



INVITATION TO BID

CITY OF JOHNSON CITY, TENNESSEE

PURCHASING DEPARTMENT

423/975-2715

WWW.JOHNSONCITYTN.ORG/PURCHASING

Bid Name / Number 49 HP MINI EXCAVATOR W/OPTIONAL TRAILER / #6280
Due Day / Date / Time Wednesday / November 14, 2018 / 1:00 PM
Bid Location / Mail Address Johnson City Purchasing Department, Debbie Dillon-Director,
 209 Water Street (37601), P O Box 2150 (37605), Johnson City, TN
Bid Contact / Telephone Samuel Watson (423) 975-2623; swatson@johnsoncitytn.org ;or purchasing@johnsoncitytn.org
Bid Issue Date October 30, 2018
Delivery Location Water & Sewer Services C/O City Garage, 209 Water Street , Johnson City, TN 37601
FOB Destination, freight prepaid and allowed - Johnson City, TN
Payment Terms Net 30

Bidder is responsible for completing the remaining portion of this bid document

ITEM NO.	QTY	DESCRIPTION	UNIT PRICE
1.	1 ea	49 HP Mini excavator and optional trailer as per the attached specifications which are an integral part of this bid:	\$ _____
		OPTIONAL:	
2.		Hydraulic Hammer	\$ _____
3.		Hydraulic accessory hook-up	\$ _____
4.		Trailer	\$ _____

- 2 Sets of Descriptive literature/brochures and completed specification sheets must be returned with bid submittal.
- A demonstration of proposed equipment may be required, at vendors expense, along with a list of user references.
- Warranty details must be included with submittal

Bidder's Check List Place a check mark by all areas to signify compliance.

<input type="checkbox"/> Bid signed in ink by authorized company representative	<input type="checkbox"/> Bid prices, extensions and total verified as correct
<input type="checkbox"/> Addenda initialed and returned with bid, if applicable	<input type="checkbox"/> Completed checklists & applicable literature

By signing this document, the undersigned hereby agrees to the prices and all other terms and conditions, including the attached Sealed Solicitation General Terms & Conditions and the City's Requirements for Bids, Requests for Proposals, and Contracts Between the City of Johnson City and Other Parties and the Requirements of the Iran Divestment Act (Sealed Solicitations General Terms & Conditions #20) contained in this bid and associated documents relating to this bid and will furnish items as specified if this bid is accepted. Iran Divestment Act: By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to T.C.A. § 12-12-106.

SUBMITTAL INSTRUCTIONS:

Place signed bid response in a sealed envelope plainly identified on the outside in the lower left corner with the Bid Name and Number. Vendor responsible for delivery to Johnson City Purchasing Dept., Debbie Dillon-Director, P. O. Box 2150 (37605), 209 Water Street (37601) Johnson City, TN on or before the bid opening date and time.

Firm Name _____

By _____

PRINTED & SIGNED

Address _____

Telephone _____

ELECTRONIC RESPONSES ARE ACCEPTABLE VIA:
[CLICK HERE](#)

Fax _____

E-Mail _____

BID MUST BE SIGNED TO BE VALID

**ITB #6280 - MINI EXCAVATOR WITH TRAILER
OCTOBER 2018**

CITY OF JOHNSON CITY
JOHNSON CITY WATER & SEWER DEPARTMENT
BID SPECIFICATION

Bidder must complete and return this form for the bid to be considered responsive. A check mark shall be placed in the areas of specification agreement. Variances must be clearly identified and bidder may use a separate sheet if necessary. Approved equals will be considered if vendor includes detailed product specifications for the City's consideration. Failure to comply with any part of the specifications will not remove that bid from consideration but will indicate a variance on which the City alone will determine the importance to the overall performance of the item and suitability for the intended purpose. Equipment bid is to be new, unused and of the Manufacturer's latest model. Any omission from the specifications shall not relieve the bidder from the responsibility of furnishing a **mini excavator with trailer** ready for use. All specifications in this bid are minimum specifications, unless otherwise noted, and bidders are reminded that equipment should meet or exceed these specifications. **Items highlighted by "bold" letters indicate items for which variances will not be allowed.**

City's Specifications

Bidder's Equipment

Truck Chassis:

Engine:

Make/Model – Please Specify _____

Diesel, 4-cylinder, fuel injected, liquid cooled engine _____

Net Horsepower – 49 HP minimum _____

Fuel Tank Capacity – 21.0 gallons minimum _____

Hydraulic System:

Pump Type – Variable displacement piston pump _____

Hydraulic sight gauge _____

Flow-rate – 20 GPM minimum _____

Hydraulic pressure – 3,000 psi minimum _____

Hydraulic pressure relief system _____

Company Name: _____

City's Specifications

Bidder's Equipment

Hydraulic oil cooler

Undercarriage:

Hydrostatic drive system

Rubber tracks

Track width – 15” minimum

Two-speed travel :

L – 1.8 MPH minimum

H – 3.0 MPH minimum

Forward and reverse

Parking Brake

Gradeability – 30 degrees

Dimensions

Operating Weight – 10,000 lb minimum

Weight Class – 4.5 ton minimum

Overall Height – 99 in. minimum

Overall Width - 77 in. minimum

Overall Length - 218 in. minimum

Ground Clearance - 9” minimum

Tail Swing Radius - 5'- 0” maximum

Performance Information:

Digging Depth - 10’ minimum

Dump Height - 11’ minimum

Bucket Digging Force - 8,900 lbf minimum

Arm Digging Force - 6,700 lbf minimum

Reach at Ground Level - 19’ minimum

Company Name: _____

City's Specifications

Bidder's Equipment

Rated Lift Capacity – 6,000 lb minimum

Swing Information:

Continuous 360-degree cab swing

Positive friction swing brake

Swing Angle - 70 deg left / 50 deg right minimum

Lift Radius – 118 inches

Operator's Cab Features:

ROPS/FOPS four post canopy/cab

Roll back front window

Wiper/washer

Heater/defroster

Air conditioning

Tinted Glass

Pilot operated joystick for digging functions

Foot pedals

Display includes the following:

- a. Engine oil pressure
- b. Water temperature
- c. Alternator
- d. Air cleaner restriction
- e. Engine temperature
- f. Hour meter
- g. Audible and visual alarms
- h. Fuel gauge

Foot and hand operated travel controls

Seat belt

Lockable cab door

Company Name: _____

City's Specifications

Bidder's Equipment

Other Item Descriptions:

Angle Dozer blade:

- a. Length – 6'- 4" minimum
- b. Lift above ground – 12" minimum
- c. Dig below ground – 12" minimum
- d. **25 deg. Left / 25 deg. Right**

The following general purpose buckets shall be supplied:

- a. 12"
- b. 18"
- c. 24"

Lockable fuel & DEF caps

Fuel and water separator

Heavy duty radiator

Remote lubrication points for turntable

Remote lubrication of boom cylinders

Tie-down points integrated into frame unit

Work lights mounted to boom

Service location within 50 miles of Johnson City, TN (specify)

All manufacturers' standard equipment

All manufacturers' safety features

Two (2) complete sets of service and parts Manuals

Successful vendor shall be required to provide a detailed list of filters, recommended lubricant viscosities, and any other warranty requirements associated with this unit

Delivery – each unit shall be delivered complete with a minimum of ¼ tank of fuel and no dealer advertising logos or decals shall be affixed to this unit prior to delivery.

Vehicle to undergo pre-delivery inspection by the dealer _____

Company Name: _____

City's Specifications

Bidder's Equipment

Specify delivery date of completed vehicle

Optional Equipment:

The following items may or may not be included in the final award but the City would like to request the following optional items:

Hydraulic hammer with quick-attach coupling for the unit as bid

Hammer make/model:

Quick-couple manufacturer:

Hydraulic clamp unit price

Operating weight: 218 lb

Length: 32 in. minimum

Width: 14 in. minimum

Tooth Radius: 32 in. minimum

Tooth Thickness: 1 in.

Trailer:

Make/Model (specify)

GVWR – 16,000 lbs minimum

Empty Weight – 3,700 lbs maximum

Payload – 12,500 lbs minimum

Deck Length – 18' minimum

Deck Width – 96" minimum

Deck Height – 34" minimum

Axle Capacity – 7,000 lbs minimum

Radial Tire Size – 235/85R16LRG

Main Frame & Tongue – 8" I-beam @ 10#

Crossmembers – 3" Channel @ 4.1#

Electric brakes both axles

Steel plated tongue

EZ lube axles

Company Name: _____

City's Specifications

Bidder's Equipment

Tool box	_____
6' spring-assisted angle ramps	_____
Stake pockets and rub rail	_____
Rubber-mounted LED lights	_____
Pintle hitch w/ safety chains	_____
3 lashing D-rings per side	_____
2" nominal oak deck	_____
Mud flaps	_____
Sealed wiring harness	_____
Drop leg jack to meet trailer GVWR	_____
All manufacturers' standard equipment	_____
All manufacturers' safety features	_____
Specify Warranty:	_____

COMPLETE AND RETURN WITH BID PACKAGE

Company Name: _____

MINI-EXCAVATOR SERVICE INFORMATION:

Service Information: Vendor to state location of authorized service facility within 50 miles of Johnson City and average response time as this may be an award consideration.

Service Location

Average response time

Warranty: Vendor to state warranty period.

Warranty period

Delivery: State best possible delivery date as this may be a consideration in the bid award:

Delivery date

COMPLETE AND RETURN WITH SOLICITATION RESPONSE



VEHICLE/EQUIPMENT DELIVERY & ACCEPTANCE PROCEDURES

ACCEPTANCE: DELIVERY DOES NOT MEAN ACCEPTANCE. ALL VEHICLES/EQUIPMENT ARE SUBJECT TO INSPECTION TO ESTABLISH CONFORMITY TO SPECIFICATIONS PRIOR TO ACCEPTANCE.

1. Prior to delivery (if applicable):
 - Tires are to be inspected to insure proper inflation levels.
 - All fluid levels to be checked and corrected as needed.
 - Remove any unnecessary manufacturer's tape, stickers, decals, labels or other items except for the itemized window sticker with e.p.a. fuel economy estimates.
 - Vehicle is to be test driven and all features are to be checked to insure proper operation.
 - Any final assembly or installation of features, equipment or any options must be completed prior to delivery.
 - All necessary repairs and/or adjustments must be made prior to delivery.
2. Vendor must give Fleet Management 24-hour notice prior to delivery (423) 975-2751.
3. Delivery shall be made during regular working hours, Monday through Friday, excluding Holidays.
4. Vehicle or equipment will not be accepted if delivered to the wrong address.
5. Vendor must bring original specification sheets with delivery and **MUST** provide certificate of origin when a vehicle is delivered.
6. Vendor must agree to sign the Acknowledgement of Receipt form (*sample form attached*) at time of vehicle/equipment delivery.
7. City has 48 hours (excluding weekends, Holidays, vacation leave) to inspect vehicle/equipment for specification compliance.



ACKNOWLEDGEMENT OF RECEIPT VEHICLE/EQUIPMENT DELIVERY

The City of Johnson City acknowledges receipt of the following described vehicle or equipment:

Year	Make	Model	VIN	Price

Above described property was delivered to the specified location.

The City, by accepting receipt of this vehicle(s) or equipment, does not provide insurance coverage on the vehicle(s) or equipment and further declares that inspection has not been completed to determine compliance with City specifications. The City shall take ownership of and provide insurance on vehicles and equipment only after the City ascertains that the vehicles or equipment comply with City specifications. The City reserves the right to reject any non-conforming tender or delivery of vehicles, goods, or equipment.

City Representative

Date

Vendor

Vendor Representative

Date



CITY OF JOHNSON CITY, TENNESSEE
<http://www.johnsoncitytn.org/purchasing>

SEALED SOLICITATION
GENERAL TERMS AND CONDITIONS
(Read Carefully)

1. ACCEPTANCE, REJECTION AND POSTPONEMENT

Issuance of a bid/rfp/rfq does not commit the City to make an award. The City reserves the right to postpone or reject any or all bids/rfp's/rfq's, to waive informalities and to accept the bid/rfp judged to be in the best interest of the City.

2. ADDENDA

Addendum's will be issued to all known interested parties and posted on the City's website (listed above). All addenda issued shall become part of the solicitation documents. It is the vendor's responsibility to determine and acknowledge any or all addenda's issued for a solicitation. No addenda will be issued less than two (2) working days prior to the solicitation opening as per TCA, Title 12, Chapter 4, Part 1, as amended

3. AWARD

An award, if made, shall be to the lowest responsible, responsive bidder(s) or best solicitation meeting quality and performance standards as described in the solicitation documents and whose bid/rfp is determined to be in the best interest of the City. The City also reserves the right to award this product/service based on other contracts in-place (state or cooperative contracts), as may be in our best interest.

4. AWARD PERIOD

The City shall have 60 days to issue a contract. Any contract past that period must be mutually agreed upon by both parties.

5. BID TABULATIONS/RFP/RFQ RESPONSES

Bid tabulations and RFP/RFQ respondent's lists will be posted and available the next business day on our above website. Select "awarded/opened solicitations".

6. BRAND NAMES

By referencing a brand name or equal, the City intends to establish a minimum level of quality by which alternate offers can be judged. If an alternate is offered, the vendor must include complete descriptive literature and specifications that clearly describe the item and how it differs from the referenced item. Vendor reference to literature previously submitted will not satisfy this provision. Unless specified otherwise, it is understood that the referenced product will be furnished. The City alone will determine whether an alternate is equivalent and meets the standards of quality and performance for the City's use. A sample or demonstration may be required at the expense of the vendor.

7. CONDITION STANDARDS

It is understood and agreed that any item offered or shipped as a result of this solicitation shall be new and unused and the manufacturer's latest model unless otherwise called for in the solicitation.

8. CONSTRUCTION DOCUMENTS

If a fee is required for bid documents then only those bidders of record with the issuing office are eligible to bid.

9. COOPERATIVE PURCHASING:

Bidders/Proposers are to indicate whether it is permissible for other governments in Tennessee to purchase these items or services at the same price. Freight charges can be adjusted to reflect differences in delivery costs.

10. DEFAULT

In case of contractor default or failure to provide material or service according to the solicitations, the City may cancel this contract and acquire from another source and may recover any excess cost by (1) invoice; (2) deduction from an unpaid balance due; (3) collection against the bid and/or performance bond; or (4) a combination of the aforementioned remedies or other remedies provided by law. All costs associated with default will be borne by the contractor. The City reserves the right to remove a company in default from the active vendor list for a time period to be determined by the Director of Purchasing.

11. DELIVERY

Delivery/completion schedule must be clearly identified and realistically stated, as this may be a determining factor in the award.

12. DISCOUNT AND PAYMENT

Payment terms are Net 30 following receipt of the material or service and a correct invoice unless otherwise stated in the solicitation document. Discounts for prompt payment will not be considered in the bid evaluation for award. Partial payment will be allowed only if addressed in the solicitation.

13. EQUAL OPPORTUNITY

It is the policy of the City of Johnson City to ensure compliance with Title VI of the Civil Rights Act of 1964; 49 CFR, Part 21; related statutes and regulations to that end that no person shall be excluded from participation in or be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or any other funding source on the grounds of race, color, sex, national origin, or ancestry. By virtue of submitting a response to this solicitation, vendors agree to comply with the same non-discrimination policy.

14. EVALUATION

Bids/RFP's/RFQ's will be evaluated according to the criteria set forth in the document with the degree of importance determined by the City.

15. EXAMINATION OF BIDS/RFP'S/RFQ'S

Bids and associated documents may be examined at the opening. Only the name of the respondent is read aloud for RFP'S/RFQ'S. All solicitations are closed for review and inspection during the evaluation period, prior to award.

16. FOB (FREE-ON-BOARD) POINT

All prices quoted shall be FOB destination, freight prepaid and allowed unless otherwise stated in the solicitation document. The seller pays and bears the freight charges and owns the goods while they are in transit. Title passes at the designated City location.

17. INDEMNIFICATION

The vendor shall guarantee and certify by submitting a response to this solicitation that if successful, they shall indemnify and defend the City against any and all claims or legal actions arising as a result of their performance of the contract, whether or not such claims relate to damages or alleged damages sustained by physical injury to contractors personnel, subcontractors, city employees or other persons, or against any lawsuits arising from alleged or actual patent infringements, and shall hold the City, its various departments, employees, and any and all persons or entities acting on its behalf harmless from the same.

18. INSPECTION

All supplies or materials purchased as a result of this solicitation are subject to inspection and rejection by the City. Rejected materials will be returned at the vendor's expense.

19. INSURANCE

The contractor shall maintain, at their expense, such insurance as required by the solicitation. Such insurance shall protect the City for claims of damages which may arise during operations under this contract whether such operations be by the Contractor or by any subcontractor or anyone directly or indirectly employed by either of them. Any required insurances shall be maintained for the term of the contract and beyond the term of the contract when so required in the solicitation.

20. IRAN DIVESTMENT ACT OF 2014

Pursuant to the Iran Divestment Act of 2014, Tenn. Code Ann. § 12-12-106 requires the State of Tennessee Chief Procurement Officer to publish, using creditable information freely available to the public, a list of persons it determines engage in investment activities in Iran, as described in § 12-12-105. Inclusion on this list makes a person ineligible to contract with the City of Johnson City; if a person ceases its engagement in investment activities in Iran, it may be removed from the list. The State of Tennessee list is available here: <http://tennessee.gov/generalservices/article/Public-Information-library>

21. LICENSES, FEES, PERMITS

The contractor is responsible for furnishing the proper licenses, fees, and permits required by law to do business with the City of Johnson City in completion of the project. All work shall be done in accordance with the latest building codes, state and federal laws relative to the contract.

22. MULTIPLE ITEM BIDS

The City will determine the successful bidder(s) either on the basis of the individual line items or the total of all items. ALL OR NONE bids must be clearly identified on the bid form and will be considered only if in the City's best interest.

23. NON-COLLUSION AGREEMENT

By submitting this solicitation, the agent representing all officers, partners, owners, representatives, employees or interested parties of the vendor's firm certifies to the best of his/her knowledge and belief this bid/proposal to the City of Johnson City, Tennessee has not been prepared in collusion with any other seller, proprietor, or manufacturer of similar products or services. The agent also certifies that the prices, terms and conditions of said bid/proposal have been arrived at independently and have not been communicated by the submitter, nor by any of the aforementioned firm associate to any other seller, proprietor, or manufacturer of similar products or services and will not be communicated prior to the official opening of said solicitation. The agent further states that no official or employee of the City of Johnson City has promised any personal, financial or other beneficial interest, either directly or indirectly, in order to influence award of this solicitation.

24. PARTS AND SERVICE

The successful vendor must be able to provide adequate parts and service for all items awarded. Service location and ability to perform may be a consideration in the award.

25. PENALTIES

Vendors may be removed from our active vendor system for any of the following:

- ◆ Failure to respond to three consecutive solicitations
- ◆ Failure to meet delivery requirements
- ◆ Failure to furnish items as a result of a solicitation
- ◆ Failure to provide service or material as a result of the award
- ◆ Offers of gratuities or favors to any City employee

26. PRE-BID MEETING ATTENDANCE

If attendance is mandatory then only those firms whose names are listed on the pre-bid attendance roster are eligible to submit a solicitation.

27. PRICING

All pricing must appear in the spaces provided on the city's form (if applicable) and be in ink or typed. Changes or corrections by the bidder/proposer must be initialed in ink by the person signing. No corrections may be made in pencil. Unit prices will prevail in case of an extension error. The City will correct math computation errors (unit price & totals). No bid may be altered or amended after bid opening time. Obvious mistakes will be given special consideration upon receipt of written request and full disclosure or evidence regarding pricing error.

28. PROPRIETARY/CONFIDENTIAL INFORMATION

Vendors are hereby notified that all information submitted as part of, or in support of, bids/proposals will be available for public inspection after award, in compliance with Tennessee Statutes.

29. PROTEST PROCEDURE

Any protest to the award of a contract by the City of Johnson City shall be submitted in writing to the Director of Purchasing with a copy to the City Manager and delivered not later than seven (7) calendar days from the date of the city's award decision. Such protest must include a protest bond in the amount of \$350 (cashier's check payable to the City of Johnson City or Cash) submitted to the Purchasing Director before the City will consider the protest. This protest bond will serve as a guarantee by the protester of the validity and accuracy of the protest. If the protest is denied by the City Manager the bond will be retained to cover costs associated with the protest.

30. QUESTIONS

Questions must be received by the City at least four (4) working days prior to the scheduled opening. No oral interpretations or instructions given by any city employee or any other person shall apply. Changes relative to any solicitation will be in writing, in the form of an addendum. ,

31. SAFETY STANDARDS

All manufactured items and fabricated assemblies shall comply with applicable requirements of OSHA/TOSHA and any related standards thereto.

32. SAMPLES

Samples will be furnished at no charge to the City. They will remain in the Purchasing Department for testing and evaluation until an award is made. Vendors are responsible for picking up their samples within two (2) weeks after the award. Samples not collected after that time shall become the property of the City. Samples from the successful vendor will be held until delivery is received and accepted as being equal to the sample.

33. SEALED SOLICITATION OPENINGS

Bids will be read aloud at the specified date and time as stated in the document. RFP's/RFQ'S respondent names will be read aloud. All openings are public meetings. Bidders/proposers and interested persons are invited to attend. The City reserves the right to postpone any solicitation opening under circumstances warranting such action, including but not limited to instances when the City receives fewer than two responses.

34. SIGNATURE ON BIDS

When submitting a bid, other than electronically, the bid form must contain the full name and address of the company and be signed in Ink by a person authorized to bind that company to a contract. Submission of an electronic solicitation constitutes acceptance of all terms and conditions. Unsigned paper bids will not be considered, read or tabulated. They may not be signed during or after the bid opening, even if a representative is present.

35. SUBMITTAL OF SEALED BIDS/RFP'S/RFQ'S

Any forms furnished by the city must be completed and returned as specified in the solicitation, otherwise response will be considered as non-responsive. TELEPHONE, FACSIMILE OR E-MAIL RESPONSES WILL NOT BE ACCEPTED. Electronic receipt of bids/proposals is acceptable for those posted at: <https://purchasing.johnsoncitytn.org/bsol/>. **Paper bids shall be sealed in an envelope and may be required to include one (1) electronic (CD or flashdrive) copy of the entire submittal. The electronic version shall be an exact duplicate of the original, and the electronic version will become the official document.** No solicitation received after closing time shall be considered. The official time for paper submittals will be that of the date and time clock in the Purchasing Department. For electronic bids the official time is that posted on the website. Late submittals will not be accepted. The City of Johnson City shall not be responsible for technical difficulties experienced by vendors trying to register or submit their bid/rfp response electronically less than one hour prior to the bid/rfp opening time. If not offering a solicitation response, the vendor is encouraged to complete the "Statement of Decline" form and return prior to the opening.

36. TAXES

The City is exempt from Federal excise tax, State, and city sales tax. Contractors are not exempt from the use tax on materials and supplies used in the production of an item or in the performance of a repair or construction contract. Tax exemption certificates will be furnished upon request.

37. TERM OF CONTRACT

Unless otherwise stated, the City reserves the right to purchase like items at the same contract price for a period of one year from the award date subject to agreement of both parties. The City may cancel any contract for cause, or non-appropriation of funds, following written notification of intent.

38. WARRANTY

Unless otherwise specified by the City, all items shall be guaranteed for a minimum period of one (1) year against defects in material and workmanship.

REQUIREMENTS FOR BIDS, REQUESTS FOR PROPOSALS, AND CONTRACTS
BETWEEN THE CITY OF JOHNSON CITY
AND OTHER PARTIES

The City of Johnson City has established the following requirements for use in all bids and contracts between the City and any other person or entity. The following list is mandatory and modifies any bid, contract, or request for proposal, or conditions applicable to, signed by, or let by the City, notwithstanding anything contained in any particular conditions, contract, request for proposal, or bid to the contrary.

In general, the following provisions apply to all such contracts, bids, requests for proposals, contracts requiring bids, and bids containing contracts:

1. The City of Johnson City shall not answer to any contracting party for the furnishing of public records to a person requesting such in accordance with Tennessee law.
2. The City, while it may designate in writing a representative on a particular project, shall only be bound by a majority vote of the Board of Commissioners or by the limited authority delegated to the City Manager pursuant to City Ordinance. No personal representative of the City assigned to a particular project may bind it in excess of the dollar amounts granted to the City Manager by Ordinance, and no personal representative assigned to a particular project may bind the City for an amount equal to or less than the dollar amounts granted to the City Manager by Ordinance without the City Manager's approval.
3. The City shall not in any event waive or limit any claims for damages including but not limited to consequential damages in any contract for any reason or purpose.
4. No decision of an architect, engineer, or personal representative of the City shall be final and binding on the City, unless the City so agrees in any dispute with any

party including but not limited to an architect, a contractor, a subcontractor, an engineer, etc. If the City agrees to be bound pertaining to a dispute, then the monetary limits contained in the City's ordinances regarding the authority of the City Manager shall prevail, and any amounts exceeding the authority of the City Manager shall be referred to the Board of Commissioners for their consideration.

5. The City shall not participate in any mediation or arbitration regarding any agreement to which it is a party, and all matters left unresolved between the City and any other party, person, or entity shall be resolved in a court of competent jurisdiction in either Washington County, Tennessee, or in Federal District Court in Greeneville, Tennessee.

6. No party or other entity shall file a lien of any nature whatsoever against City property, real, personal, or mixed, no matter where that property is located. Should a party or entity contracting with the City or acting as a subcontractor or subsubcontractor file a lien against any property, real, personal, or mixed, owned by the City, then that party or entity shall take immediate steps at its own cost and expense to remove said lien, or the City shall take such steps as it deems necessary and hold the other party or entity liable for any costs and attorneys' fees associated with the lifting of said lien.

7. The City shall exercise its sole discretion before agreeing to any assignments of any contracts or subcontracts regarding any project in which the City is involved. No contract with the City shall be assignable without the City's sole, discretionary, absolute consent.

8. The City shall not be required to supply any information regarding its title to any property in which it has an interest for any purposes regarding the filing of liens.

9. The City shall not waive any claims it has in the making of final payment in any project in which it is involved. The City shall have the right to terminate any agreement to which this document is attached at any time in its sole discretion without

cause. In the event the City terminates without cause any agreement to which this document is attached, then in such event the City shall be liable only for the actual work and costs that have accrued at or before the date of the City's termination. In no event shall the City be liable for lost profits, consequential damages or incidental damages in the event it terminates a contract without cause.

10. Except to the extent allowed by law, the City shall not indemnify and hold harmless any other party, entity, person, their agents, employees, or anyone else in the world for any reason whatsoever.

11. The City shall not waive the rights of subrogation of its insurers or itself for any purpose whatsoever, and the City shall not cause any such endorsements to be placed on any policies to which it is a party.

12. Unless the City elects otherwise, the City shall not provide any "builders' risk" or an "all-risk" or equivalent policy for any reason whatsoever for any project in which the City has an interest, and the contractor or other such party shall assume this responsibility. That builder's risk policy provided by the contractor or other such interested party shall name the City as an additional insured. The City shall not provide boiler and machinery insurance, but shall require such insurance as applicable, depending on the parameters of whatever project is involved. The cost of boiler and machinery insurance shall be borne by the appropriate contractor, subcontractor, or other interested party. The City shall not insure the interests of any other person or entity, nor shall the City add any other person or entity as an additional insured to any of its policies.

13. The City shall not waive any rights regarding the loss of use of the City's property.

14. As to acts or failures to act or any causes of action by any party to a contract, whether that party be the architect, owner, contractor, City, etc., a cause of action shall accrue according to Tennessee law. No contract provision shall shorten the

statutes of limitations, statutes of repose, or the accrual of any causes of action which the City might have against another party or entity. No contract provision shall waive any warranties, express or implied, nor shall any contract limit the standard of care for any particular service or undertaking to that of the locality where those services or undertakings are performed.

15. Any interest to be paid by the City of Johnson City for late payments shall be at the rate of interest at which the City pays on its most recently issued bonds.

16. The City reserves to itself the right to approve the use of any tests, including but not limited to any borings, test pits, geotechnical work, environmental tests, and the like in its own sole discretion. All design professionals, consultants, subcontractors, or the like shall be duly licensed in the State of Tennessee, if licensure in the State of Tennessee is required for the work to be performed by such design professional, consultants, or subcontractors.

17. Notwithstanding any applicable choice of law or conflict of law provisions or decisions, the law of the State of Tennessee shall govern all contracts to which this document is attached.

18. The City of Johnson City shall not provide any legal advice, legal services, surveys, or procure the same for any other party.

19. Upon payment for services as rendered, all design documents and all instruments of service created by design professionals, including but not limited to architects, landscape architects, engineers, etc., shall become the property of the City of Johnson City, Tennessee. The City of Johnson City shall be allowed to use all design documents and instruments of service, including but not limited to bid drawings, shop drawings, reports, specifications, cost estimates, schematic designs, construction designs, and the like for future additions or alterations to the current project or for use in other projects. Any use of the aforementioned designs and construction documents shall be at

the City's sole risk and without liability to the design professional. The design professional's name and seal will be removed from all such design documents prior to the City's use thereof.

20. No person or entity shall respond to a request for bid or request for proposal with any terms or conditions that might change, alter, amend, or differ with the specifications, terms, or conditions originally provided by the City in its initial request for bids or proposals.

21. The City, as the owner of real property that is the subject of or in any way connected to any bid, request for proposal, or contract, hereby grants to the successful bidder/proposer/contractor the general management of the real property during the time that work is being performed, and the City agrees to transfer information specified in OSHA regulations at 29 CFR §1926.1203(h)(1), so that TOSHA/OSHA shall treat the successful bidder/proposer/contractor as the host employer when working in confined spaces. This paragraph applies only to those areas where the successful bidder/proposer/contractor has access to and performs work within confined spaces as defined in federal OSHA regulations. The successful bidder shall comply with all federal OSHA and state TOSHA regulations, including those regarding confined spaces.

January 6, 2016



STATEMENT OF SOLICITATION DECLINE City of Johnson City, Tennessee

NOTE: If you do not intend to respond to this solicitation, please complete and return this form on or before the stated deadline to Purchasing Department, P. O. Box 2150, Johnson City, TN 37605 or via e-mail or fax: purchasing@johnsoncitytn.org; 423-975-2712.

We value your feedback and ask that you complete the following:

Solicitation No.: # _____
Solicitation Name: _____

We, the undersigned, decline to submit on the above bid/proposal for the following reason(s):

- _____ Insufficient time to adequately prepare a response
- _____ Our company does not offer this product or service. Remove us from the vendor list
- _____ Our schedule will not permit us to perform in a timely manner
- _____ We are unable to meet bond requirements
- _____ We are unable to meet insurance requirements
- _____ We are unable to offer comparable product or service
- _____ We are unable to meet specifications (explain below)

We understand that if this statement is not completed and returned, our company may be deleted from the City's solicitation list for this commodity or service.

Company Name: _____
Address: _____
Signature: _____
Telephone: _____
E-mail: _____
Date: _____