, INC.
220 WEST CROGAN
LAWRENCEVILLE, GA 30046
PHONE: (770) 338-0017

1.4 WORK COVERED BY CONTRACT DOCUMENTS

- A. The Work of the Project is defined by the Contract Documents and consists of the following:
 - 1. The project includes, but not limited to the following:
 - a. All site work necessary to remove the existing split rail fencing along the perimeter of Blackburn Park and install, wood posts, and timber rails along the perimeter adjacent to Ashford – Dunwoody Road.

1.5 PROJECT TIME AND LIQUIDATED DAMAGES

- A. The Owner expects the Contractor to begin promptly and to perform in an expeditious and professional manner with the highest quality materials and workmanship. After Notice to Proceed is received, the Contractor will begin work within seven (7) days and complete the project on or before **90 calendar days**.
- B. The Contractor and Owner recognize that time is of the essence and that the Owner will suffer financial loss if the Work is not completed within the times specified, plus any extensions thereof allowed in accordance with the Contract Documents. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceedings the actual loss suffered by the Owner if the Work is not completed on time. Accordingly,

instead of requiring such proof, the Owner and the Contractor agree that as liquidated for delay (but not as a penalty), the Contractor shall pay to the Owner an amount of **Five Hundred dollars (\$500.00)** for each calendar day that expires after the time specified.

1.6 ACCESS TO SITE

- A. General: Contractor shall have limited use of Project site for construction operations during construction period as directed by the Owner.

1.7 WORK RESTRICTIONS

- A. Work Restrictions, General: Comply with restrictions on construction operations.
 - 1. Comply with limitations on use of public streets, site parking, patron operations and other requirements of authorities having jurisdiction.

1.8 SPECIFICATION AND DRAWING CONVENTIONS

- A. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
 - 1. Imperative mood and streamlined language are generally used in the Specifications. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.
 - 2. Specification requirements are to be performed by Contractor unless specifically stated otherwise.
- B. Division 01 General Requirements: Requirements of Sections in Division 01 apply to the Work of all Sections in the Specifications.
- C. Material Coordination: Requirements for materials and products are identified in detail within the Specifications. One or more of the following are used in the Specifications to identify materials and products:
 - 1. Terminology: Materials and products are identified by the typical generic terms used in the individual Specifications Sections.
 - 2. Abbreviations: Materials and products are identified by abbreviations published as part of the U.S. National CAD Standard and scheduled on Drawings.
 - 3. Keynoting: Materials and products are identified by reference keynotes referencing Specification Section numbers found in this Project Manual.

PART 2 - GENERAL

2.1 SUMMARY

- A. This section specifies administrative and procedural requirements governing handling and processing Allowances. Selected materials and equipment, and in some cases, their installation, are shown and specified in the Contract Documents by Allowances. Allowances have been established by the City for certain portions of the work of this Project in lieu of additional requirements, and to defer selection of actual materials and equipment to a later date when additional information is available for evaluation. Any necessary additional requirements or necessary additional allowance funds will be issued by a properly prepared and executed Change Order by and between the City and the Contractor. The Contractor for this Project shall maintain strict written documented accounts of all funds expended against stated Allowances. The City shall not pay monies incorrectly expended by the Contractor against the stated Allowances, or monies expected without the express prior written authorization of the City. Should the Contractor anticipate or estimate that he will require additional monies for the performance of work required under the stated Allowances, he shall promptly provide written notification to the City that additional funds need to be appropriated to the Contractor through an additive change order, properly executed by the respective parties. Monies not expended against the stated original and additions, if needed, Allowances and remaining monies and values at the completion of the project shall be credited back to the City through an executed deductive Change Order by and between the City and the Contractor.
- B. Allowance Types:
1. LUMP SUM Allowances.
 2. UNIT PRICE Allowances: Contractor to establish the required areas and quantities as may be directed in the summary of work or bid form.
 3. OTHER Allowances as may be mutually determined in the best interest of the Project or the parties to the Construction Agreement.
- C. Definitions:
1. MATERIAL ALLOWANCES: Allowances are for materials only; unless specifically directed or instructed otherwise by the City. All other costs including, but not necessarily limited to, freight taxes, labor/installation, fee, layout, supervision (field and home office) general expense, insurance, overhead, and profit shall be included by the Contractor in the Base Bid and Contract Sum.
 2. MATERIAL AND INSTALLATION ALLOWANCES: Stated Allowances include ALL costs except layout, fees, supervision, general expense, insurance, overhead, profit and other incidentals; these "except" costs shall be included by the Contractor in the Base Bid and Contract Sum.
 3. MANAGEMENT AND COORDINATION SERVICES ALLOWANCES: Stated Allowances include ALL costs as directed and instructed by City of Brookhaven for personnel, travel, and other prior approved costs and expenses, per the agreed upon scope of coordination services, over the agreed upon duration of the project.

2.2 SELECTION AND PURCHASE

- A. Within thirty (30) calendar days of the date of Notice to Proceed; the Contractor, the City and the Project Designer shall meet to establish the schedule by which needed activities and tasks to be performed under the Allowance shall occur.

1. Contractor for this work shall obtain proposals and/or develop cost estimates or fee schedules for each allowance for use by the City in making final selections; include recommendations that are relevant to performance of the work.
2. When directed by the City, the Contractor shall purchase products and systems as selected by the City from the designated vendor(s) and/or material supplier(s).

2.3 SUBMITTALS

- A. Contractor shall submit proposals for purchase of products or systems included in Allowances, in the form and manner specified by the City; unless the Contractor shall present and provide a reasonable and timely objection; and if said objection is raised by the Contractor, he shall offer a reasonable alternative for consideration by the City, for eventual acceptance by both parties.
- B. Contractor shall submit invoices or delivery slips with and as a part of any monthly application and certificate for payment request to the City to indicate actual quantities of materials delivered to the site for use in fulfillment of each allowance. Payments shall be made in a prompt and timely manner, and if so needed or necessary special payment procedures where and when deemed by the City, so as not to delay or disrupt the services to be performed or provided.

2.4 LUMP-SUM ALLOWANCES

- A. Allowance shall include cost to Contractor of specific products and materials ordered by Owner or selected by Designer under allowance and shall include applicable taxes, freight, and delivery to Project site.
- B. Unless otherwise indicated, Contractor's costs for receiving and handling at Project site, labor, installation, overhead and profit, and similar costs related to products and materials ordered by Owner or selected by Designer under allowance shall be included as part of the Contract Sum and not part of the allowance.
- C. Unused Materials: Return unused materials purchased under an allowance to manufacturer or supplier for credit to Owner, after installation has been completed and accepted.
 1. If requested by Designer, retain and prepare unused material for storage by Owner. Deliver unused material to Owner's storage space as directed.

2.5 ADJUSTMENT OF ALLOWANCES

- A. Allowance Adjustment: To adjust allowance amounts, prepare a Change Order proposal based on the difference between purchase amount and the allowance, multiplied by final measurement of work-in-place where applicable. If applicable, include reasonable allowances for cutting losses, tolerances, mixing wastes, normal product imperfections, and similar margins.
 1. Include installation costs in purchase amount only where indicated as part of the allowance.
 2. If requested, prepare explanation and documentation to substantiate distribution of overhead costs and other markups.
 3. Submit substantiation of a change in scope of Work, if any, claimed in Change Orders related to unit-cost allowances.
 4. Owner reserves the right to establish the quantity of work-in-place by independent quantity survey, measure, or count.
- B. Submit claims for increased costs because of a change in scope or nature of the allowance described in the Contract Documents, whether for the purchase order amount or Contractor's handling, labor, installation, overhead, and profit.

1. Do not include Contractor's or subcontractor's indirect expense in the Change Order cost amount unless it is clearly shown that the nature or extent of Work has changed from what could have been foreseen from information in the Contract Documents.
2. No change to Contractor's indirect expense is permitted for selection of higher- or lower-priced materials or systems of the same scope and nature as originally indicated.

PART 3 - PRODUCTS (Not used)

PART 4 - EXECUTION

4.1 INSPECTION

- A. Inspect products covered by an allowance promptly upon delivery for damage or defects.

4.2 PREPARATION

- A. Coordinate materials and their installation for each allowance with related materials and installations to ensure that each allowance item is completely integrated and interfaced with related construction activities.

4.3 SCHEDULE OF ALLOWANCES

- A. Allowance No. 1: Lump-Sum Allowance: Include the sum of \$25,000 for unseen conditions encountered during excavation for and installation of the masonry columns, wood posts, and timber rails.

The Bid Items provided for in the Bid Schedule are intended to be the only pay items under which the Contractor will be compensated for work described above. The Contractor shall examine the requirements of the work and the pay items in the Bid Schedule and include in the unit prices submitted all labor, equipment, materials, appurtenances, overhead, profit, vehicles, and all other things incidental for the completion of the work as specified.

Work is to commence on or about **TBD**. The City of Brookhaven requires pricing to remain firm for the duration of the contract. Failure to hold firm pricing for the term of the contract will be sufficient cause for the City to declare bid non-responsive.

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 Consultant. In the event of the City's termination of this Agreement for fund appropriation, the Consultant 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 _____

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Brookhaven has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Brookhaven at the time the subcontractor(s) is retained to perform such service.

E-Verify * User Identification Number

Company Name

BY: Authorized Officer or Agent Date
(Contractor Signature)

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

_____ DAY OF _____, 200__

Notary Public

My Commission Expires:

* As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is "E-Verify" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

**Affidavit Verifying Status
For City Public Benefit Application**

By executing this affidavit under oath, as an applicant for a City of Brookhaven, Georgia Business License or Occupation Tax Certificate, Alcohol License, Taxi Permit or other public benefit as referenced in O.C.G.A. Section 50-36-1, I am stating the following with respect to my application for a City of Brookhaven, Business License or Georgia Occupational Tax Certificate, Alcohol License, Taxi Permit or other public benefit (circle one) for _____.

[Name of natural person applying on behalf of individual, business, corporation, partnership, or other private entity]

1) _____ I am a United States citizen

OR

2) _____ I am a legal permanent resident 18 years of age or older or I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.*

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 Code Section 16-10-20 of the Official Code of Georgia.

Signature of Applicant: Date

Printed Name:

SUBSCRIBED AND SWORN

BEFORE ME ON THIS THE

____ DAY OF _____, 20__

*

Alien Registration number for non-citizens

Notary Public

My Commission Expires:

*Note: O.C.G.A. § 50-36-1(e)(2) requires that aliens under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provide their alien registration number. Because legal permanent residents are included in the federal definition of "alien", legal permanent residents must also provide their alien registration number. Qualified aliens that do not have an alien registration number may supply another identifying number below:

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, 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.
7. FAILURE TO COMPLETE CITY PROVIDED CONTRACTOR REFERENCE FORMS.
8. FAILURE TO COMPLETE CITY PROVIDED SUB-CONTRACTOR REFERENCE FORMS.
9. FAILURE TO COMPLETE CITY PROVIDED UNIT PRICE SCHEDULE FORMS
10. FAILURE TO COMPLETE CITY PROVIDED ADDITIVE ALTERNATES FORMS.

**CITY OF BROOKHAVEN
DEPARTMENT OF FINANCE AND ADMINISTRATION - PURCHASING DIVISION
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 lowbid.
- 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 uncopyrighted 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 therefrom, 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.

INSURANCE REQUIREMENTS

Within 10 days of Notice of Award, and at all times that this Contract is in force, the Contractor shall obtain, maintain and furnish the City Certificates of Insurance from licensed companies doing business in the State of Georgia with an A.M. Best Rating A-10 or higher and acceptable to the City covering:

1. Workers' Compensation & Employer's Liability Insurance. Workers' Compensation Insurance in compliance with the applicable Workers' Compensation Act(s) of the state(s) wherein the work is to be performed or where jurisdiction could apply in amounts required by statutes. Employer's Liability Insurance, with limits of liability of not less than \$1,000,000 per accident for bodily injury or disease.
2. Commercial General Liability Insurance, including contractual liability insurance, product and completed operations, personal and advertising injury, and any other type of liability for which this Contract applies with limits of liability of not less than \$1,000,000 each occurrence / \$2,000,000 policy aggregate for personal injury, bodily injury, and property damage. Commercial General Liability Insurance shall be written on an "occurrence" form.
3. Automobile Liability Insurance with limits of liability of not less than \$1,000,000 per accident for bodily injury and property damage if automobiles are to be used in the delivery of or in the completion of services and work or driven onto the City's property. Insurance shall include all owned, non-owned and hired vehicle liability.
4. Umbrella Insurance with limits of liability excess of Employer's Liability Insurance, Commercial General Liability Insurance and Automobile Liability Insurance in the amount of not less than \$3,000,000.
5. Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits not less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
6. Professional (Errors and Omissions) Insurance- For Professional Services and for all Design/Build Projects with limits of liability of not less than \$3,000,000 per occurrence or claim / \$3,000,000 policy aggregate. Such policy shall also include coverage for losses arising from the breach of information security or cyber liability (including Errors & Omissions, Security and Privacy Liability and Media Liability), whether combined with the Professional Liability policy or placed as a separate policy, but carrying the same limits of liability. Such coverage shall insure damage, injury and loss caused by error, omission or negligent acts, including all prior acts without limitation, related to the professional services to be provided under this Contract. The policy shall be amended to include independent contractors providing professional services on behalf of or at the direction of the Contractor. The definition of Contractual Liability shall be amended to state that liability under a contract of professional services is covered. Further, coverage shall be afforded for fraudulent acts, misappropriation of trade secrets, internet professional services, computer attacks, personal injury, regulatory actions, wrongful acts, contractual liability, privacy policy, and insured versus insured. The Contractor shall ensure that coverage under this policy continues for a period of thirty-six (36) months after completion of services.
7. Fidelity Bond (Employee Dishonesty) in the sum of not less than \$50,000.

All such insurance shall remain in effect until final payment is made and the Project is accepted by the City. If the Contractor receives notice of non-renewal or material adverse change of any of the required coverages, the Contractor shall promptly advise the City in writing. Failure of the Contractor to promptly notify the City on non-renewal or material adverse change of any of the required coverages terminates the Agreement as of the date that the Contractor should have given notification to the City. The insurance policies shall contain or be endorsed to contain, the following provisions:

A provision that coverage afforded under such policies shall not expire, be canceled or altered without at least thirty (30) days prior written notice to the City.

Workers' Compensation and Employer's Liability and Property insurance policies shall contain a waiver of subrogation in favor of the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers.

Commercial General Liability, Automobile Liability Contractors' Pollution Legal Liability and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) insurance policies shall include an endorsement making the City and the City's boards, officials, directors, officers, employees, representatives, agents, and volunteers Additional Insureds under such policies.

A copy of these endorsements shall be provided to the City.

Certificates of Insurance showing that such coverage is in force shall be filed under this Contract by the Contractor to the City.

The obligations for the Contractor to procure and maintain insurance shall not be construed to waive or restrict other obligations and it is understood that insurance in no way limits liability of the Contractor whether or not same is covered by insurance.

Certificate Holder should read: The City of Brookhaven, 4362 Peachtree Road Brookhaven, Georgia 30319.

BONDING REQUIREMENTS

Each bid must be accompanied with a BID BOND (bond only: certified checks or other forms are not acceptable) in an amount equal to five percent (5%) of the base bid, payable to the City of Brookhaven. Said bid bond guarantees the bidder will enter into a contract to construct the project strictly within the terms and conditions stated in this bid and in the bidding and contract documents, should the construction contract be awarded.

The Successful Bidder shall be required to furnish a bond for the faithful performance on the contract and a bond to secure payment of all claims for materials furnished and/or labor performed in performance of the project, both in amounts equal to one hundred percent (100%) of the contract price.

The Successful Bidder shall also be required to furnish a Maintenance Bond, in the amount of one-third (1/3) of the contract price, guaranteeing the repair or replacement caused by defective workmanship or materials for a period of one (1) year from the completion of construction.

Bonds shall be issued by a corporate surety appearing on the Treasury Department's most current list (Circular 570 as amended) and be authorized to do business in the State of Georgia.

Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners shall execute Bond.

BID BOND
(BID BOND TO BE RETURNED WITH BID)

KNOW ALL MEN BY THESE PRESENTS, THAT _____

(Name of Contractor) _____

(Address of Contractor) at _____

(Corporation, Partnership and or Individual) hereinafter called Principal, and _____

(Name of Surety)

(Address of Surety)

A corporation of the State of _____, and a surety authorized by law to do business in the State of Georgia, hereinafter called Surety, are held and firmly bound unto

City of Brookhaven, Georgia
4362 Peachtree Road, Brookhaven Georgia 30319

herein after referred to as Obligee, in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal is about to submit, or has submitted, to the City of Brookhaven, Georgia, a proposal for furnishing materials, labor and equipment for:

Blackburn Park Fencing and Installation

WHEREAS, the Principal desires to file this Bond in accordance with law in lieu of a certified Bidder's check otherwise required to accompany this Proposal.

NOW, THEREFORE, the conditions of this obligation are such that if the bid is accepted, the Principal shall within ten days after receipt of notification of the acceptance execute a Contract in accordance with the Bid and upon the terms, conditions, and prices set forth in the form and manner required by the City of Brookhaven, Georgia, and execute a sufficient and satisfactory Performance Bond and Payment Bond payable to the City of Brookhaven, Georgia, each in an amount of 100% of the total Contract Price, in form and with security satisfactory to said the City of Brookhaven, Georgia, and otherwise, to be and remain in full force and virtue in law; and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above, immediately pay to the City of Brookhaven, Georgia, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant, to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. § 36-91-1, et. seq., and is intended to be and shall be constructed as a bond in compliance with the requirements thereof.

Signed, sealed, and dated this _____ day of _____ A.D. 20_____

ATTEST:

(Principal Secretary)

(SEAL)

(Witness to Principal)

(Address)

(Surety)

ATTEST

BY: _____
(Attorney-in-Fact) and Resident Agent

(Attorney-in-Fact)

(Seal)

(Address)

(Witness as to Surety)

(Address) _____

(Principal)

BY: _____

(Address)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: THAT

(Name of Contractor)

(Address of Contractor)

a _____

(Corporation, Partnership or Individual)

Hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

A Corporation of the State of _____ and a surety authorized by law to do business in the State of Georgia, hereinafter called Surety, are held and firmly bound unto

The City of Brookhaven, Georgia
(Name of Obligee)

4362 Peachtree Road NE, Brookhaven, GA. 30319
(Address of Obligee)

hereinafter referred to as Obligee; are held firmly bound unto said Obligee and all persons doing work or furnishing skill, tools, machinery, supplies, or material under or for the purpose of the Contract hereinafter referred to, in the penal sum of: _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such, as whereas the Principal entered into a certain contract, hereto attached, with the Obligee, dated _____ for: _____

NOW THEREFORE, the conditions of this obligation are such that if the above bound Principal shall well, truly, fully and faithfully perform said contract according to its terms, covenants, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the obligee, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreement of any and all duly authorized modifications of said contract that may hereafter be made, then his obligation shall be void, otherwise to remain in full force and effect.

PROVIDED FURTHER, that said Surety to this Bond, for value received, hereby stipulates and agrees that no change, extension of time, alterations, or additions to the terms of the Contract or to the Work to be performed there under shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alterations, or additions to the terms of the Contract or to the work to be performed there under.

PROVIDED FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including but not limited to, O.C.G.A. SS 13-10-1 et. Eq. and SS 36-86-101, et. Seg., and is intended to be and shall be construed as a bond in compliance with the requirements thereof.

Signed, sealed, and dated this _____ day of _____, 2019

ATTEST:

(Principal Secretary)

(SEAL)

BY: _____

(Witness to Principal)

(Address)

(Surety)

ATTEST:

Attorney-in-Fact) and Resident Agent

(Attorney-in-Fact)

(Seal)

(Address)

(Witness as to Surety)

(Address)

(Principal)

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: THAT

(Name of Contractor)

(Address of Contractor)

a _____
(Corporation, Partnership or Individual)

Hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

a Corporation of the State of _____ and a surety authorized by law to do business in the State of Georgia, hereinafter called Surety, are held and firmly bound unto

The City of Brookhaven Georgia
(Name of Obligee)
4362 Peachtree Road NE, Brookhaven, Georgia 30319
(Address of Obligee)

hereinafter referred to as Obligee; for the use and protection of all subcontractors and all persons supplying labor, services, skill, tools, machinery, materials and/or equipment in the prosecution of the work provided for in the contract herein after referred to in the full and just sum of

_____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, the Principal and Surety bind themselves, their, and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such, as whereas the Principal entered into a certain contract. Hereto attached, with the Obligee, dated _____ for _____.

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall well, truly, and faithfully perform said Contract in accordance to its terms, covenants, and conditions, and shall promptly pay all persons furnishing labor, materials, services, skill, tools, machinery and/or equipment for use in the performance of said Contract, then this obligation shall be void; otherwise, it shall remain in full force and effect.

All persons who have furnished labor, materials, services, skill, tools, machinery and/or equipment for use in the performance of said Contract shall have a direct right of action on this Bond, provided payment has not been made in full within ninety (90) days after the last day on which labor was performed, materials, services, skill, tools, machinery, and equipment furnished or the subcontract completed.

PROVIDED FURTHER, that said Surety to this Bond, for value received, hereby stipulates and agrees that no change, extension of time, alterations, or additions to the terms of the Contract or to the Work to be performed there under shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alterations, or additions to the terms of the Contract or to the work to be performed there under.

PROVIDED HOWEVER, that no suit or action shall be commenced hereunder by any person furnishing labor, materials, services, skill, tools, machinery, and/or equipment having a direct contractual relationship with a subcontractor, but no contractual relationship express or implied with the Principal:

Unless such person shall have given notice to the Principal within 120 days after such person did, or performed the last of the work or labor, or furnished the last of the materials, services, skill, tools, machinery and/or equipment for which claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials, services, skill, tools, machinery and/or equipment were furnished, or for whom the work or labor was done or performed. Such a notice shall be served by mailing the same by registered mail, postage prepaid, in an envelope addressed to the Principal, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the State in which the aforesaid project is located, save that such service need not be made by a public officer, and a copy of such notice shall be delivered to the Obligee, to the person and at the address provided for in the Contract, within five days of the mailing of the notice to the Principal.

PROVIDED FURTHER, that any suit under this bond must be instituted before the expiration of one year after the acceptance of the public works covered by the Contract by the proper authorities.

PROVIDED FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. SS 13-10-1, et. Eq. and SS 36-86-101, et. Seg., and is intended to be and shall be construed as a bond in compliance with the requirements thereof.

Signed, sealed, and dated this _____ day of _____, 2019

ATTEST:

(Principal Secretary)
(Seal)

(Principal)

BY: _____

(Witness to Principal)

(Address)

(Address)

(Surety)

ATTEST

BY: _____
(Attorney-in-Fact) and Resident Agent

(Attorney-in-Fact)

(Seal)

(Address)

(Witness as to Surety)

(Address)