



TOWN OF COLLIERVILLE
GENERAL SERVICES DEPARTMENT
MEMORANDUM



TO: QUALIFIED VENDORS
FROM: CATHRYN PERDUE, BUYER
SUBJECT: QUOTE # 1453
DATE: 06-26-2012
CC: FILE

NOTICE TO VENDORS

The Town of Collierville General Services Department is requesting quotes on the following items:

QUOTE # 1453 "RANDOM DRUG TESTING"

All quotes must be received by JULY 10, 2012, until 2:00 p.m. Quotes may be submitted by mail, courier or fax (901) 457-2258.

The Town of Collierville reserves the right to reject any and all quotes, accept quotes in part or whole, waive defects, informalities or minor irregularities in quotes or the quote process and to make awards, as deemed, to be in its best interest.

The Town is not responsible for delays occasioned by the U.S. Postal Service or any other means of delivery employed by the Vendor. Similarly, the Town is not responsible for, and will not accept, any quote responses that are received later than the date and time stated above.

During the competitive quote process, Vendors are instructed not to contact the employees of the using departments concerning this Request for Quotation. **The ONLY official position of the Town is that position which is stated in writing and issued by the General Services Department.** No other means of communication, whether written or oral, shall be construed as a formal or official response statement.

Any matter of this quote that requires explanation or interpretation must be inquired into by the Contractor/Vendor in writing at least 48 hours (excluding weekends and holidays) prior to the time set for the Quote Opening. Fax all questions to Derek Honeycutt in the General Services Department at (901) 457-2258. All questions will be responded to in the form of

written addenda to all Bidders. All addenda that you receive shall become a part of the contract documents.

Wherever requested throughout this document, a company representative who is authorized to bind the Contractor/Vendor will sign on behalf of the company to indicate to the Town that you have read, understand and will comply with the instructions and all Terms and Conditions attached hereto.

Respectfully,

Derek Honeycutt
Director of General Services



**FAX TRANSMITTAL
TOWN OF COLLIERVILLE INVITATION TO QUOTE**

To: ALL QUALIFIED VENDORS

DATE: 06/26/2012

FROM: CATHRYN PERDUE, BUYER

RE: QUOTE 1453 – RANDOM DRUG TESTING

THE FOLLOWING SECTIONS ARE TO FOLLOW:

- INVITATION TO QUOTE
- QUOTE RESPONSE FORM
- GENERAL TERMS AND CONDITIONS
- CONTRACT

NUMBER OF PAGES IN THIS TRANSMISSION INCLUDING COVER PAGE: 22

COMMENTS:

Deadline For Quote Submittals: 2:00 PM on TUESDAY, JULY 10 2012

Town of Collierville, Tennessee
INVITATION TO QUOTE
This is not an Order

DATE: June 26, 2012

QUOTE NO.: 1453– RANDOM DRUG TESTING

RETURN QUOTE BY FAX, MAIL OR COURIER TO:

CATHRYN PERDUE Buyer
Town of Collierville General Services Department
500 Poplar View Parkway, Collierville, TN 38017
(901) 457-2250, Fax (901) 457-2258

REPLY NO LATER THAN: July 10, 2012 by 2:00 p.m.

SPECIAL TERMS AND CONDITIONS: LIQUIDATED DAMAGES & WARRANTY, SEE BELOW

Quote 1453
Random Drug Testing

Scope of Services

1. DRUG/ALCOHOL

- 1.1 Perform collection of urine split specimen DOT and NON-DOT samples by a certified technician in accordance with 49 CFR Part 40 DOT/FMCSA regulations and protocol for random drug tests as required. Offerors must provide evidence of certification of staff training. All certifications shall remain in force for the duration of the contract.
- 1.2 Perform breath alcohol tests by a certified breath alcohol technician in accordance with 49 CFR Part 40 DOT/FMCSA regulations and protocol for random testing. Offerors must provide evidence of certification of staff training and evidence of calibration of machine as part of the proposal. All certifications shall remain in force for the duration of the contract.
- 1.3 Provider must possess capability for collection of urine samples and conduct breath alcohol tests in response to critical time frames for post accident and reasonable suspicion testing situations.
- 1.4 Urine samples must be available for pick up the same day as collection, dependent on time of collection. Lab shall be certified by the U.S. Dept. of Health and Human Services (HHS) under the National Laboratory Certification Program.
- 1.5 Indicate ability to receive automated test results from a HHS certified lab.

- 1.6 Indicate ability to perform services at an on site Town of Collierville location on a 24-hour basis.
- 1.7 Provider shall have the ability to provide same gender technician in the event of a required directly supervised DOT urine drug test.
- 1.8 Pricing shall include urine collection, lab, and MRO fees. There shall be no additional fees for mileage or labor. After hours testing shall include urine collection, lab and MRO fees as well as the alcohol test.
- 1.9 Provider must be capable of providing detailed, itemized billing for all services provided.
- 1.10 The Town is currently performing approximately 98 NON-DOT tests, 31 DOT drug test and 16 breath alcohol tests per year.
- 1.11 Provider to perform test on a monthly basis at varying times, the Town reserves the right to change with minimal notice.
- 1.12 The work under this contract shall not exceed \$10,000 per year.

2. QUALIFICATIONS/REQUIREMENTS OF THE MEDICAL REVIEW OFFICER

- 2.1 Must be a licensed physician and be certified in accordance with 49 CFR Part 40.
- 2.2 Must be knowledgeable of the duties and responsibilities, as well as the physical and mental stresses of the position for which the services are being performed.
- 2.3 Must remain current on testing and medical standards for all services to be performed as a result of this contract.
- 2.4 Must be willing to communicate with the Town's Human Resources department through internet e-mail.
- 2.5 Must be able to provide secondary points of contact for times when primary contact is not available for the purpose of conducting day-to-day business for the Town's Human Resources department.

SPECIAL TERMS AND CONDITIONS

EVALUATION CRITERIA

These criteria are to be utilized in the evaluation of qualifications for development of the shortlist of those offerors to be considered for interviews and/or potential negotiations. Individual criteria may in all probability be assigned varying weights at the Town's discretion to reflect relative importance. Offerors are required to address each evaluation criteria in the order listed and to be specific in presenting their qualifications.

1. Demonstrated ability of the provider to perform required services.
2. Demonstrated ability of the provider to manage contract.
3. Reasonableness of proposed tests to be performed in each respective drug test.
4. Geographic location.
5. Hours and Appointment Schedule. Include days of week and hours in which office is open; address length of notification, if any, required for an appointment.
6. Demonstrated ability of the provider to schedule appointments and produce results within specified time period.
7. Overall time schedule for test results.
8. Cost/fee structure.



QUOTE RESPONSE FORM

Stan Joyner
Mayor

Town of Collierville
General Services Department
500 Poplar View Parkway
Collierville, Tennessee 38017
(901) 457-2254, Fax (901) 457-2258

James H. Lewellen
Town Administrator

Derek Honeycutt
Director of General Services

POSITIVELY NO QUOTE CONSIDERED UNLESS SUBMITTED ON THIS FORM

QUOTE #1453

QUOTES WILL BE RECEIVED UNTIL **TUESDAY, JULY 10, 2012** IN THE OFFICE OF THE GENERAL SERVICES MANAGER, 500 POPLAR VIEW PARKWAY, COLLIERVILLE, TENNESSEE 38017.

IF YOU DO NOT RESPOND TO THIS REQUEST FOR BID WITH A "QUOTE" OR "NO QUOTE", WE WILL ASSUME THAT YOU NO LONGER WISH TO QUOTE ON THE COMMODITY INDICATED BELOW, AND YOUR COMPANY'S NAME MAY BE REMOVED FROM THE MAILING LIST.

ITEM	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT	
				DOLLARS	CENTS
1		5 panel lab based Urine Split Collection Drug Test (DOT)			
2		5 panel lab based Urine Split Collection Drug Test (Non DOT)			
3		Breath Alcohol Test per DOT Regulations			
4		After hours testing (includes drug and alcohol tests)			
5		Additional Charge for Single Employee Test/Surcharge			
LUMP SUM TOTAL					

DELIVERY PROMISED: _____ F.O.B. COLLIERVILLE

TERMS: _____
Discounts will be allowed for prompt payment as follows: 10 calendar days, ____%; 15 calendar days ____%; 20 calendar days ____%; 30 calendar days ____%.

FIRM'S NAME: _____ ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

TELEPHONE: _____ FAX: _____ EMAIL: _____

NAME: _____ TITLE: _____

AUTHORIZED SIGNATURE: _____ DATE: _____

TOWN OF COLLIERVILLE, GENERAL SERVICES DEPARTMENT
500 POPLAR VIEW PARKWAY
COLLIERVILLE, TN 38017
PHONE: (901) 457-2254

The following terms, conditions, instructions and specifications are included in and become a part of this Quote.

1.0 PREPARATION OF QUOTES:

- 1.1 **To assist in obtaining good competition on Invitations to Quote, each firm who has received an invitation, but does not wish to quote, is asked to complete and return the attached NO QUOTE REPLY FORM which is part of this section (Refer to page 6 of 6). This information will not preclude receipt of future invitations unless either request removal from the Vendors List or do not return either this form, or a bonafide quote.**

Repeated failure to comply shall be cause for removal of the vendor's name from the vendor database.

- 1.2 All information requested of the vendor shall be entered in the appropriate space on the form. Failure to do so may disqualify the quote.
- 1.3 All information shall be entered in ink or typewritten. Mistakes may be crossed out and correction inserted before submission of your quote. The person signing the quote shall initial correction in ink.
- 1.4 Correction and/or modifications received after the closing date specified will not be accepted.
- 1.5 Time of delivery shall be stated as the number of calendar days following receipt of the order by the successful vendor to receipt of the goods or services by the Town.
- 1.6 Time of delivery may be a consideration in the award.
- 1.7 Prices will be considered as net if no cash discount is shown.
- 1.8 An authorized officer, employee or agent of the vendor shall sign all quotes.
- 1.9 Quotes must be submitted by the date specified to be considered. No late quotes will be accepted.
- 1.10 Submit quotes (1) via mail, (2) vendor/courier delivery or (3) facsimile machine (901) 457-2258.

2.0 CRITERIA OF AWARD:

- 2.1 The Town reserves the rights: (1) to award quotes received on the basis of individual items, or groups of items or on the entire list of items, (2) to reject any or all quotes, accept quotes in part or whole, (3) waive defects, informalities or minor irregularities in quotes or quote process and (4) to accept the quote that is deemed, to be in the best interest of the Town. The Town of Collierville Mayor and Board of Alderman decision shall be final.
- 2.2 Award will be made on the following basis:
- 2.2.1 Best/Low Quote meeting specifications.
 - 2.2.2 Previous Vendor Performance History.
 - 2.2.3 Delivery Time Quoted.
- 2.3 Town of Collierville reserves the right to purchase any or all items in this quote off the current State of Tennessee Statewide Contract, if it is considered by the Purchasing Agent to be in the best interest of the Town.

3.0 SPECIFICATIONS:

- 3.1 These specifications are not intentionally written around any one manufacturer and are for the purpose of indicating general size, type, and description of the equipment needed.
- 3.2 Any responsible vendor who considers these specifications to be of a non-competitive nature should immediately contact the General Services Department, (901) 457-2250.
- 3.3 The Director of General Services hereby reserves the right to approve as an equal, or to reject as not being equal, any item the vendor proposed to furnish which contains minor variations from specification requirements but may comply substantially therewith. Items exceeding specifications will be considered as meeting specifications.
- 3.4 The vendor shall abide by and comply with the true intent of the specifications and not take advantage of any unintentional error or omission, but shall fully complete every part as the true intent and meaning of the specifications.
- 3.5 Changes to the quote specifications are not valid unless authorized in writing by the Town of Collierville General Services Department.

4.0 PRICING, TERMS & DELIVERY:

- 4.1 Prompt payment discount shall be considered as a cost factor in the evaluation of quotes.
- 4.2 The Town of Collierville reserves the right to accept any prompt payment discount offered by the successful vendor, however, time will be computed from date of receipt of correct invoice or receipt of acceptance of shipment, whichever is later.
- 4.3 All deliveries shall be F.O.B. Collierville, Tennessee location in place/inside – no additional charges shall be allowed above the amount shown in the net prices.
- 4.4 All prices shall be valid for a minimum of sixty (60) days from the quote opening date unless otherwise indicated in the quote request.
- 4.5 If there is a discrepancy between unit price and its extension, unit price shall prevail.

5.0 LIABILITIES:

- 5.1 The vendor shall hold the Town, its officers, agents, servants, and employees harmless from liability of any nature or kind because of use of any copyrighted, or uncopyrighted composition, secret process, patented or unpatented invention under this quote, and agrees to defend, at his own expense, any and all action brought against the Town because of the unauthorized use of such articles.

6.0 GRATUITIES:

- 6.1 Town of Collierville may, by written notice to the Vendor, cancel any contract and/or purchase order resulting from the quote without liability if it is determined by the Town that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Vendor, or any agent or representative of the Vendor, to any officials or employee of the Town with a view toward securing a contract or securing favorable treatment with respect to the awarding amending, or the making of any determination with respect to the performing of such a contract. In the event the contract and/or purchase order is cancelled by the Town pursuant to this provision, the Town shall be entitled, in addition to any other rights and remedies, to recover or with hold the amount of the cost incurred by the Vendor in providing such gratuities.

7.0 CONFLICT OF INTEREST:

- 7.1 No part of the total contract and/or purchase order amount resulting from this quote shall be paid directly or indirectly to any official or employee of the Town of Collierville, Tennessee as wages, compensation, or gifts in exchange for acting as official, agent, employee, subcontractor, or consultant

to the contractor in connection with any work contemplated or performed relative to this contract. Furthermore, quotes submitted by the above referenced individual (s) will not be accepted.

8.0 SAMPLES:

8.1 Samples of articles, when required, shall be furnished free of cost to the Town.

8.2 Samples of articles selected may be retained for future comparison.

8.3 Samples which are not destroyed by testing, or which are not retained for future comparison will be returned upon request at the vendor's expense.

9.0 TAXES:

9.1 The contractor/vendor shall not include any sales, use or federal excise tax to be collected from the Town since the Town is tax exempt.

9.2 Exemption certificates will be furnished upon request.

10.0 BRAND NAMES:

10.1 Brand names and number, when used, are for reference to indicate the character or quality desired.

10.2 Equal items will be considered, provided your offer clearly described the article. Offers for equal items shall state the brand and number or level of quality. The determination of the Purchasing Agent as to what items are equal shall be final and conclusive.

10.3 When brand, number, or level of quality is not stated by the vendor, it is understood the offer is exactly as specified.

10.4 Any items other than those brands specified in the quote specifications must be equivalent as to function, basic design, type and quality of materials, method of construction, and any required dimensions.

11.0 DEFAULT BY VENDOR:

11.1 In case of default by the vendor, the Town may procure the articles or services from other sources and may deduct from any monies due, or that may thereafter become due to the vendor, the difference between the price named in the contract or purchase order and actual cost thereof to the Town. Prices paid by the Town shall be considered the prevailing market price at the time such purchase is made. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Purchasing Agent.

12.0 INSURANCE:

12.2 When required, vendors must supply certificate of insurance or bonds through a company that is authorized to do business in the State of Tennessee.

13.0 VALID PRICES:

13.1 Unless otherwise required in Section III Detailed Requirements/Specifications, all prices quoted will be firm for sixty (60) days.

14.0 THIRD PARTY ASSIGNMENT:

14.1 There shall be no assignments, whatsoever to third parties (financial, etc.) unless expressly agreed to by the Town of Collierville in a separate written agreement. Any assignment or attempted assignment, of any nature to third parties, without consent of the Town, shall be cause for termination of the contract at the options of the Town.

15.0 AWARD OF QUOTE:

15.1 The award of this quote to the successful vendor shall be governed by the laws of the State of Tennessee.

16.0 DELIVERY EXCEPTION:

16.1 The suppliers shall not be responsible for failure to forward materials or render services due to strike, flood, or fire.

16.2 Should deliveries not be made on time as outlined on our quotation sheet and defined by you, then the Town has the authority to cancel any / and all orders issued under this quote.

17.0 LIEU, CLAIMS OR ENCUMBRANCE:

17.1 The suppliers, by quoting their requirements and if they become the successful vendor, agree that all goods and materials are free of any lieu, claim or encumbrance.

18.0 DOCUMENTS INCLUDED IN CONTRACTS:

18.1 The specifications, terms/conditions and detailed requirements shall become a part of any contract agreement and/or purchase order that result from this quote.

19.0 INSPECTION:

19.1 When the buyer deems it necessary to inspect shipments, they may do so. Should this inspection reveal that the shipment is not as per our specifications, then the buyer has the privilege to return said items at the supplier's expense.

20.0 MATERIAL SAFETY DATA SHEETS:

20.1 As a condition to quote award, if item(s) contained in this quote require Material Safety Data Sheets, the successful vendor shall provide data sheets with delivery of product(s).

21.0 PURCHASES FROM STATE OF TENNESSEE CONTRACTS:

21.0 The Town of Collierville reserves the right to purchase item(s) in this quote off the State of Tennessee Contract or other governmental agency contract if it is considered in the best interest of the Town of Collierville.

22.0 DISCLOSURE OF CONFIDENTIAL OR PROPRIETARY INFORMATION:

22.1 Vendors are advised that T.C.A. 10-7-503(a) mandates that all State, County and Municipal records shall, all times during business hours, be available for personal inspection by any citizen of Tennessee. Any information which is identified in a quote response as proprietary or confidential is therefore subject to inspection and the Town of Collierville assumes no liability for any information so identified and divulged pursuant to a request under T.C.A. 10-7-503(a).

23.0 PROTEST:

23.1 Any protest concerning the award of this quote shall be decided by the Director of General Services. Protest shall be made in writing to the Office of General Services and shall be filed within 10 days of issuance of award notification. A protest is considered filed when received by the Office of General Services. The written protest shall include the name and address of the protestor, identification of the procurement, a statement of the specific reasons for the protest and supporting exhibits. The Office of General Services will respond to the written protest within seven days. The Director of General Services's decision relative to the protest shall be final.

24.0 QUESTIONS AND INQUIRES:

24.1 Any questions concerning this invitation to quote should be addressed to Derek Honeycutt, Director of General Services, telephone number (901) 457-2250, FAX number (901) 457-2258, Monday through Friday, 8:30 A.M. to 4:30 P.M.

24.2 Quotes are open for inspection and copies available in the Office of General Services, 500 Poplar View Parkway, Collierville, Tennessee.

25.0 BILLING AND PAYMENT:

25.1 Payment will be made by the Town upon receipt of invoice, ownership documents, and acceptance of commodity by the Town of Collierville.

25.2 The vendor shall submit an invoice to:

Finance Director
Town of Collierville
500 Poplar View Parkway
Collierville, TN 38017

26.0 COLLUSION:

26.1 Vendors, by submitting a signed quote or proposal, certify that the accompanying quote or proposal is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or commerce, or any other fraudulent act punishable under Tennessee or United States law.

27.0 AVAILABILITY OF APPROPRIATED FUNDS:

27.1 The vendor hereto agrees that any and all payments due from the Town, as required under the terms of this agreement, are contingent upon the availability of Appropriated Funds.

28.0 QUOTE WITHDRAWAL:

28.1 At any time up to the hour and date set for opening of quotes, a vendor may withdraw his/her quote. Such withdrawal must be in writing and sent to the Town General Services Department office at the address set forth herein, delivered in person. Such withdrawal shall be effective only upon receipt by the Town General Services Department office and will not preclude the submission of another quote by such vendor to the hour and date set for the opening of quotes.

28.2 After the scheduled time for opening of quotes, no vendor will be permitted to withdraw his/her quote, and each vendor hereby agrees that his/her quote shall remain firm until accepted or rejected. A quote made and opened may be withdrawn with the written permission of the Town General Services Department office if, in the Town's opinion, the quote is inconsistent with the best interest of the Town.

29.0 TIE QUOTE

29.1 In case of one or more identical quotes, the winning vendor will be determined by placing in a hat sheets of paper bearing, respectively, the names of the vendors submitting identical quotes, with a representative of the Town drawing one piece of paper, and the name of the vendor thereon shall be the successful vendor.

TO OUR SUPPLIERS: Please take a few minutes to complete this form and return it if you are submitting a "No Quote" response.

STATEMENT OF NO QUOTE

We ask that you place an "X" on the appropriate blank that corresponds with your company's "No Quote" response.

- 1. _____ Specifications too "tight", i.e. geared toward one (1) brand or manufacturer only. (Briefly explain below.)
- 2. _____ Specifications are unclear. (Briefly explain below)
- 3. _____ We are unable to meet specifications.
- 4. _____ Insufficient time to respond to the Request for Quotation. (Briefly explain below if fault of Town)
- 5. _____ Our schedule would not permit us to perform within the required time.
- 6. _____ We are unable to meet bond requirements.
- 7. _____ We are unable to meet insurance requirements.
- 8. _____ We do not offer this product of service.
- 9. _____ Remove us from your vendors list for this particular commodity or service.
- 10. _____ Please keep our name on your vendors list for future reference.
- 11. _____ Other (specify below)

FURTHER REMARKS: (e.g., name change, address, phone or Fax change)

COMPANY NAME: _____

DATE: _____ **TIME:** _____

NAME: _____ **TITLE:** _____

SIGNATURE: _____

Town of Collierville, Tennessee
CONTRACT

CONTRACT FOR SERVICES AND/OR PRODUCTS

THIS CONTRACT FOR SERVICES AND/OR PRODUCTS (herein “Contract”) is made and entered into this 1st day of August 2012 by and between the TOWN OF COLLIERVILLE, TENNESSEE, a Tennessee municipal corporation, (herein the “TOWN”) and _____ [insert name of CONTRACTOR], a _____ [State where CONTRACTOR established, but only if an entity, not applicable to sole proprietorships] _____ [type of entity – e.g., corporation, LLC, partnership, sole proprietorship] (herein the “CONTRACTOR”).

W I T N E S S E T H:

WHEREAS, the TOWN desires to contract for certain occupational health care services (herein the “Contract Items”), and

WHEREAS, the CONTRACTOR has the requisite experience, abilities and resources to perform and/or furnish the foregoing, and

WHEREAS, the CONTRACTOR desires to enter into this Contract as an independent contractor and is ready, willing and able to provide the services and/or furnish the products in accordance with the terms of and subject to the conditions in this Contract.

NOW, THEREFORE, for good and valuable consideration, received or to be received, the sufficiency of which the parties acknowledge, the parties agree as follows:

1.00 SCOPE OF CONTRACT

The CONTRACTOR is to furnish the services and/or products as specified in the Invitation to Quote - Quote 1453 Random Drug Testing (herein the “Quote”) and any amendments thereto. The Quote and any amendments thereto are attached hereto as Exhibit “A” and incorporated by reference herein and made a part hereof. Unless otherwise specified herein, the CONTRACTOR is to furnish all materials, tools, equipment, manpower, and consumables necessary to complete the Contract Items.

2.00 TERM OF CONTRACT

The period of this Contract shall be for twelve (12) months, beginning on August 1, 2012 and ending on July 31, 2013. This Contract may be extended by the TOWN for two (2) additional successive twelve (12) month period[s] or portions thereof, up to a cumulative total of thirty-six (36) months, by written notice to the CONTRACTOR given at least thirty (30) days before the expiration of the term then in existence.

3.00 COMPENSATION

3.01. Amount of Compensation. The CONTRACTOR agrees to provide the services, equipment and products as specified in its bid to the TOWN at the cost specified in said bid and amendments, if any, the bid and any amendments thereto being attached hereto as Exhibit “B” and incorporated by reference herein and made a part hereof. The amount as specified in Exhibit “B”

may be increased or decreased by the TOWN under Section 4.00 of this Contract (“Additional Services”), through the issuance of an Addendum. Any prices specified in this Contract or an Addendum thereto will remain in effect for the term of this Contract or any extensions thereof.

3.02. Payment of Compensation. All invoices received by the TOWN are payable within thirty (30) days from receipt, provided they have first been approved by the TOWN department that is the beneficiary of the Contract Items, and such department has accepted the Contract Items. The TOWN reserves the right to partially pay any invoice submitted by the CONTRACTOR when requested to do so by the TOWN department that is the beneficiary of the Contract Items. All invoices shall be directed to the Accounts Payable Department, Town of Collierville, 500 Poplar View Parkway, Collierville, Tennessee 38017. In the event any Contract Items are deemed unacceptable, the TOWN’S representative shall notify the CONTRACTOR of the deficiencies in writing and the TOWN may withhold payment until the deficiencies are corrected to the satisfaction of the TOWN, such determination to be made in the sole and absolute discretion of the TOWN. All invoices must clearly indicate the Invitation to Bid number.

4.00 ADDITIONAL SERVICES

In the event the TOWN requests that the CONTRACTOR perform additional services and/or furnish additional products not covered by this Contract, the CONTRACTOR shall perform such additional services after the TOWN and the CONTRACTOR enter into an equitable agreement regarding the additional services and/or products.

5.00 NOTICE TO PROCEED

The CONTRACTOR shall commence to perform and/or furnish the Contract Items called for under this Contract upon the written Notice to Proceed issued by the TOWN.

6.00 CONFLICT OF INTEREST

The CONTRACTOR declares that neither the Mayor, nor any Aldermen, nor any other TOWN official or employee holds a direct or indirect interest in this Contract. The CONTRACTOR pledges that it will notify the TOWN in writing should any TOWN official become either directly or indirectly interested in this Contract. The CONTRACTOR declares that as of the date of this declaration that it has not given or donated or promised to give or donate, either directly or indirectly, to any official or employee of the TOWN, or to pay anyone else for the benefit of any official or employee of the TOWN any sum of money or other thing of value for aid or assistance in obtaining this Contract. The CONTRACTOR further pledges that neither it nor any of its owners, officers or employees will give or donate or promise to give or donate, directly or indirectly, to any official or employee of the TOWN or anyone else for the benefit thereof any sum of money or other thing of value for aid or assistance in obtaining any change order to this Contract.

7.00 COMPLIANCE WITH LAWS

The CONTRACTOR agrees to observe and to comply at all times with all applicable Federal, State, and local laws, ordinances, and regulations in any manner affecting the provision

of the Contract Items and to comply with all instructions and orders issued by the TOWN regarding the Contract Items.

8.00 TERMINATION

Upon thirty (30) days written notice, with or without cause, the TOWN may terminate this Contract. Following such termination, the TOWN and the CONTRACTOR shall agree upon an amount of payment for all Contract Items properly performed or furnished prior to the effective date of termination.

9.00 WARRANTY

The CONTRACTOR warrants that the Contract Items, including any equipment and products provided shall: in the case of services (i) conform to all applicable standards of care and practice in effect at the time the service is performed; (ii) be of the highest quality; and (iii) be free from all faults, defects or errors; and in the case of products meet the specifications in the Invitation to Bid. The CONTRACTOR warrants that all equipment and products provided shall be furnished to the TOWN in good and working condition. If the CONTRACTOR is notified in writing by the TOWN of any faulty Contract Items furnished by the CONTRACTOR, the CONTRACTOR shall, at the TOWN'S option, either: (i) perform again the relevant Contract Items to correct such fault, defect or error, at no additional cost to the TOWN; or (ii) refund to the TOWN the charge paid by the TOWN which is attributable to such portions of the faulty, defective or erroneous Contract Items, including any costs for re-provision of the relevant Contract Items by other contractors. The CONTRACTOR warrants that all products provided by the CONTRACTOR shall be merchantable, be fit for the purpose intended and shall meet the specifications of the Invitation to Bid. The CONTRACTOR shall be liable for secondary, incidental or consequential damages of any nature resulting from any work performed under this Contract.

10.00 FORCE MAJEURE

The obligations of CONTRACTOR hereunder are subject to and shall be excused in the event of riots, wars, and Acts of God.

11.00 INSURANCE

11.01. Comprehensive General Liability Insurance. The CONTRACTOR, at its own expense, shall keep in force and at all times maintain during the term of this Contract Comprehensive General Liability Insurance issued by a responsible insurance company and in a form acceptable to the TOWN, coverage for CONTRACTOR on an occurrence basis against claims for bodily injury, death or property damage with combined single limits of not less than One Million Dollars (\$1,000,000) for Bodily Injury and Property Damage.

11.02. Automobile Liability Insurance. The CONTRACTOR, at its own expense, shall keep in force and at all times maintain during the term of this Contract Automobile Liability coverage in the minimum amount of Five-Hundred Thousand Dollars (\$500,000) combined single limits for Bodily Injury and Property Damage.

11.03. Workers' Compensation Coverage. The CONTRACTOR, at its own expense, shall keep in force and at all times maintain during the term of this Contract full and complete Workers' Compensation Coverage as required by State of Tennessee law.

11.04. [Omitted]

11.05. Certificates of Insurance. The CONTRACTOR shall provide the TOWN with Certificates of Insurance on all the policies of insurance and renewals thereof in forms acceptable to the TOWN. Said Comprehensive General Liability policy shall provide that the TOWN be an additional insured. The TOWN shall be notified in writing of any reduction, cancellation or substantial change of said policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the TOWN and licensed and authorized to do business under the laws of the State of Tennessee.

12.00 CLAIMS, LIABILITY AND INDEMNITY

The CONTRACTOR shall assume all risk in connection with the performance of this Contract, and shall be liable for any damages to persons or property resulting from the negligent or willful acts, errors, or omissions of the CONTRACTOR, its agents, servants, and/or employees in connection with the prosecution and completion of the Contract Items covered by this Contract. The CONTRACTOR agrees that it will indemnify and hold the TOWN and its employees harmless from all claims of any type and for any expenses and costs including attorney's fees and court costs which may be incurred by the TOWN arising from the negligent or willful acts, errors, or omissions of the CONTRACTOR, its agents, servants and/or employees in the performance of this Contract, and the CONTRACTOR will carry sufficient general liability insurance to provide the above indemnification. The indemnities set forth herein shall survive the expiration or termination of this Contract.

13.00 ATTORNEY'S FEES

If any legal action or other proceeding is brought for the enforcement of this Contract or because of any alleged dispute, breach, default, or misrepresentation in connection with any provisions of the Contract and the TOWN is successful therein, the TOWN shall be entitled to recover from the CONTRACTOR reasonable attorney's fees, court costs and all expenses even if not taxable or assessable as court costs (including, without limitation, all such fees, costs and expenses incident to appeal) incurred in that action or proceeding in addition to any other relief to which the TOWN may be entitled.

14.00 EQUAL EMPLOYMENT OPPORTUNITY

14.01. Non-discrimination. In carrying out the Contract Items under this Contract, the CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, creed, color, national origin or sex. The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin or sex. Such action shall include, but not be limited to, the following: employing; upgrading; demoting; transferring; recruiting or paying recruitment compensation; and selecting for training, including apprenticeships.

14.02. Posting and Advertising. The CONTRACTOR agrees to post in conspicuous spaces available to employees and applicants for employment a notice setting forth the provisions of the non-discrimination clause contained in Paragraph 14.01 hereinabove. The CONTRACTOR shall, in all solicitations or advertisements for employees placed by, or on behalf of, the CONTRACTOR, state that all qualified applicants shall receive consideration for employment without regard to race, creed, color, national origin or sex. The CONTRACTOR shall incorporate the foregoing requirements of this Paragraph 14.02 in all subcontracts, if any, for services or products covered by this Contract.

15.00 TRANSFER, ASSIGNMENT OR SUBLETTING

This Contract shall not be transferred or assigned or sublet without prior written consent of the TOWN.

16.00 SAFETY MEASURES

The CONTRACTOR shall take all necessary precautions for the safety of the TOWN'S and CONTRACTOR'S employees and the general public and shall erect and properly maintain at all times all necessary vehicular and facility safeguards for the protection of workmen and the public. If necessary, the CONTRACTOR shall post signs warning against hazards in and around the site where the CONTRACTOR is furnishing Contract Items.

17.00 FAMILIARITY WITH THE CONTRACT ITEMS

The CONTRACTOR, by executing this Contract, acknowledges full understanding of the extent and character of the Contract Items required and the conditions surrounding the provision thereof. The TOWN will not be responsible for any alleged misunderstanding of the Contract Items to be furnished or completed, or any misunderstanding of conditions surrounding the performance thereof. It is understood that the execution of this Contract by the CONTRACTOR serves as the CONTRACTOR'S stated commitment to fulfill all the conditions referred to in this Contract.

18.00 ENTIRE AGREEMENT

This Contract and all exhibits hereto constitute the entire agreement and understanding between the parties relating to the subject matter herein and shall not be modified, altered, changed or amended unless in writing and signed on behalf of the parties. Each and every modification and amendment of this Contract must be in writing and signed by all of the parties hereto. Each and every waiver of any covenant, representation, warranty, or other provision of this Contract must be in writing and signed by each party whose interest is adversely affected by such waiver. No waiver granted in any one instance shall be construed as a continuing waiver applicable in any other instance.

19.00 PERMITS, LICENSES AND CERTIFICATES

The CONTRACTOR is to procure all permits, licenses, and certificates, or any such approvals of plans or specifications as may be required by federal, state and local laws, ordinances, rules, and regulations, for the proper execution and completion of the Contract Items under this Contract.

20.00 FIRE, THEFT, LOSS

The CONTRACTOR is responsible for all damage or loss by fire, theft or otherwise to materials, tools, equipment, and consumables left on TOWN property by the CONTRACTOR.

21.00 CONTRACTING AUTHORITY

The persons executing this Contract on behalf of the TOWN and the CONTRACTOR hereby personally represent and warrant to all other parties that they have been duly authorized to execute and deliver this Contract.

22.00 GOVERNING LAW

This Contract is being executed and delivered and is intended to be performed in the State of Tennessee, and the laws (without regard to principles or conflicts of law) of such state, and of the United States of America shall govern the rights and duties of the parties hereto in the validity, construction, enforcement and interpretation hereof. Any litigation brought with respect to this Contract shall be brought in a court of competent jurisdiction in Shelby County, Tennessee and the CONTRACTOR hereby consents to the jurisdiction of such courts.

23.00 OPPORTUNITY FOR REVIEW

Each party has received and had the opportunity to review this Contract, and each party has had the opportunity, whether exercised or not, to have each respective party's attorneys review this Contract; and, accordingly, the normal rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Contract.

24.00 SECTION HEADINGS

The section headings contained in this Contract are for convenience of reference purposes only and are not intended to qualify the meaning of any section and shall not affect the interpretation of this Contract.

25.00 NOTICES

All notices, demands, and requests required or permitted by this Contract shall be in writing and shall be sent by facsimile transmission, air or other courier, or hand delivery as follows:

(i) To: Town of Collierville
500 Poplar View Parkway
Collierville, TN 38017
Facsimile: (901) 457-2207

(ii) To: **[Insert Name of CONTRACTOR]**

Facsimile: () _____

Any notice, demand, or request sent by facsimile transmission shall be deemed given for all purposes under this Contract when properly transmitted by telecommunication device. Any notice, demand, or request which is hand delivered or sent by air or other courier shall be deemed given for all purposes under this Contract when received.

Any party to this Contract may change such party's address and/or telecopier number for the purpose of notices, demands and requests required or permitted under this Contract by providing written notice of such change of address to all of the parties, which change of address shall only be effective when notice of the change is actually received by the party who thereafter sends any notice, demand or request.

26.00 SEVERABILITY

If any provision of this Contract is held to be unlawful, invalid or unenforceable under present or future laws effective during the terms hereof, such provision shall be fully severable and this Contract shall be construed and enforced as if such unlawful, invalid, or unenforceable provision were not contained herein by its severance herefrom. In addition, in lieu of such unlawful, invalid or unenforceable provision, there shall be added automatically as a part hereof a provision as similar in terms to such unlawful, invalid, or unenforceable provisions as may be possible and may be lawful, valid or enforceable. Furthermore, if any provision of this Contract is capable of two constructions, one of which would render the provision void and the other which would render the provision valid, then the provision shall have the meaning which renders it valid.

27.00 NO CONSENT TO BREACH

No consent or waiver, express or implied, by any party to this Contract to or of any breach or default by the other party to this Contract in the performance by such other party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default of the same or any other obligations hereunder. Failure on the part of any party to this Contract to complain of any act or failure to act of any other party to this Contract, or to declare such party in default, irrespective of how long such failure continues, shall not constitute a waiver by the non-defaulting party of its rights hereunder.

28.00 OTHER INSTRUMENTS

The parties shall execute and deliver all other appropriate supplemental agreements and other instruments and take any other action necessary to make this Contract fully and legally effective, binding and enforceable as between the parties and as against third parties.

[Signatures to follow on next page]

WITNESS THE DUE EXECUTION HEREOF.

**TOWN OF COLLIERVILLE,
TENNESSEE**

By: _____
James Lewellen, Town Administrator

ATTEST:

By: _____
Town Clerk/Recorder

APPROVED AS TO FORM AND
CONTENT:

Director of General Services

[INSERT NAME OF CONTRACTOR]

By: _____

Its: _____

CONTRACTOR's Mailing Address:

CONTRACTOR's Telephone Number:

(_____)_____

CONTRACTOR's Facsimile Number:

(_____)_____

EXHIBIT "A"

Invitation to Quote - No. 1453

EXHIBIT "B"
CONTRACTOR'S Bid