



**CITY OF BROOKHAVEN, GA  
PURCHASING POLICY**

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## **PURCHASING POLICY**

### **INTRODUCTION:**

The City of Brookhaven's Purchasing Department was established to uphold the City's commitment to the public trust through proactive, consolidated and standardized purchasing methods. The Purchasing Department's primary goal is to procure the right product/service at the right price at the right time from the right supplier.

### **SCOPE:**

The Scope of this Purchasing Policy Manual is applicable to all City staff and elected officials.

### **PURPOSE:**

This Policy is intended to establish the methods by which the City procures and enters into contracts, including the following: purchase orders, maintenance agreements, public works/construction projects, revenue generating arrangements, leases, purchase orders on an emergency basis, and sole source orders. This Policy is not intended to cover the purchase of real property (referring to land and its improvements and the acquisition of various property rights, such as rights of way) or to supersede specific state or federal laws that apply to and control certain contractual arrangements (e.g., G.D.O.T. road projects).

### **PURCHASING OBJECTIVES:**

- Purchase quality materials, equipment, supplies, and services in the correct quantity, at the lowest evaluated cost, and at the required time, focusing on reduced lead times, improved service levels, increased value-added services and optimized inventory cost to the operating departments.
- Enhance supplier relationships with properly authorized and documented bidding procedures; improved purchase specifications, sales terms and conditions; and reduced time for invoice verification and payment.
- Ensure bids and proposals for goods and services are conducted competitively and objectively, giving equal opportunity to all suppliers and developing reliable and competitive sources.
- Select suppliers, not by price alone, but through detailed evaluation of quality, service, price, productivity, availability, administrative costs, environmental impact, and experience.
- Monitor required delivery schedules, supplier performance and post-completion contractor warranties to meet departmental and contractual requirements. Provide guidance regarding Purchase Order changes and claims.
- Research, collect, and share information on innovative practices and new products for potential City use that would create savings and continuous improvement in the purchasing process.
- Manage the disposition of Surplus Property and Fixed Assets based upon the Policy for the Disposal of Assets.

## DEFINITIONS:

Account Number – A tracking number for specific goods and services assigned by the Finance Department and used in the financial software to track charges made on a Purchase Order and/or contract against the budgeted amount and tied to the General Ledger.

Bid Requisition Form – Prior to a Bid's going out to the public, a Requisition Form is required for budgeted items and must be completed by the operating department, approved by the Department Head, Finance Director, City Manager and then sent to the Purchasing Department which will assign a bid number and schedule the bid process.

Bid Bond – Not used very often, a bid bond guarantees the bidder is financially capable of performing the project.

Change Order – A written alteration that is issued to modify or amend a contract or purchase order and requires approval. A request which directs the contractor to make changes to the contracted scope of work or specifications. In reference to construction contracts, it relates primarily to changes caused by unanticipated conditions encountered during construction not covered by the drawings, plans or specifications of the project. A Change Order to a Purchase Order changes the cost and/or quantity line item or org/object codes in the city financial software.

Confidential Information – Any information that is available to an employee only because of their employment with the City of Brookhaven and is not a matter of public knowledge or available to the public upon request. Or, information furnished to Purchasing by a supplier who has requested that such information be held in confidence and such request is not in conflict with the state's Open Records laws.

Construction – The process of building, altering, repairing, improving or demolishing any structure or building or other public improvements of any kind.

Contract – Instrument used to create the written obligations between the City of Brookhaven and a supplier for services and goods. The completed Purchase Order is considered a contract when no other contract is signed.

Contractor / Supplier / Vendor – Any individual, company, corporation, partnership, sole proprietorship or other legal entity that sells goods, materials, equipment, or supplies to the City of Brookhaven; a collective term for manufacturer, distributor, wholesaler, retailer and contractor when referring to all as a group.

Cooperative Procurement – Purchases made from contracts negotiated by other governmental agencies or through cooperative purchasing organizations as allowed by state law.

Dollar Threshold – A dollar amount established to determine the purchasing method used.

Excess and Obsolete Materials – It shall be the duty of the Department to report all excess or obsolete materials to the Purchasing Office. At this point, the Purchasing Manager will examine alternatives as to the most advantageous disposition of the items. Items could be discarded, refurbished or reconditioned, transferred, traded in on new equipment or sold by auction or sealed bid.

Emergency Procurement – The procurement of goods or services made on an emergency basis outside the normal procurement procedure. An emergency is defined as any unforeseen event or circumstance that threatens or results in a negative impact on public health, welfare and /or safety or results in the loss or

potential loss of an essential service. The City Manager must approve all emergency purchases. If the amount exceeds \$50,000, the City Council must ratify the purchase at their next regularly scheduled meeting.

Employee – An individual, whether elected or not, who is receiving from the City wages, salary or other benefits in lieu of salary.

E-Verify Program – An affidavit 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 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(b)(1)

Formal Sealed Bid – The established dollar amount of purchases/contracts which require use of the sealed bid process as approved by the Mayor and Council and specified in this Purchasing Policy. These sealed bids are advertised on the City’s official website and/or in a local newspaper. Bid awards of \$100,000 or more require approval by Mayor and City Council.

Good Faith – Acting to meet the intent of a contract, agreement or purchase order even when not specifically described in the agreement.

Gratuity – Gifts, payment, loans, advances, deposits of money or services, etc. promised by a supplier for preferential treatment or creating an expectation of preferential treatment.

Insurance Certificate – Document issued by an insurance company validating that a company or corporation is insured by their company, has the required coverage levels and names the City as Additional Insured.

Invitation to Bid (ITB) – A request by Purchasing which is sent to suppliers along with a description of the commodity or services needed and which requires supplier response with price and other information. Evaluation and recommendation for award should be based on the ITB that best meets price, quality, delivery, service, past performance and reliability of both the vendor and the product. These transactions may or may not be subject to the Sealed Bid process and further negotiations are usually unnecessary.

Notice of Award – Written confirmation of an award by the City to a successful bidder, stating the amount of the award, the award date, and when the contract (if applicable) will be signed. It may also contain a notice to proceed. Award and bid tabulation information is also posted on the City’s website.

Performance Bond – The performance bond ensures payment of a sum of money (100% of the annual contract price) to the City of Brookhaven in the event the contractor fails in the full performance of the contract and replaces the bid bond upon award of a contract.

Professional Services – Those services which are defined by statute as a “profession” or “professional service” and require a license or accreditation, including, but not limited to, certified public accounts, actuarial services, architecture, landscape architecture, interior design, licensed or accredited appraisers or licensed or accredited financial analysts providing opinions of value, chiropractic, dentistry, professional engineering, podiatry, pharmacy, veterinary medicine, registered nursing, harbor piloting, land surveying, law, psychology, medicine and surgery, optometry and osteopathy.

Public Works Construction Contracts – Pursuant to O.C.G.A. 36-91-2 Definitions - "Public works construction" means the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to any public real property other than those projects covered by Chapter 4 of Title 32. Such term does not include the routine operation, repair, or maintenance of existing structures, buildings, or real property.

Purchase Order – A contract document including payment terms and conditions generated via the City's Financial System to document the transactions between the City and a Supplier. Purchase Orders will also be used to control the payment to contractors for work performance under a formal contract

Purchase Requisition – The first step in the purchasing process of all goods and services regardless of price. Purchase Requisitions are created in the financial software, routed electronically to department heads for approval and then are converted to Purchase Orders by the Purchasing Manager or other finance department employee.

Request for Information (RFI) – A non-binding procurement practice in which a request is made by Purchasing or is published via newspaper, internet, or direct mail to solicit input from potential suppliers (contractors) prior to issuing a solicitation. Input may include vendor qualifications, price, best practices, industry standards, technology issues, etc.

Request for Qualifications (RFQ) – A formal request made by Purchasing to obtain qualifications of vendors and offers of price and plans for handling a project. Pricing not read at the bid opening is submitted separately and only opened after the qualification proposals are considered during the evaluation process. This process is used when the expertise of the bidders will be relied on to develop a solution for the City. Value-for-money will be the primary deciding factor in the bid award. These transactions are subject to the Sealed Bid process and allow for negotiations in certain areas (scope) of the proposal following the bid opening.

Request for Proposal (RFP) – A formal request made by Purchasing to obtain competitive offers of price and plans for handling a project. Pricing will be considered in the evaluation of the proposals as well as qualifications, references and other critical factors to make the process successful. These transactions are subject to the Sealed Bid process and allow for negotiations. The content of the proposals will not be released until the item or service has been evaluated and awarded.

Sale – Excess, surplus and obsolete items not transferred or traded-in may be consolidated and offered for sale by auction or by sealed bid method. The consolidated list will be submitted to City Council for approval before an auction or sealed bid is organized. The property offered for sale will be on an "AS IS/WHERE IS" basis. The sale will be given public notice. Sealed bids will be opened at the time and place announced with the City, retaining the right to reject all bids.

Sale to Employees – To avoid any appearance of impropriety in the disposition program, it will be the City's policy to prohibit the direct sale of surplus property to any City employee, official or agent. This policy does not prohibit any City employee, official or agent from extending an offer at a public auction or in the form of a sealed bid.

Secondary Supplier – An approved supplier who receives a portion of a bid award as contingency in case of performance or other issues with the primary supplier or who offers a product or service not provided by the primary supplier. The intent of using a secondary supplier is explained in the RFP/RFQ package and results in a Split Bid Award.

Sole Source – A Purchase that is made without a formal competitive bid. A quote submission, regardless of dollar amount, with written documentation indicating that the supplier is the only viable source for the



required supply, service, or item is required. A Sole Source letter must be provided by the supplier. The Purchasing Manager will have discretion to either accept or reject the product or service as Sole Source. A contract may be awarded, or a purchase made without competition when the Purchasing Manager determines that there is only one source for the required products, supply services or construction items. The Purchasing Manager shall conduct negotiations as appropriate, as to the price, delivery and terms to determine reasonableness of price. A separate file of Sole Source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, and a listing of the item(s) procured under each purchase order or contract.

Sole Brand Purchase – Similar to Sole Source purchases but requires documentation to the unique capabilities of the Source, along with documentation and specifics as to why the Brand is necessary. A Sole Source Brand Form must be completed and submitted to the Purchasing Manager for approval.

Surplus Property – Surplus property is non-consumable personal property that the City no longer requires. It is rarely real property. Restricted assets must be adjudicated and approved by Mayor & Council before disposition.

Transfer or Re-use –The most gainful method for handling an item no longer needed by a department is to transfer it to another department that has a use for the item.

Trade-In – In replacing obsolete equipment, it may be financially advantageous to trade-in the old equipment. The invitation for bids on the replacement item should call for bid prices with or without trade-in and provide that award may be made either way.

## POLICY:

The City of Brookhaven's Purchasing Policy covers the following purchasing thresholds, regular and special purchasing methods, change orders, and other processes:

### Purchasing Thresholds:

*Purchasing Methods and Dollar Thresholds* – The dollar value of the goods and services to be purchased determines the purchasing method to be used. The award of Purchase Orders and contracts with suppliers will be based on the lowest evaluated cost, while meeting the specified quality, quantity and delivery requirements. Any exceptions to this are further defined in this Policy.

With the City financial software system, ALL goods and services purchased by the City MUST have a Purchase Requisition created in the system. This is not dependent upon the dollar amount. Determination of the method of purchasing is still dependent upon the dollar threshold. The only exceptions are purchases made with city-issued State Purchasing cards which are paid and reconciled monthly through the Bank of America Works system with oversight by the Finance department after required departmental and administrative approvals. All receipts must be scanned into the system.

During the Purchase Requisition conversion process, purchasing staff reviews all purchases made, verifying the correct process was used, proper documentation provided, and policy followed. All purchase documentation must be scanned into the system during the Purchase Requisition creation. The Purchasing Manager is the final reviewer for all Requisitions over \$2,500.

The following specific dollar thresholds are used to determine the appropriate purchasing method:

*Less than \$2,500* – The purchase of goods and services in an amount less than \$2,500 shall be approved by a department director. These purchases do not require a competitive bid process. Department managers and/or authorized representative(s) may select a supplier, taking into consideration: fair and reasonable cost, delivery/pickup time, and convenience to the work site. Per state law, all services work of \$2,500 or more requires an E-Verify Contractor's Affidavit or SAVE document, completed, signed and notarized, with the original sent to Purchasing.

*\$2,500 to \$9,999* – Informal quotes from at least three (3) suppliers are required. Verbal quotes should also be submitted in writing and scanned into the system with the Purchase Requisition document. The Purchasing Manager/Buyer reviews all requisitions to ensure proper documentation (COI, W-9, Contractor's Affidavit or SAVE) has been included and the correct process followed. Department Director approval is required.

*\$10,000 to \$99,999* – Written quotes from at least three (3) suppliers are required. Upon departmental request, the Purchasing Manager, will solicit and receive these written quotes. Purchasing will review all quotes and make a recommendation. The department will issue a Purchase Requisition, collect all required documents (COI, W-9, Contractor's Affidavit or SAVE) and the same process is followed as with all other purchases. The Formal Sealed Bid process is not required and is optional at this level and will be determined in consultation with Purchasing. Final approval from the City Manager and/or Chief Financial Officer is required.

*Over \$100,000* – Purchases estimated in value to exceed \$100,000 shall be made using a formal Sealed Bid process. An approved Requisition Form must be signed by the Department Director and Finance Director prior to Purchasing proceeding with the Sealed Bid solicitation. Prior to any award, the bid award

recommendation must be approved by the Mayor and Council. After approval, a Purchase Requisition/Order and/or Services Contract will be processed. For detailed procedures and sole source/brand specific, see the section in this Policy titled “The Formal Sealed Bid Process.”

*Routing requests* – All requests must be approved by the Director of each department. Once the approval has been given, a requisition will be entered in the financial software by the department. Purchasing will receive the request to purchase and verify that all documentation has been entered. Purchasing will then determine if the amount to be purchased will need authorization from the City Manager or will need Mayor/Council approval. See thresholds for detailed information above.

#### Purchasing Methods:

*Contract Purchases / Professional Services* – Purchase transactions \$100,000 and greater for services performed on City of Brookhaven property or on behalf of the City of Brookhaven shall be purchased using a duly executed, formal contract. The contract shall contain, but not be limited to, the following elements: specifications fully describing the goods, materials, and equipment including the construction and maintenance services and the effective dates; general conditions of the contract; special conditions, if applicable, and the contractor’s proposal.

Except for licensed Professional Services (Title 43 professions, which are exempt from State Purchasing regulations), this purchase method requires the Purchasing Department to solicit bids, obtain a technical evaluation by the operating department, prepare a commercial evaluation, and obtain a purchase approval prior to an award. For these purchases, the approved Requisition Form precedes the issuance of a bid solicitation.

The City Manager or designee shall execute all service contract documents. Purchasing will issue a Purchase Order in conjunction with the contract. The Purchase Order will reference the contract document and the City will utilize the Purchase Order to render receipt and payment for services performed by the contractor. All procedures and processes regarding Purchase Orders remain unchanged by this method.

*Operating Department “Supplier Direct” Purchases* – The operating department may purchase directly from the supplier and may process these transactions up to \$2,500 in value by creating a Purchase Requisition. For these Supplier Direct Purchases, the operating departments are required to scan into the system all supporting documentation for selecting, receiving, and invoicing associated with the purchase transaction, including W-9, E-Verify documents, Certificates of Insurance, etc.

*Purchase Order Purchases* – Purchase Orders will be issued on all purchase transactions, over \$2,500. The first step is creation of a Purchase Requisition in the financial software system, followed by an automatic work flow routing to approvers and finally conversion to a Purchase Order by the Purchasing Manager. Purchase Orders shall be completed in detail, accurate in content, have all documentation scanned into the system and meet all requirements of the operating department and the City.

*Payments* – Prior to the approved Purchase Order’s being routed to Accounts Payable for payment, the Purchase Order must be “receipted” into the system verifying the goods or services have been received. This process requires a scanned copy of the bill of lading, packing slip, final invoice or other documentation. Then, an invoice should be sent to Accounts Payable with the Purchase Order number or copy for a check to be cut. Before receipting, the buyer should have verified that all goods and services ordered were received by the City. The verification process includes, but is not limited to, comparison of quantity ordered to quantity received, Purchase Order price to supplier’s invoice price, goods ordered to goods received, discount terms and payment terms, etc. It is the City’s policy to make payment(s) only for goods ordered

and received and at the price agreed upon by the Purchase Order. Supplier invoice errors should be brought to the attention of the Finance Department.

#### Special Types of Purchase Transactions:

In addition to the primary purchase methods described above, some special types of purchase transactions may be used. Their use must be properly documented by notes in the purchase order. The specific dollar amounts defined in “Purchase Thresholds” also apply to Special Types of Purchase Transactions, which include the following:

*Open Purchase Orders* – For recurring purchases or leases of the same goods and services with the same supplier, the Purchasing Department may issue an Open Purchase Order. Originally processed as a Request for Proposal or Invitation to Bid (RFP/ITB), the bid award will designate specific items and prices that may be purchased over a specified period of time, usually one year or the term of a contract, by the operating departments under the Open Purchase Order without additional negotiations or approvals so long as price and specifications remain the same as the original bid award. The bid number (RFP/ITB) must be included in the Vendor/Sourcing Notes section on the purchase requisition.

*Change Orders, Modifications and Amendments* – All of the City’s contracts contains terms and conditions that must be met in order to change any provision of the contract. In order to be binding on the City and the contractor, they must be approved by Council (if the original contract was Council approved or if the change order raises the amount of the contract above the limits of the City Manager’s authority), in writing, and executed by both parties. A contractor that proceeds with changed work without a change order, modification and amendments does so at its own risk.

All Change Orders, Modifications and Amendments will follow the City’s purchasing thresholds approval process. Details of the process are found in the “Purchasing Thresholds” section of this Policy.

*Cooperative Procurement* – Federal, State, and County Government Contracts and Contracts negotiated by other governmental agencies can be used to the fullest benefit of the City of Brookhaven. The Purchasing Manager shall be authorized to enter into purchasing or contracting cooperatives with other governmental agencies inside or outside the State (O.C.G.A. § 36-69A and Brookhaven Code 1995, § 2- 181(d)).

The purchaser should use these contracts as a benchmark for pricing and specifications and use when Purchasing cannot add value or secure better pricing by bidding locally. Purchases under these contracts may be made without public advertisement or competitive bidding if the contracts were originally competitively bid. Depending on dollar threshold, customary purchasing methods are followed. The agency or cooperative (such as U.S. Communities or DeKalb County, etc.) and the contract number must be included on the purchase requisition in the Vendor/Sourcing Notes section.

*Statewide Contract* - All vehicles will be purchased using the Georgia Statewide Contract. The City Manager has the authority to approve this particular purchase based on the City’s annually budgeted funds approved by Mayor and Council.

*Emergency Purchases* – An emergency is defined as any unforeseen event or circumstance that threatens or results in a negative impact on public health, welfare and /or safety or results in the loss or potential loss of an essential service. Under these circumstances, with pre-approval of the City Manager, the Department Directors shall have the authority to purchase necessary goods and services with values up to \$100,000 without competitive bidding. Purchases greater than \$100,000 must be pre-approved by the City Manager and are authorized when an existing agency contract is available for use. Emergency Purchases will be

performed using competitive sources of supply when practical under the restrictions imposed by the emergency. A Purchase Requisition, including a written explanation of the basis for the emergency and the Supplier selection, shall be submitted to support and request payment for the Emergency Purchase. Emergency repairs to in-service Public Safety or Public Works vehicles, equipment or infrastructure are considered Emergency Purchases when timely repairs are necessary to continue essential City services. An Emergency Purchase scenario can also be utilized in circumstances when a contractor does not perform to the City's satisfaction or when a breach of contract occurs and there is no time to re-bid the work. "Emergency Purchase" should be included as a note that prints on the Purchase Order, entered in the General Notes or Vendor/Sourcing Notes section of the requisition. Emergency purchases greater than \$100,000 require affirmation at the next available City Council meeting for ratification of the emergency action.

*Original Equipment Manufacturer Purchases* – Competitive bids are not required for purchases when the purchase is made from the original equipment manufacturer (OEM) and other sources are not available. Purchasing will document the purchase by indicating "OEM Purchase" on the purchase requisition. Purchasing will encourage the consideration of "like" or "similar" products by notifying the operating department of product availability. The operating department will evaluate the additional source of supply and the product's acceptability prior to purchasing. Approval is required by Mayor and Council for purchases over \$50,000. It should be noted on the purchase requisition that the purchase is from an original manufacturer.

*Single Source* - The City may acquire Goods, Capital Assets, Services, Construction and Professional Services pursuant to a Single Source Procurement. A Single Source Procurement is a procurement in which, although two or more vendors supply the commodities or services, the department selects one for justifiable reasons, is found to be most advantageous for the purpose of fulfilling the given purchasing need. The Department Head must provide the justification for the Single Source Procurement to the Purchasing Department. All purchases over \$100,000.00 must be approved by Mayor and City Council.

*Sole Source/Brand Specific Procurement* – Sole source procurement is initiated by a department with the completion of a written statement verifying the Supplier is the only source. This letter is attached to the Purchase Requisition and sent to the Purchasing Department. The statement briefly identifies the product or service to be purchased and the reason(s) justifying the sole source selection. Supplemental documentation (specifications, manufacturer letter etc.) should be furnished when available. Approval is required by Mayor and Council for all purchases over \$100,000.00. A copy of the Sole Source letter from the Vendor or the completed Sole Source/Brand form must be scanned into the requisition, along with the invoice.

*Split Bid Awards* – At its discretion, the City may elect to award a percentage or a portion of a service contract to a secondary supplier. This option will be stated in the RFP/RFQ document and may be exercised if the primary supplier is unable to meet all the needs of the operating department or if the existence of a secondary supplier is deemed to be of benefit for maintaining continuity of service. The City's final determination regarding the use of a secondary supplier and corresponding percentage of the contract to be awarded shall be determined by the evaluation team during the evaluation and negotiation stages of the formal Sealed Bid process. The RFP/RFQ number must be included in the requisition Notes.

#### Additional Processes and Documentation:

Where applicable, the following processes and corresponding documentation are to be maintained by the Purchaser and/or Supplier as described:

*Immigration Compliance Reporting* – In compliance with O.C.G.A. §§13-10-91(b)(1) and as amended in SB 160, all Contractors and Subcontractors bidding on City projects wherein the labor or services exceed \$2,499.99, must complete and submit a Contractor's or Subcontractor's Affidavit of Immigration Compliance indicating the firm adheres to 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 to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA) P.L. 99-603)]. The Purchasing Manager shall maintain copies of these Affidavits and submit a report of all Affidavits collected during the year to the State Department of Audits and Accounts in December.

*Insurance Requirements* – The Purchasing Department is responsible for obtaining Certificates of Insurance on service contracts or service Purchase Orders. Insurance certificates shall be complete, current and in accordance with the limits set in the contract language. The City of Brookhaven shall be named as Additional Insured. Purchasing is responsible for maintaining current certificates on all active contracts. If the Contractor fails or refuses to provide a renewal certificate, Purchasing should take immediate action to stop work and file a breach of contract notice to the contractor. Operating departments should assist Purchasing with the enforcement of a stop work order given to the contractor.

*Performance Bond* – For all Public Works construction projects and for other work over \$100,000 as required in the bidding documents, a Contractor may be required to furnish a corporate surety bond as security for the performance of the service or construction contract awarded via a sealed bid. Said surety bond shall be in the amount of one hundred percent (100%) of the annual gross revenue of the contractor under the service contract.

O.C.G.A §36-91-2 defines a Performance Bond as a bond with good and sufficient surety or sureties for the faithful performance of the contract and to indemnify the governmental entity for any damages occasioned by a failure to perform the same within the prescribed time. Such bond shall be payable to, in favor of, and for the protection of the governmental entity for which the work is to be done.

In certain cases, the City may adopt Georgia Code §36-91-71: Credit In Lieu Of Bond - When the amount of the performance bond required under this article does not exceed \$750,000, the governmental entity may, in its sole discretion, accept an irrevocable letter of credit by a bank or savings and loan association.

*Purchase Requisitions* – All purchases, regardless of funding sources, will be made using properly prepared and authorized Purchase Requisitions which must be reviewed, converted to a Purchase Order and signed by the Purchasing Manager. Purchase Requisitions shall specify the requirements for goods and/or services in full detail and are required of all purchases, except those made with purchasing cards.

Purchases must not be divided into smaller quantities of the same goods/services to meet lower purchasing threshold standards. Incorrect or incomplete Purchase Requisitions will be rejected and sent back to the applicable operating department with comments about what is needed for approval.

*Sales Tax Exemption* – The City of Brookhaven is exempt from sales tax. Suppliers may request a tax exemption certificate or tax exemption form for their records. These forms are available from the Finance Department.

*Securing Payment* – Following any Purchasing Method and upon receipt and verification of any purchased materials, equipment, or services, an operating department shall go to the corresponding Purchase Order and Receipt it. Then, the department should send the paper invoice, along with the Purchase Order number or copy to the Finance Department.

All Purchases of any dollar amount shall be consistent with the purchasing procedures as described in

“Purchase Thresholds.” In addition to those procedures, the guidelines below are also applicable:

*Material, Supplies, and Equipment Receipts* – When operating departments receive materials, supplies and/or equipment at any location, the receiver should immediately count the goods and compare to the packing list quantity. Discrepancies in quantity or damage to goods must be noted on the shipping ticket and the department’s order copy. This packing list, bill of lading, or other documentation for the items received must be scanned into the financial system during the PO Receipting process.

If the packing slip does not accompany delivery of goods, the receiver should make a record of the delivered quantity and date on the order file copy. A copy of this documentation must be scanned into the financial system during the PO Receipting process.

*Construction, Maintenance and other Service Receipts* – An operating department receiving services for construction, maintenance, and other services should compare the Purchase Order document and/or contract for the agreed to payment terms. The Purchase Order Receipting process must be completed for invoice payment in strict accordance with the payment terms, such as payment for lump sum contracts, where payment is made upon completion; or payment is made for completed work progress; etc. Under no circumstances should an operating department pay in advance for work or material received related to the project, unless provided under the contract terms.

#### THE FORMAL SEALED BID PROCESS:

The Formal Sealed Bid process is required for all solicitations with a value greater than \$100,000 and optional for solicitations greater than \$10,000 but less than \$100,000. The Formal Sealed Bid process is used only by the Purchasing Department. The only exception to the dollar threshold for the Formal Sealed Bid process is when the purchase meets criteria for Special Types of Purchasing Methods. Transparent business practices are always followed to encourage suppliers to participate in a protected, competitive environment.

All Formal Sealed Bid responses are opened in a public venue and recorded at the exact time and date designated in the bidding documents. Depending on the type of bid, the award will be made to the most qualified, responsive and lowest responsible bidder whose bid satisfies all requirements contained in the bid or additional evaluation will commence, followed by the award. Bid Awards and Bid Tabulations will be posted on the City’s website. The successful bidder will receive a Notice of Award, followed by a Purchase Order and/or contract for the goods or services.

#### Bidding Formats:

The City of Brookhaven’s Purchasing Department uses two bidding formats to solicit Formal Sealed Bids from suppliers – Invitation to Bid (ITB) and Request for Proposal (RFP). The ITB/RFP process may be augmented by use of electronic bidding or reverse auctions for the pricing segment of the bid. Electronic transactions, such as electronic RFPs and/or reverse auctions are also defined. In addition to the ITB and RFP, the Purchasing Department may also issue a Request for Information (RFI) or Request for Qualifications (RFQ) without the intention to purchase.

*Invitation to Bid (ITB)* – The City’s Purchasing Manager may elect to use the Invitation to Bid (ITB) bidding format when both the specifications and the process are predetermined. The ITB clearly defines the scope of the work and contains contractual terms and conditions. In most cases, the bid award will be made on best price, but the award may be made in what is determined to be the most responsive and responsible and/or in the best interest of the City. The ITB may require the submission of bid samples, descriptive

literature, and technical data and may require inspection or testing of a product before a final award.

*Request for Proposal (RFP)* – The Request for Proposal (RFP) bidding format may be used when the goods and services do not lend themselves to a clear and accurate statement of work, and/or the objective of the solicitation is to identify the bidder who can offer the best possible solution at the most reasonable cost. The RFP seeks to identify the "best value" for the City by using a combination of technical and commercial factors to evaluate bidders' proposals. All eligible proposals will be subjected to confidential evaluations prior to award (see "Bid Evaluations" section). During the evaluation stage, the City may request interviews, clarifications or negotiate scope changes with a short list of select bidder(s) to finalize technical and/or cost proposals. Following the evaluation stage, the suppliers may be asked for a "best and final offer" to obtain the lowest price.

*Request for Information (RFI) or Request for Qualifications (RFQ)* – At the request of an Operating Department, the City's Purchasing Manager, shall support the request for technical and commercial data to evaluate the feasibility of a commodity or service, the qualifications of potential suppliers or to prepare fiscal year budget information. Should price be requested from suppliers, suppliers will be instructed that price(s) is budgetary only and the City of Brookhaven shall not be obligated to purchase. Information received by this process will remain confidential to both the City and to the participating suppliers. Disclosure of the information associated with a specific RFI is prohibited.

*Electronic Bidding and Reverse Auctions* – Pursuant to the State's Uniform Electronic Transactions Act, (§10-12-1 through §10-12-20 and subsequent changes to Titles 14, 15, 31, 33, 43, 44 and 50) the use of electronic media, including acceptance of electronic signatures, is authorized consistent with the State's applicable statutory, regulatory or other guidance for use of such media, so long as such guidance provides for:

- a. Appropriate security to prevent unauthorized access to the bidding, approval, and award processes; and
- b. Accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying.

Currently, the City may utilize Electronic Bidding through a state run or state approved electronic bidding or auction website with proper security and encryption. An Electronic Reverse Auction may be used for certain commodity bids. In this scenario, all steps of the RFP or RFQ are followed, including issuing a sealed bid and receiving responses, but responses do not contain pricing. During the auction process, which is often managed by an outside firm, all vendor participants who submitted bid responses will submit pricing in a real time, web-based format that allows a specified time frame for submission. While the auction is running, the vendors can view their standing by low to high price. The auction continues as long as vendors are still submitting prices before time out occurs. The award is made to the lowest price vendor who has met all other qualifications and criteria.

#### Bidding Process:

*Bid Authority Form* – The Department Head, shall send an email to the Purchasing Manager copying the City Manager, CFO, and Finance Director to schedule the bid preparation. The email must include the complete list of specifications and potential suppliers, including name, address, phone, fax, email, and contact person.

*Solicitation* – Once all the items have been received, the Purchasing Department will assign a bid number, set a date for bid opening and prepare bid packages. Bid packages will include, at a minimum, the following



information and/or materials:

- A cover letter inviting the suppliers to bid
- The date and time the bids are due and any pre-bid conference meetings
- Address of the office in which bids are to be received
- A Scope of Work or Specifications including a complete description of the goods or the services required
- The technical specification plans and drawings (if applicable)
- Contract terms and conditions, including warranty and bonding or other security instruments (if applicable)
- A proposal/ pricing form
- Acknowledgment of agreement with all aspects of the bid including a date or schedule on which goods or services are required
- Contractor's/Subcontractor's Affidavits for Immigration Compliance or SAVE Documents; Supplier's References, Business License and Certificate of Insurance with minimum coverage as required by the City.
- Any other special requirements as outlined in the bid documents.
- A sealed bid label to be affixed to the outside of the bid submission envelope.

#### Public Posting –

- For purchases over \$100,000, Purchasing will post the formal solicitation on the City website, on the notices board at City Hall and may advertise through the legal organ of the county newspaper and other means, such as trade journals.
- Purchasing will post all formal procurement opportunities on the Georgia Registry.
- Purchasing shall notify the public regarding the bidding of projects funded under Community.
- Development Block Grant regulations (CDBG). This public notification shall be in accordance with the U.S. Department of Housing and Urban Development (HUD) regulations and policies and advertised in the legal organ of the county.
- Bid packages will be posted on the City website. Bid packages retrieved electronically will still need the Sealed Bid label which may be added at the submission provided the bid is submitted prior to the bid opening time. Electronic submissions without the corresponding paper sealed bid submissions are not accepted.
- Any change to a formal solicitation after the initial public posting, including but not limited to changes to requirements, attachments, or the closing date and time, must be posted as an official written addendum. When posting an addendum, the City must ensure bidders are provided adequate time to view and process the new information. Addenda are also posted on the City's website.

*Pre-Qualified Suppliers* – The City of Brookhaven will strive to pre-qualify its suppliers and maintain the qualified suppliers in a database, classified by commodity and service type along with technical and commercial factors. Vendor registration for this database is accomplished on the City's website. Additions to or removals from the database will be a consensus of the operating department and Purchasing. Suppliers currently utilized by the City will be considered qualified and/or pre-approved. Registering as a Vendor does not guarantee a business opportunity. All pre-qualified vendors must bid on all projects when solicited,

if more than one (1) opportunity is missed your firm will be terminated from the pre-qualified list.

All communication must go through Purchasing.

*Instructions for Bid Packages* – Sealed bid packages may be distributed via the following processes:

- Bid packages may be hand delivered at a pre-bid conference. Purchasing will issue a letter of invitation to the bidders announcing the bid solicitation, the pre-bid conference location, and the requirement to attend.
- Bid packages may be sent via USPS or another delivery service.
- Bid packages may be picked up at the Purchasing Department.
- Bid packages may be downloaded from the City's website, but submissions must be in paper form and must still include the official Sealed Bid sticker.

At its discretion, the City may choose to hold a pre-bid conference to clarify any ambiguities, answer questions, and ensure that all bidders have a common understanding regarding the supplies or services required. The conference shall be held at least seven (7) days prior to the bid deadline, and the bid solicitation should contain all conference details, including whether or not bidder attendance is mandatory. Statements made at the pre-bid conference shall not be considered addenda to the bid solicitation unless a written addendum is issued pursuant to the conference.

*Receipt and Evaluation of Sealed Bids* – The Sealed Bid process prohibits fax, email, telegram, or verbal responses unless specified in the bid documents. All bids solicited under the Sealed Bid process will be processed and maintained as follows:

- Bidders' responses to the solicitation shall be in written form and subject to the Sealed Bid process. Purchasing will only accept responses through the USPS, other overnight delivery service, or by hand-delivery to the Purchasing Department unless specified in the bid documents. Regardless of delivery methods, all bids must be presented in paper format to be considered.
- For consideration, all bids shall be placed in a sealed package and marked with the sealed bid label provided by Purchasing. Failure to follow this process is reason to disqualify a Supplier's bid.
- All bid packages will be date and time stamped when received to indicate timeliness. Late bids are generally rejected unless due to a fully documented delivery service delay. Late bids are not opened.
- All bids subject to and received on or before the due date shall be maintained unopened in a protected, proprietary environment.
- A public opening of bids/proposals will be held at City Hall on the date and time specified in the solicitation package. The information read aloud shall consist of the bidder names, including those who submitted "no bids" and "non-responses and the submitted pricing. There are no awards made at the bid opening.
- Operating departments and Purchasing personnel may prepare independent evaluations depending on the purchase transaction. The evaluation process for each of the two formal bidding processes is described in the "Bid Evaluations" section of this Policy.

- If an electronic Reverse Auction will be conducted to submit pricing, the auction date will be set in the bid documents and conducted after the sealed bids have been received. The only process change is when and how pricing is submitted.

*Extension of Due Date* – Extension of the due date during the bid solicitation process is granted uniformly to all bidders by the Purchasing Department and with the concurrence of the operating department. Any extension of the due date will be based on the technical, commercial and financial impact on the City of Brookhaven. Bid extensions may be verbally granted, but they will be confirmed in writing to all bidders as an addendum to the bid and will be posted on the City’s website.

*Late Bids* – A proposal or modification to a bid received after the due date is classified as a “late bid.” The Purchasing Manager usually rejects all late bids or modifications, with the following rare exception:

If the supplier’s bid is delayed no more than one business day due solely to failure of the USPS or other delivery services to deliver on time, Purchasing may consider the postmark or other date stamp indicator as documentation the delivery was attempted prior to the due date and time. Fully documented delivery failures will be taken into consideration as to when the package was entered into the delivery service system. This is rarely approved. Suppliers should plan and allow enough time to avoid delivery issues.

*Modifications or Withdrawal of Bids Prior to Bid Closing* – A bidder or an authorized representative may modify or withdraw the bid in person before the time and date set for bid closing. The modification or withdrawal must be in writing and must be received before the time and date set for the bid closing.

All documents concerning a modification or withdrawal of a bid shall be retained in the appropriate procurement file.

*Late Modifications or Withdrawal of Bids* – During the evaluation process, if the evaluator suspects a bid has a calculation error, the bidder will be given opportunity to reconfirm the bid before a final recommendation is made. The supplier shall not be permitted to correct the bid unit price but will be permitted to correct extended amounts. Should the supplier determine a unit price(s) is in error, the supplier will be permitted to withdraw its bid without penalty and without affecting future bidding opportunities.

Purchasing, at its option, will be permitted to exercise a supplier’s bid bond if the supplier does not produce satisfactory evidence of the error. In such case, it will be the practice of the Purchasing Department to accept a bid withdrawal and exclude the supplier from future bidding for a period of one year. Purchasing will document the decision.

#### Bid Evaluations:

*Bid Evaluations* – Technical and/or Commercial - are components of the Request for Proposal (RFP) process and are sometimes used in consideration of Invitation to Bid (ITB) where price is not the only factor used in making an award. An ad-hoc team of subject matter experts conducts the technical evaluations. This team of employees may conduct interviews and negotiations for a specific product or service following receipt of sealed bids. Commercial evaluations are conducted by the Purchasing Department and those results blended with those of the Technical Evaluation team. All evaluation criteria for analyzing the technical and cost proposals should be developed in a manner that is straightforward and fair to all bidders.

*Technical Evaluations* – When considering an RFP in which fulfilling or developing technical specifications is critical, the bid response is expected to describe in detail what an offeror proposes to furnish and the

method of delivery, along with the price proposal. The evaluation team will perform technical evaluations on bids that must consider the bidders' specifications, the City's specifications, the product or service performance, the bidders' delivery or completion schedule and any alternate proposals or options that might impact the operating department's requirements.

The team members typically represent the functional areas identified in the Statement of Work (SOW) which need to be addressed in the discussions, is chaired by a Purchasing representative and may include staff from City Departments. Before the evaluation team reviews any proposal(s), its members should be provided the evaluation criteria and a list of bidder names so that any conflicts of interest may be exposed and members recused, if necessary. The Technical Evaluation does not consider the price proposal or contractual areas since the Commercial Evaluation will review those.

*Commercial Evaluations* – For all sealed bids, Commercial evaluations are performed by Purchasing using qualitative factors to evaluate/score a proposal and select the most qualified proposer/offeree. These may include such factors as past performance, references, management and technical capability, price, quality and performance requirements and liability and risk exposure to the City. Purchasing may utilize lowest cost, lowest total cost, total cost of ownership, or greatest savings to determine the best price proposal. The cost proposals may be scored on an overall basis or at the category/subcategory/ line level (as applicable) relative to other proposals. The bidder deemed to have the most competitive cost proposal will receive the maximum score for the cost criteria. In the RFP process, alternate proposals and optional pricing will be given consideration based on the technical evaluation developed by the operating department or evaluation team. Purchasing will summarize both the technical and commercial evaluations in a format that offers a concise summary for award consideration.

*Clarification and Negotiation* – If the evaluation team or operating department and Purchasing agree that further discussion with the bidder(s) is necessary, Purchasing will request one or more rounds of negotiation with the bidder(s) to conclude recommendations. Any proposed modification in scope or process from a bidder must be submitted to the Purchasing Department or during a formal round of negotiation with the evaluation team. These discussions will not permit a bidder to resubmit a proposal with new pricing for the original specification; however, a bidder may propose pricing based on an alternate or option. Price discussion, at this stage, is not intended to circumvent the competitive bid process. The purpose is to negotiate with a short list of the most eligible bidder(s) and seek a best and final offer. If the operating department and Purchasing Manager determine the scope has changed too substantially, Purchasing may reject all bids and re-issue a new solicitation for bids.

#### Bid tabulations and Awards:

*Bid Tabulations* – Bid tabulations are utilized for all ITBs, RFPs and RFQs. Purchasing will create a Bid Tabulation sheet which may include bid components such as quantity, descriptions, unit price, extended price, FOB, discounts, terms of payment, shipping point, promise date, date required, RFQ due date, and total bid amount. Tabulations shall be maintained in the Purchasing Department files and posted on the City's website following the bid award. From the bid tabulation information, Purchasing will create a Bid Recommendation memo to the operating department or submit a recommendation to the evaluation team or to the City Manager.

*Award* – Following the necessary approvals for tabulations or evaluations, as set forth herein, the notice of intent to award the contract will be posted on the City's website 8 business days prior to the next regularly scheduled City Council meeting.

- Transactions greater than \$100,000 shall be awarded by the Mayor and City Council, followed by a Purchase Order and/or Contract. Under certain circumstances, City of Brookhaven officials may announce verbal awards.
- As soon as a Contract is approved by Mayor and Council it will be posted to the City's website. A Notice of Award will be sent to the awarding vendor and posted on the City's website. Upon the receipt of all requested documentation a Purchase Order and/or Contract will be issued. Verbal awards are often made to allow the Supplier to expedite the delivery schedule or the project start/completion schedule. Details of the process are found in the "Bidding Formats" section of this Policy.

*Bid Protests* – Any responsive, timely bidder may protest the process or apparent award or recommendation by submitting a protest in writing to the Purchasing Manager within five (5) business days of the posting on the City's website of the intent to award letter. Only timely, written protests delivered by statutory overnight delivery, USPS, or hand delivered will be accepted. Emails or faxes will not be accepted or deemed a valid protest under this policy. A processing fee of \$50 must accompany any protest. A decision will be issued by City officials within ten (10) business days.

#### Open Records Provisions for Bids and Proposals:

All submitted bids/proposals shall be subject to the requirements of the State of Georgia Open Records Act, O.C.G.A. § 50-18-70, and made available for public inspection and/or copying per the law. If a bidder or interested party would like to review specific bid(s), that party must first submit a request to the City Clerk. The City of Brookhaven has three (3) working days to respond, stating the length of time and associated costs necessary to provide the information, if it is available. Purchasing will make an appointment for time to review the document(s). Proprietary and/or confidential information may be redacted from any bid material in the City's possession, at the charges listed in the adopted City's fee schedule. Information regarding bids and proposals over \$100,000 is not available until the City Council approves the award and the award has been made.

#### ETHICAL & PROFESSIONAL STANDARDS & PRACTICES:

##### Competitive Process:

Except in circumstances set forth by this Policy, any other City policy, or pursuant to applicable law, or as determined by Mayor and Council to be in the City's best interest, all purchase orders must result from a competitive process. Prior to payment of any Purchase Order, the purchase must be reviewed by Accounting, and signed by the Finance Director and the Purchasing Manager.

##### Conflicts of Interest:

No elected official or employee of the City shall participate in the purchase of goods or services that would result in financial gain by the individual or any member of the individual's family. Consequently, all City officials and employees, whether involved in the purchase of goods and services or not, will conduct themselves by the following code of conduct (Brookhaven Code 1995, § 2-181(c)):

- Always follow the City of Brookhaven's Purchasing Policy and Procedure which places the responsibility of purchasing transactions with the Purchasing Department. Unless authorized or delegated by Purchasing Procedures, employees shall remove themselves from the decision-making process when there is an implied or actual conflict of interest.

- Employees shall report all potential or actual conflicts of interest to the Purchasing Manager, their department director, and the City Manager immediately.
- City employees should not accept part time employment with any supplier or contractor transacting business with the City.
- City employees who have family members negotiating for prospective employment with a supplier or contractor who works for the City shall not be directly or indirectly involved in a purchase transaction with those suppliers.
- City employees are prohibited from executing personal contracts for goods and services with any department of the City of Brookhaven.

#### Employees Approved for Purchasing:

The financial software system will maintain a list of City employees who are authorized to purchase goods and services or generate and/or approve purchase requisitions above the \$2,500 purchasing thresholds.

#### Environmentally Preferable Purchasing:

The City of Brookhaven recognizes the products and services it procures may have a range of environmental repercussions. These environmental impacts may be felt across many areas such as the harvesting of raw materials, the manufacturing of finished goods, and their packaging, transportation, use, and disposal. Where factors such as quality, price, and availability are not impaired, the City will use environmentally preferable products and will seek to purchase products that have been environmentally certified or eco-labeled.

Such products may include but are not limited to energy and water-efficient equipment, products made with recycled or recyclable materials, bio-based products, and products containing no or minimal toxins and pollutants. Purchasing and the operating department will utilize life cycle costing and studies to determine the total cost of ownership, which will help facilitate the cost comparison between environmentally preferable products and their traditional counterparts. This purchasing practice will allow the City to become a model of environmental stewardship and will encourage its various suppliers and contractors to offer environmentally low-impact, sustainable products and services.

#### Federal Work Authorization Program:

In compliance with O.C.G.A. §§13-10-91(b)(1) (b)(1) and as amended in SB 160 and 13-10-90(2)), the City of Brookhaven will require a principal of any corporation providing services under contract with the City to verify that corporation's participation in the Federal Work Authorization Program (known as E-Verify) as defined below:

“Federal work and authorization program” means 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), D.L. 99-603.

#### Foreign vs Domestic Supply:

The City of Brookhaven encourages a “buy domestic” philosophy, recognizing that its suppliers may supply both domestic and foreign manufactured products. The City's overall purchasing objective is to buy from suppliers that are the best in quality, service, price, delivery, responsiveness, warranty and other relevant

factors. City bids that include foreign sources of supply will be evaluated fairly, but, all factors equal, Purchasing will select the domestic supplier's products.

#### Gifts and Gratuities:

City elected officials and employees are not to accept gifts or gratuities valued over \$100 from any individual, company, firm, or business establishment that is a supplier to the City or is marketing to the City for future purchases. Under no circumstances should meals, entertainment, etc. be accepted if there is a pending bid or during the bidding process. Any employee activities that might be construed as evidence of favoritism or providing an unfair advantage to a supplier should always be avoided, taking into consideration the results and reactions of public scrutiny.

Any offer of a gift by a supplier or their representative in relation to any part of the purchasing process should be rejected and reported. Offers may include, but are not limited to, money, entertainment, event tickets, gifts, favors, loans, or promises of employment. Attendance at events sponsored by governmental, public utility or professional organizations or at regular meetings which include meals, etc., are not considered as gifts or gratuities.

#### Records Retention:

The City of Brookhaven Purchasing Department, in accordance with the Georgia Records Act as amended in 1984, shall chronologically file and manage such files related to Bids, Purchase Requisitions, Purchase Orders, Change Orders, Contracts, Amendments, Insurance Certificates, and Bonds (O.C.G.A. § 50-18-99). File structure is by Purchase Order number in reverse chronological order with the Purchase Requisition and supporting documentation attached. File storage shall be locked for security. Retention periods for various document types shall correspond, at a minimum, to the lengths established in the Retention Schedules published biannually by The Georgia Archives. Files can be scanned and stored electronically.

#### Sources of Supply:

The Purchasing Department will keep current bidders' lists with a manageable number of active and approved suppliers. Competitive sources will be used.

#### Standardization:

Standardization of supplies, materials, and equipment allows the City to purchase in optimum quantities and negotiate the lowest possible purchase price. The policy is to achieve standardization through attrition rather than unnecessary replacement of inventories. All standardized operating supplies and materials should be recorded in a manual or database for future City purchases.

#### State Purchasing:

In compliance with state code (O.C.G.A. § 50-5-61) as a local authority in the State of Georgia, the City of Brookhaven will give, to a reasonable extent, preference to supplies, materials, equipment and agricultural products manufactured or produced in Georgia. Such preference shall not sacrifice quality, and nothing herein prohibits the City from selecting an out-of-state Supplier deemed to have a more competitive bid.

#### Supplier Contact During Bidding:

The City embraces a "no lobbying" policy when Formal Sealed Bids are released for bidding to the public and in the evaluation or negotiation stages. During this time period, staff and elected officials will refrain from discussing the bids or projects with the suppliers. Suppliers may conduct discussions or submit

additional information only through the Purchasing Department.

#### Supplier Relationships:

All supplier transactions and relationships will be conducted in a professional, objective and businesslike manner. Purchasing personnel will avoid any semblance of a conflict of interest by refraining from purchasing from close personal friends or family members. No supplier pricing information will be shared unless such information is a matter of public record. When such public information is requested in writing from a supplier, Purchasing will disclose competitor's pricing as required by statute or ordinance.

#### Use of Confidential Information:

It shall be unethical for any City of Brookhaven employee or official knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated person gain of any other person.

#### Penalties and Sanctions:

*Legal or disciplinary action by City Council* – The City Council may take appropriate legal and/or disciplinary actions against any City of Brookhaven official, vendor, contractor, organization, or person in violation of these ethical standards.

*Legal or disciplinary action by the City of Brookhaven City Manager* – The City of Brookhaven City Manager may take appropriate legal and/or disciplinary actions against any City of Brookhaven employee subject to the Manager's supervision and control as defined in the City of Brookhaven code, subject to the appropriate appeals process of the City of Brookhaven.

*Legal or disciplinary action by Elected/Constitutional – Officers of the City of Brookhaven.* The Constitutional Officers and other Elected Officers of the City of Brookhaven may take the appropriate legal and/or disciplinary actions against any employee under their supervision and control subject to the appropriate appeals process of the City of Brookhaven.

*Administrative penalties or employees* – The City of Brookhaven City Manager or City Council may impose any one or more of the following penalties or sanctions on a City of Brookhaven employee for violations of the ethical standards in this section as appropriate to the situation, subject to the Personnel Manual or other appropriate appeals procedures:

- Oral or written warnings or reprimands:
- Suspensions with or without pay for specified periods of time: or
- Termination of employment.

*Administrative penalties for outside contractors/vendors* – The City of Brookhaven City Council may impose any one or more of the following penalties or sanctions on a vendor/contractor or other person or organization for violations of these ethical standards:

- Written warnings or reprimands:
- Termination of contracts: or
- Debarment or suspension as provided in the Purchasing Policy.



## POLICY FOR DISPOSAL OF ASSETS:

Pursuant to O.C.G.A. §50-5-51, §50-5-140 and §50-5-141, the disposal of the City's assets shall be conducted by the following guidelines.

### Property Definitions:

*Real property* – Assets or property that includes land and buildings, and anything affixed to the land. All real estate acquisition activities shall conform to applicable federal, state (e.g. O.C.G.A §) 36-80-18 and O.C.G.A § 36-60-13) and local laws and regulations and shall be subject to the provisions of the City Code of Ethics. All real estate transactions shall be formally approved by the City Council in a public meeting prior to the City entering a sales contract.

*Appraisals* – For any piece of real estate for which a sales contract has been signed, the City will conduct at least one appraisal by an independent third-party who holds the MAI membership designation with the Appraisal Institute.

*Land Acquisition Procurement Process* – City staff will investigate and identify properties for purchase that generally meet an approved plan or strategy. Furthermore, land purchased with a specific funding source will only be used for such purposes anticipated and/or authorized. If the City determines that the City Council and City staff shall maintain the confidentiality of potential and on-going real estate acquisitions and related information.

*Personal property* – “Any fixed or movable tangible property used for operations, the benefits of which extend beyond one year from the date of acquisition.” Essentially, personal property refers to any item that is owned by the City and is not real estate, regardless of acquisition cost or method.

*Capital assets* – May be either real or personal property that have a value equal to or greater than the capitalization threshold for the classification of the asset and have an estimated life greater than one year. The personal property capitalization threshold is currently \$5,000.

*Surplus property* – Is non-consumable property that the City no longer requires.

### Capital Assets:

Capital assets are those defined above as having an original acquisition cost of \$5,000 or more. For the City's asset disposal purposes, these do not include Real Property. Each department, as necessary, will provide to the Purchasing Manager, or designee, a list of capital assets that have no further useful life. The Purchasing Manager, or designee, will forward this list to all other departments for review.

If any department has a need for these assets, an asset transfer will be made to that department for official City use only. The Finance Department will receive a notice of the transfer and facilitate the necessary adjustments to the fixed asset schedules.

After the initial departmental review, the list of unusable capital assets which are ready for disposal will be forwarded to the City Manager for review. The City Manager and City Council will approve or disapprove the request for disposal of capital assets items with an original value over \$5,000. Upon approval and Finance Department notification, the assets will be disposed in one of the following ways:

- Assets may be used as trade in on new purchases.

- Assets may be donated to another tax supported agency or a direct sale negotiated between the City and another tax supported agency.
- Assets may be offered for sale at public auction either by official City of Brookhaven auction or on-line auction through acceptable on-line auction services.
- Assets may be disposed of by the State of Georgia Department of Administrative Services Surplus Division.
- Assets may be destroyed or taken to a recycling facility.

#### Scrap / Surplus / Salvage Assets:

Scrap, Surplus and Salvage Assets are non-capital assets, or those which had an original acquisition cost below \$5,000. These items now have limited value and are no longer needed by the City. Department heads can decide to dispose of these assets but must first notify the Purchasing and Finance Departments. These items will be disposed of by the same methods as above, including recycling, with the approval of the City Manager.

#### Maintenance of Disposal Records and Procedural Forms:

The Purchasing Manager, or designee, will maintain all asset disposal records for the period as required by the City Clerk's office. The Purchasing Manager, or designee, will also create and maintain all forms necessary to comply with this Policy. For all surplus sales in which State Sales Tax is collected, the Purchasing Manager will ensure these taxes are filed and paid annually.

#### PROJECTS FUNDED BY OUTSIDE AGENCIES:

Periodically, the City may enter into an agreement to accept grants, donations, or contracts for services from sources such as the State and Federal Government and private corporations or foundations. These types of solicitations are often more restrictive and may dictate the procurement process and methodology that the City is to follow for an award. The City agrees upon acceptance of such funding to adhere to procurement directives as set forth in the application or agreement. In the instance that the directives are less restrictive than this Policy, the City will adhere to the City of Brookhaven's Purchasing Policy.

#### Federal and State Funding:

Both federal and state procurement supersedes the purchasing requirements of the City when buying goods and services using federal or state grant monies. Departments should refer to the Federal Acquisition Regulations and consult with the Authorizing Agency for guidance on specific procurement policies.

#### State of Georgia Transportation and Federal Highway Program:

The City of Brookhaven has adopted the Georgia Department of Transportation (GDOT) Procurement Policy for the Procurement, Management, and Administration of Engineering and Design Related Consultant Services for all state and federally funded transportation projects administered by the City of Brookhaven. This includes, but is not limited to, any projects co-funded by the City. From time to time, the GDOT may amend the adopted Policy. As such, the City's adoption includes all amendments until the adoption of the policy is voided by a majority vote of City Council. Per the requirements of the GDOT, personnel involved in the procurement, management and administration of engineering and design related consultant services for all state and federally funded transportation projects will attend GDOT training as directed by the Agency.