



LEGAL NOTICE
INVITATION TO SUBMIT QUOTATIONS

The Town of Smyrna will accept quotations on annual water filtration plant chemicals. Bidders shall submit sealed quotations in the format specified in the Invitation to Submit Quotations no later than **10:30 a.m. March 29, 2017** at which time bids will be publicly opened and read aloud. No bid may be withdrawn after the scheduled closing time for a period of 90 days. Bidding documents may be obtained at Smyrna Town Hall during regular business hours or www.townofsmyrna.org. Quotations should be mailed or hand delivered to:

Rex S. Gaither
Smyrna Town Hall
Sealed Bid WTP Chemicals / March 29, 2017 @ 10:30 a.m.
315 South Lowry Street
Smyrna, TN 37167

The Town of Smyrna will not discriminate in the purchase of all goods and services on the basis of race, color, religion, sex, national origin, age, disability or any other lawfully protected classification.

Verbal quotations, faxed quotations or quotations received after the closing date will not be accepted. The Town of Smyrna reserves the right to reject any and all bids, to waive technicalities or informalities and to accept any bid deemed to be in the best interest of the Town.

BY: REX S. GAITHER
FINANCE DIRECTOR

TO BE RUN: March 15, 2017

Company

TABLE OF CONTENTS

	PAGE
SECTION I -- GENERAL INFORMATION	3
SECTION II -- SPECIFICATIONS & INSURANCE REQUIREMENTS	4
SECTION III -- PRICE QUOTATION & AGREEMENT	14
SECTION IV -- SPECIFICATION COMPLIANCE	18

SECTION I - GENERAL INFORMATION

- A. The Town of Smyrna desires to purchase annual water filtration and wastewater treatment plant chemicals for the fiscal year July 1, 2017 through June 30, 2018. Products will be ordered as needed.

Plant Locations:

Water Treatment Plant
156 Sharp Springs Road
Smyrna, TN 37167

Wastewater Treatment Plant
100 Jack Hunter Drive
Smyrna, TN 37167

- B. The Town of Smyrna reserves the right to reject any and all bids, to waive technicalities or informalities and to accept any bid deemed to be in the best interest of the Town. No bid may be withdrawn after the scheduled closing time for a period of 90 days.
- C. The bidder 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 address the full intent and meaning of each aspect of the specifications.
- D. Section III, IV and Agreement must be completed and included as an integral part of each bidders proposal. Agreement should be signed and attested, but not dated.
- E. Freight shall be paid by vendor and should be included in unit price bid.
- F. The Town is a tax exempt organization.
- G. Mail is delivered after 11:00 a.m. Monday through Friday.
- H. The Town reserves the right to select the best individual unit price.
- I. The Town of Smyrna, in accordance with Title VI of the Civil Rights Act of 1964 and Title 49, Code of Federal Regulations, hereby notifies all Bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, creed, sex, handicap or national origin in consideration for an award.
- J. Bid quotations must be submitted on the Town's quotation page(s). No exceptions.
- K. By submission of this bid, each bidder/proposer 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 Iran Divestment Act.
https://www.tn.gov/assets/entities/generalservices/cpo/attachments/List_of_persons_pursuant_to_Tenn._Code_Ann._12-12-106,_Iran_Divestment_Act-July.pdf

SECTION II - SPECIFICATIONS

The following chemicals have been approved. Equals must be approved **prior** to bid opening by the plant manager. In case of a tie, the award will be made by: (1) The vendor that is awarded other items, or (2) Recommendation of plant manager.

Water Treatment Plant Manager, Kevin Relford. Phone (615) 459-3574.

E-mail: kevin.relford@townofsmyrna.org.

Wastewater Treatment Plant Manager, Leland Noble. Phone (615) 459-6439.

E-mail: leland.noble@townofsmyrna.org.

THIS ORDER IS TO BECOME EFFECTIVE JULY 1, 2017 AND TO EXPIRE JUNE 30, 2018.

However, upon mutual agreement of both parties, the bid proposal may be renewed by the Town of Smyrna for a period of two successive one-year periods under the same price, terms, and conditions as in the original proposal.

Contract Agreement

Successful bidder will be expected to enter into a contract Agreement with the Town of Smyrna. Agreement shall be signed and attested, but not dated, by the proper business representative and submitted **with** the bid proposal. An executed contract will be forwarded to winning vendor after Council approval.

SAFETY DATA SHEET (SDS)

Pursuant to Chapter No. 184, Public Acts of 2003, manufacturers of chemical products which are the subject of purchase contracts for the Town Of Smyrna shall list and maintain a Safety Data Sheet (SDS) for such chemical products on the national MSDS search repository so that such information can be accessed by means of the Internet. For purposes of this SDS requirement, the Town Of Smyrna recognizes the following national MSDS search repository: MSDS-SEARCH, which can be accessed on the Internet at <http://www.msdssearch.com>.

INSURANCE REQUIREMENTS

The Contractor shall purchase and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

A. MINIMUM SCOPE AND LIMITS OF INSURANCE

1. Workers Compensation

Workers Compensation insurance shall be in compliance with the State of Tennessee and shall be statutory. Employers Liability shall be included with a minimum limit of \$500,000 per accident/per disease/per employee.

2. Commercial General Liability

Commercial General Liability insurance shall have a minimum limit per occurrence of \$1,000,000 and a minimum general aggregate of \$2,000,000. It shall include completed operations, product liability and personal injury liability insurance.

3. Automobile Liability

Automobile Liability Insurance shall have a minimum combined single limit per occurrence of \$1,000,000. This insurance shall include third-party bodily injury and property damage liability for owned, hired, borrowed and non-owned automobiles.

B. DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to the Town of Smyrna. The Contractor shall be responsible for all deductibles and self-insured retentions.

C. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

- a. The Town, its elected and appointed officials, agents, employees and volunteers shall be named as an additional insured as regards negligence by the contractor.
- b. The Contractor's insurance shall be primary as respects the Town, its elected and appointed officials, agents, employees and volunteers. Any insurance or self-insurance maintained by the Town of Smyrna shall be excess and non-contributory of the Contractor's insurance.

2. Workers Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the Town, its elected and appointed officials, agents, employees and volunteers for losses arising from work performed by the Contractor for the Town of Smyrna.

3. All Coverages

- a. Coverage shall not be canceled, suspended, or voided by either party (the Contractor or the insurer) or reduced in coverage or in limits except after 30 days written notice has been given to the Town of Smyrna. Ten-day written notice of cancellation is acceptable for non-payment of premium. Notifications shall comply with the standard cancellation provisions in the Contractor's policy.
- b. Neither the acceptance of the completed work nor the payment thereof shall release the Contractor from the obligations of the insurance requirements or indemnification agreement.
- c. The insurance companies issuing the policies shall have no recourse against the Town of Smyrna for payment of premiums or for assessments under any form of the policies.
- d. Replacement certificates, policies or endorsements shall be provided to the Town for any such insurance expiring prior to the completion of services.
- e. Any failure of the Contractor to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its elected and appointed officials, agents, employees and volunteers.

D. ACCEPTABILITY OF INSURERS

All required insurance shall be provided by a company or companies licensed to conduct business in the State of Tennessee. Insurance shall be underwritten by insurers with an A.M. Best Company ratings no less than an A.

E. VERIFICATION OF COVERAGE

The Contractor shall furnish the Town with Certificates of Insurance reflecting proof of required coverage. The Certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. **The Certificates are to be received and approved by the Town before work commences and upon any contract renewal thereafter.**

Upon failure of the Contractor to furnish, deliver and maintain such insurance as requested, this contract, at the election of the Town, may be suspended, discontinued or terminated. Failure of the Contractor to purchase and/or maintain any required insurance shall not relieve the Contractor from any liability or indemnification under the contract.

The Certificate of Insurance naming the “Town of Smyrna” as **Additional Insured** shall be addressed to the attention of:

Town of Smyrna
Department of Safety & Risk Management
ATTN: Kay Charles
315 S Lowry St
Smyrna, TN 37167

The Town reserves the right to request complete certified copies of all required insurance policies at any time.

F. SUBCONTRACTORS

Contractor shall include all subcontractors as insureds under its policies **OR** shall be responsible for verifying and maintaining the Certificates provided by each subcontractor. Subcontractors shall be subject to all of the requirements stated herein. The Town of Smyrna reserves the right to request copies of subcontractor’s Certificates at any time.

G. WORKERS’ COMPENSATION INDEMNITY

In the event Contractor is not required to provide or is exempt from providing workers’ compensation coverage, the parties hereby agree that Contractor, its owners, agents and employees will have no cause of action against, and will not assert a claim against the Town of Smyrna, its elected and appointed officials, agents, employees and volunteers, under any circumstances. The parties also hereby agree that the Town of Smyrna, its elected and appointed officials, agents, employees and volunteers shall in no circumstance be, or considered as, the employer or statutory employer of Contractor, its owners, agents and employees. The parties further agree that Contractor is a wholly independent contractor and is exclusively responsible for its employees, owners, and agents. Contractor hereby agrees to protect, defend, indemnify and hold the Town of Smyrna, its elected and appointed officials, agents, employees and volunteers harmless from any such assertion or claim that may arise from the performance of this contract.

HOLD HARMLESS AND INDEMNITY REQUIREMENT:

Contractor shall indemnify and hold harmless, to the maximum extent permitted by law, the Town of Smyrna and its officers, agents, employees, volunteers, from and against any and all liability, damages, losses, (whether in contract or in tort, including personal injury, accidental death or property damage, and regardless, of whether the allegations are false, fraudulent or groundless), and costs (including reasonable attorney's fees, litigation, arbitration, mediation, appeal expenses) which in whole or in part are caused by the negligence, recklessness or intentional wrongful misconduct of the Contractor and persons employed by or utilized by the Contractor in Contractor's performance of this Agreement.

The contractor further agrees to protect, defend, and save the Town, its elected and appointed officials, agents, employees and volunteers while working in the scope of their duties as such, harmless from and against all claims, demands, and causes of action of any kind of character, including the cost of their defense, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death or damage to property arising out of services performed or omissions of services or in any way resulting from the acts of omissions of the contractor and/or its agents, employees, subcontractors, representative of the Town under this agreement.

Pursuant to Tennessee Attorney General Opinion 93-01, the Town will not indemnify, defend or hold harmless in any fashion the Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that the Contractor may provide.

APPLICABLE LAW:

Any contract resulting from this ISQ shall be governed by and construed under the laws of the State of Tennessee.

Water Treatment Plant

1. **Calcium Oxide (quick lime)** for the water plant is a direct additive used in the treatment of potable water. **The material must meet NSF/ANSI Standard 60 and AWWA Standard B202 (latest revision), including requirement for slake test (see Section 4.3 of standard; material must rise a minimum of 40°C within first 3 minutes of reactivity test) and shall be suitable for pneumatic unloading by the hauler.**

Samples of product submitted for this bid may be requested for slake testing prior to approval. The material shall be homogenous and in granular form, uniform particle size #10 Mesh X 0". The material shall be free from dirt, fibers, lint, chips, trash, or other foreign matter. The material shall be available for inspection by the purchaser at the point of destination before offloading material is approved. The Company supplying Calcium Oxide will be responsible for cleanup of any spills occurring during chemical transfer from tanker truck to silo that results from faulty methods/equipment or delivery operator error during transfer of the chemical from the tanker truck to the fill line connection to include disregard of high level alarm. A Certificate of Analysis (COA) of compliance with this specification and AWWA standard is required with each load and must be supplied prior to offloading each delivery. All shipments must be accompanied with a certified weight certificate.

Delivery Information

Silo Capacity	70 Ton Working Capacities
Fill Connection	4" Male Camlock Fitting
Off Loading Air	Air must be provided on truck
Length of Hose Required	40 feet (minimum)

Typical Properties (Chemical)

Average (%)

Loss on Ignition (LOI)	1.74
Carbon Dioxide (CO ₂)	0.59
Sulfur (S)	0.048
Available Calcium Oxide	92.99
Calcium Oxide (CaO)	96.99 by weight or greater
Magnesium Oxide (MgO)	0.84
Silica (SiO ₂)	0.96
Ferric Oxide (Fe ₂ O ₃)	0.27
Alumina (Al ₂ O ₃)	0.29
Heavy Metals	0% by weight

Typical Properties (Physical)

Size	>95% Passing #10 Mesh
30 Second Heat Rise	14.9° C rise
3 Minute Heat Rise	Min 40° C rise
Total Active Slaking Time	< 5 minutes
Residue	0.23% (Max 0.50%)

Purchase Quantities:	Bulk (24 tons)
Estimated Annual Usage:	1,300 tons

2. **CALCIUM THIOSULFATE** for the water plant shall be used for de-chlorination of waste membrane cleaning solutions. Material shall be **BSP CAPTOR** or approved equal. The material must meet NSF/ANSI Standard 60. The material shall be available for inspection by the purchaser at the point of destination before offloading material is approved. An affidavit of compliance with this specification is required with each load. All shipments must be accompanied with a certified weight certificate.

Delivery Information

Tank Capacity	1500 Gal Working Capacity
Fill Connection	2" Male Camlock Fitting
Off Loading Air	Air must be provided on truck
Length of Hose Required	40 feet (minimum)

Typical Properties:

Form:	Liquid
Calcium Thiosulfate:	30% by weight
Color:	Clear to near clear
Specific Gravity:	1.245
pH	6.5 to 8.0
Density:	10.40 lbs/gal

Purchase Quantities: 10,370 lbs. (1,000 gallons)

Estimated Annual Usage: 43,554 lbs. (4,200 gallons)

3. **CITRIC ACID** for the water plant shall be used in the cleaning of microfiltration membranes used in the treatment process. The material must meet NSF/ANSI Standard 60. The material shall be available for inspection by the purchaser at the point of destination before offloading material is approved. An affidavit of compliance with this specification is required with each load. All shipments must be accompanied with a certified weight certificate.

Delivery Information

Tank Capacity	1500 Gal Working Capacity
Fill Connection	2" Male Camlock Fitting
Off Loading Air	Air must be provided on truck
Length of Hose Required	40 feet (minimum)

Typical Properties:

Form:	Liquid
Citric Acid:	50% by weight
Color:	Clear
Specific Gravity:	1.24 – 1.26
Density:	10.4 – 10.5 lbs/gal
pH:	Lower than 2.5 S.U.

Purchase Quantities: 10,460 lbs. (1,000 gallons)

Estimated Annual Usage: 50,000 lbs. (4,780 gallons)

4. **SODIUM PERMANGANATE** for the water plant is a direct additive used in the treatment of potable water. Material shall be Carus Carusol liquid permanganate; no exceptions shall be allowed. The material must meet NSF/ANSI Standard 60 and AWWA Standard B603 (latest revision). The material shall be available for inspection by the purchaser at the point of destination before offloading material is approved. An affidavit of compliance with this specification and the AWWA standard is required with each load. All shipments must be accompanied with a certified weight certificate.

Delivery Information

Mini-Bulk deliveries to be offloaded in 750 gallon tank inside building. Access road to chemical building does not allow larger tanker trucks a place to turn around.

Typical Properties:

Form:	Liquid
Sodium Permanganate:	20% by weight
Color:	Dark purple
Specific Gravity:	1.15 – 1.17
pH	5.0 to 8.0
Density:	9.67 lbs/gallon
Purchase Quantity:	500 Gallons (4835 lbs.)
Estimated Annual Usage:	3000 Gallons (29,000 lbs.)

5. POLYALUMINUM HYDROXYCHLORIDE -

Polyaluminum hydroxychloride (PAC) is a clear to amber colored liquid. It is an advanced cationic coagulant and flocculent suitable for industrial and municipal water and wastewater treatment applications. A copy of the manufacturer's specifications and MSDS sheets **must** be submitted **prior** to bid time. All equivalents must be approved by the Water Plant Manager, Kevin Relford **prior** to the bid. The Town of Smyrna reserves the right to change coagulant chemicals at any time based on the quality of water and/or cost of chemicals. A Certificate of Analysis (COA) of compliance with this specification and AWWA standard is required with each load and must be supplied prior to offloading each delivery. All shipments must be accompanied with a certified weight certificate.

PAC – MUST BE ANSI/NSF STANDARD 60: DRINKING WATER CHEMICALS-HEALTH EFFECTS; CERTIFIED. ALL RAW MATERIALS USED TO MANUFACTURE PAC – MUST BE FROM VIRGIN MATERIALS.

Product Uses

Removal of turbidity, color, suspended solids, and phosphorous in both municipal and industrial water and wastewater systems. Sludge compaction and volume reduction. Lagoon treatment. Oily wastewater clarification and dissolved air flotation. Emulsion breaking.

Shipping Containers

Bulk transport - 4500 gallons or full truckload.

Samples

A sample of the product must be collected on-site and collected in the presence of a Town of Smyrna water plant employee. No chemical will be off loaded until this is complete.

Shipping regulations

DOT Classification: Corrosive Liquid, Acidic, Inorganic, N.O.S.

Delivery Information

Tank Capacity	12,000 Gal Working Capacity
Fill Connection	2" Male Camlock Fitting
Off Loading Air	Air must be provided on truck
Length of Hose Required	40 feet (minimum)

Typical Properties - PAC 4090 or EC409LB

Composition:	Aqueous solution of polyaluminum hydroxychloride
C.A.S.:	1327-41-9 (polyaluminum hydroxychloride)
pH (neat)	1.4 - 2.4
Specific Gravity @ 70F	1.34 - 1.40
Freezing Point	0° F (-18°C)
Density, LB/gal.	11.4 - 11.7
Aluminum as Al, %	11.9 - 12.4
Aluminum as Al ₂ O ₃ , %	22.5 – 23.5
Basicity, %	70 – 75
Turbidity, NTU	50.0 MAX
Purchase Quantities:	Bulk (4200 gallons – 24 Tons)
Estimated Annual Usage:	430 tons

6. **SODIUM CARBONATE (SODA ASH)** for the water plant is a direct additive used in the treatment of potable water. The material must meet NSF/ANSI Standard 60 and AWWA Standard B201 (latest revision). The material shall be homogenous dense soda ash and in granular form. The material shall be free from dirt, fibers, lint, chips, trash, or other foreign matter. The material shall be available for inspection by the purchaser at the point of destination before offloading material is approved. An affidavit of compliance with this specification and the AWWA standard is required with each load. All shipments must be accompanied with a certified weight certificate.

Typical Properties:

Sodium Carbonate:	99% by weight or greater
Density:	56.2 to 68.7 lbs/ft. ³

Purchase Quantities:	2,000 lb. (super sack)
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Estimated Annual Usage:	20 tons
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7. **SODIUM HYPOCHLORITE 12.5% CHLORINE**

Solution shall be ordered as needed. Content shall be 12.5% Sodium Hypochlorite (actual available chlorine). The material must meet NSF/ANSI Standard 60 and AWWA Standard B300 (or latest revision). Chemical weight per gallon shall be approximately 10.26 (lbs/gal). Quotations shall be in price per pound and price per gallon. Any other quotation shall be considered non-responsive and disqualified. A Certificate of Analysis (COA) of compliance with this specification and AWWA standard is required with each load and must be supplied prior to offloading each delivery. All shipments must be accompanied with a certified weight certificate.

Delivery Information

Tank Capacity	12,000 Gal Working Capacity
Fill Connection	2" Male Camlock Fitting
Off Loading Air	Air must be provided on truck
Length of Hose Required	40 feet (minimum)

Typical Properties:

Sodium Hypochlorite:	12.5% by weight, Min / 15.62% Max
Available Chlorine	11.90% by weight, Min / 14.88% Max
Excess Caustic:	2.0% by weight Max

Purchase Quantity:	4,500 gal. Bulk
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Estimated Annual Usage:	23 tons
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Waste Water Treatment Plant

8. **EMULSION POLYMER** for the Waste Water Treatment Plant shall be Stockhausen Praestol 290 FLX, CLARIFLOC (R) CE-1546 or approved equals. Any other bids must have a performance test conducted at the Waste Water Treatment Plant before the day of the bid opening. The polymer shall be purchased in 55 gallon barrels or 240 gallon totes. All bids must include type of container and delivered price. Deliveries shall be on site no longer than one week after ordering.

9. **LIQUID ALUMINUM SULFATE** for the Waste Water Treatment Plant shall be 48.5% as Alum. Chemical shall be delivered in quantities of 1,600 gallons. Performance testing is required. Vender shall supply 2,500 gallon storage tank.

SECTION III - PRICE QUOTATION

1. **CALCIUM OXIDE** **UNIT PRICE DELIVERED**
Bulk (24 tons) \$ _____ lb.
Manufacturer _____
Delivery Date ARO _____

2. **CALCIUM THIOSULFATE** **UNIT PRICE DELIVERED**
Bulk (10,370 lbs., 1,000 gallons) \$ _____ lb.
Manufacturer _____
Delivery Date ARO _____

3. **CITRIC ACID** **UNIT PRICE DELIVERED**
Bulk (10,460 lbs., 1,000 gallons) \$ _____ lb.
Manufacturer _____
Delivery Date ARO _____

4. **SODIUM PERMANGANATE** **UNIT PRICE DELIVERED**
Bulk (500 gallons, 4835 lbs.) \$ _____ lb.
Manufacturer _____
Delivery Date ARO _____

5. **POLYALUMINUM HYDROXYCHLORIDE** **UNIT PRICE DELIVERED**
Bulk (WTP- 4200 gallons – 24 tons) \$ _____ lb.
Manufacturer _____
Delivery Date ARO _____

6. **SODIUM CARBONATE** **UNIT PRICE DELIVERED**
Bulk (WTP- 4200 gallons – 24 tons) \$ _____ lb.
Manufacturer _____
Delivery Date ARO _____

PRICE QUOTATION CONTINUED

7. SODIUM HYPOCHLORITE

UNIT PRICE DELIVERED

Bulk (4,500 gallons bulk)

\$ _____ lb.

Manufacturer

Delivery Date ARO

Waste Water Treatment Plant

8. EMULSION POLYMER

UNIT PRICE DELIVERED

Bulk

\$ _____ lb.

Manufacturer

Delivery Date ARO

9. LIQUID ALUMINUM SULFATE

UNIT PRICE DELIVERED

Bulk

\$ _____ lb.

Manufacturer

Delivery Date ARO

*****Hours of delivery are between 8:00 AM and 3:30PM CST for the Smyrna WTP.**



AGREEMENT

This Agreement is made and entered into as of this ____ day of _____, 2017, by and between _____, a _____ (the “Bidder”) and the Town of Smyrna, Tennessee, a Tennessee municipal corporation (the “Town”) for the purpose of **Water and Wastewater Treatment Plant Annual Chemicals.**

WHEREAS, the Bidder has submitted a quotation for the provision of certain products and/or services to the Town, all in accordance with the terms of the Invitation to Submit Quotations attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit A (the “ISQ”), and which Quotation from the Bidder is attached hereto and incorporated herein by reference as if set forth at length verbatim as Exhibit B (the “Quotation”); the ISQ and the Quotation, together with any and all ancillary documents thereto, shall be collectively referred to herein as the “Bid Documents”); and

WHEREAS, the Town now desires to accept the Bidder’s quotation, in accordance with the terms set forth in such Bid Documents.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned do hereby agree as follows:

1. Acceptance of Bid Documents. The terms of the Bid Documents, as incorporated herein by reference, are hereby accepted by the parties hereto. The Bidder hereby agrees to provide the goods and/or services contemplated by such Bid Documents in accordance with the terms set forth therein. The Town hereby accepts the Bidder’s quotation to provide the goods and/or services contemplated by such Bid Documents in accordance with the terms set forth therein.

2. Entire Agreement. This Agreement, including the exhibits and any other documents referred to herein or therein, which form a part hereof, contains the entire understanding of the parties with respect to its subject matter. There are no restrictions, agreements, promises, warranties, covenants or undertakings other than those expressly set forth herein or therein. This Agreement supersedes all prior written or oral agreements and understandings between the parties with respect to its subject matter and may not be altered, modified or amended, in whole or in part, except by the express written authorization and consent of the parties hereto.

3. Severability. This agreement constitutes the product of negotiations of the parties hereto and any enforcement of hereof will be interpreted in a neutral manner and not more strongly against any party based upon the source of the draftsmanship of this Agreement. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions hereof shall continue to be fully effective.

4. Limitation of Liability. The Town of Smyrna shall not be liable for any loss, claim, expense or damage caused by, contributed to by or arising out of the acts or omission of Bidder or third parties, whether negligent or otherwise.

5. Warranties. The Bidder warrants to the Town that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects, suitable for the purpose for which the materials and equipment are furnished, and in conformance with the Agreement. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.

6. Governing Law. This Agreement shall be deemed to have been executed and delivered within the State of Tennessee, and the rights and obligations of the parties shall be construed and enforced in accordance with, and governed by, the laws of the State of Tennessee.

7. Applicable Law / Choice of Forum and Venue. The parties' choice of forum and venue shall be exclusively in the courts of Rutherford County, Tennessee. Any provision of the Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth above.

BIDDER:

By: _____

Title: _____

ATTEST:

TOWN OF SMYRNA, TENNESSEE

By: _____

Name: Mary Esther Reed

Title: Mayor

ATTEST:

Dianne Waldron, Town Clerk

