

CITY OF FRANKLIN, TENNESSEE PROCUREMENT AGREEMENT

(City of Franklin Contract No. 2015-0329)

THIS PROCUREMENT AGREEMENT (“AGREEMENT”) is by and between the City of Franklin, Tennessee (“CITY”), and ESC Lab Sciences (a.k.a., Environmental Science Corp.) of Mt. Juliet, Tennessee (“VENDOR”), who mutually agree as follows:

1. CITY issued (a) on August 20, 2015 Purchasing Office Solicitation No. 2016-005 through 2016-007, a procurement solicitation for bids for performance upon demand of certain wastewater treatment laboratory contract services for the specified term of award, and (b) on September 2, 2015 Addendum No. 1 to Purchasing Office Solicitation No. 2016-005 through 2016-007 (collectively, “SOLICITATION”).
2. In response to CITY’s SOLICITATION, VENDOR submitted a bid dated September 21, 2015 (“SUBMITTAL”), a copy of that portion of which pertains to aquatic toxicity (biomonitoring) testing (Purchasing Office Solicitation No. 2016-006; “BID FOR PERTINENT SERVICES”) is attached hereto as Attachment No. 1 and hereby incorporated by reference as if fully set forth herein.
3. VENDOR has now also submitted a Certificate of Insurance (“CERTIFICATE OF INSURANCE”), a copy of which is attached hereto as Attachment No. 2 and hereby incorporated by reference as if fully set forth herein, that meet or exceed CITY’s Insurance Requirements as specified in SOLICITATION.
4. If and when insurance coverage documented by CERTIFICATE OF INSURANCE expires before the expiration of any specified term of award, including any extensions thereto, or the supply, delivery and acceptance of the ordered products and/or services, pursuant to this AGREEMENT, then VENDOR shall immediately suspend work or supply and delivery unless and until it provides one or more unexpired replacement certificates of insurance that indicates the new date(s) of insurance coverage expiration and that meets or exceeds CITY’s Insurance Requirements as specified in SOLICITATION.
5. In the event that insurance coverage documented by CERTIFICATE OF INSURANCE is materially modified or canceled before the expiration of any specified term of award, including any extensions thereto, or the supply, delivery and acceptance of the ordered products and/or services, pursuant to this AGREEMENT, then VENDOR shall, immediately upon learning of any such material modification or cancellation, suspend work or supply and delivery and shall, within three (3) calendar days of such learning, notify CITY of any such material modification or cancellation.
6. VENDOR agrees to impose CITY’s insurance requirements upon any subcontractors it utilizes for this procurement. Use of any particular subcontractor for this procurement shall have been approved by CITY in advance of that subcontractor commencing work for this procurement.
7. VENDOR included CITY’s Indemnification Agreement, executed for VENDOR, in SUBMITTAL.

CITY OF FRANKLIN, TENNESSEE PROCUREMENT AGREEMENT

(City of Franklin Contract No. 2015-0329)

8. VENDOR included "ESC Lab Sciences Standard Terms and Conditions" in SUBMITTAL, a document which is hereby replaced in its entirety by the version modified to be mutually acceptable ("ESC LAB SCIENCES STANDARD TERMS AND CONDITIONS MODIFIED FOR COF CONTRACT NO. 2015-0329") and attached hereto as Attachment No. 3 and hereby incorporated by reference as if fully set forth herein.
9. CITY hereby awards to VENDOR upon execution by CITY of this AGREEMENT the purchase of aquatic toxicity (biomonitoring) testing pursuant to SOLICITATION, BID FOR PERTINENT SERVICES, CERTIFICATE OF INSURANCE, and ESC LAB SCIENCES STANDARD TERMS AND CONDITIONS MODIFIED FOR COF CONTRACT NO. 2015-0329.
10. The term of award shall commence upon execution by CITY of this AGREEMENT and shall expire June 30, 2017. At any time after commencement but before or as soon as practicable after the expiration of this term of award, CITY and VENDOR may, by mutual consent, exercise not more than three (3) options to extend the term of award, each time for up to one (1) additional year, provided: (a) that both parties consent to such an extension at that time; (b) that the decision to exercise such an extension is memorialized in writing and is executed by authorized representatives of each party; (c) that the same terms and conditions that apply to the original term of award shall also apply to such an extension, including unit pricing indicated in BID FOR PERTINENT SERVICES; and (d) that if VENDOR chooses not to consent to an extension to the term of award, then it shall notify CITY of that decision a minimum of six (6) months in advance of the scheduled expiration of the term of award. Note that CITY and VENDOR each specifically retain the non-exclusive right, with or without cause, not to extend the term of award.
11. In the event of a conflict between the following documents, the order of precedence shall be as follows: (a) this AGREEMENT; (b) SOLICITATION; (c) ESC LAB SCIENCES STANDARD TERMS AND CONDITIONS MODIFIED FOR COF CONTRACT NO. 2015-0329; and (d) BID FOR PERTINENT SERVICES.

EXECUTED THIS _____ DAY OF _____ 20__.

For VENDOR:



(signature of VENDOR's authorized representative)

TITLE: Chief Financial Officer

For CITY:

(signature of CITY's authorized representative)

TITLE: City Administrator

Approved as to Form:

Attorney for City of Franklin

CITY OF FRANKLIN, TENNESSEE
PROCUREMENT AGREEMENT
(City of Franklin Contract No. 2015-0329)

Attachment No. 1

BID FOR PERTINENT SERVICES



City of Franklin, TN
Solicitation Nos. 2016-005 and 2016-006
Wastewater Treatment Lab Services

Bid Opening Date: September 10, 2015, 2:00 PM Central Time

Original

12065 Lebanon Road, Mt. Juliet TN 37122 (800) 767-5859
www.esclabsciences.com



One Lab Nationwide

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- 10 Affidavit of Drug-Free Work Place
- 11 Affidavit of Title VI Compliance
- 12 Digital Copy of Bid Submittal

One Lab Nationwide



Bid Submittal Form

a form required of Bidders and Proposers on purchases of supplies, materials, equipment and services for the
City of Franklin, Tennessee

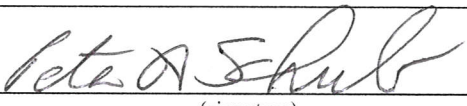
Purchasing Office Solicitation No.: 2016-005 through 2016-007

Vendor's name, street address, and mailing address:	ESC Lab Sciences <hr/> 12065 Lebanon Road <hr/> Mt. Juliet, TN 37122 <hr/> PO Box 5003, Lebanon TN 37088-5003 (Remittance only)
Vendor's contact person's name (printed), title, telephone number and e-mail address:	Travis Johnson <hr/> Sales Representative <hr/> 615-519-0752 <hr/> tjohnson@esclabsciences.com
Does the bidder take any exceptions to the City's procurement solicitation?	<input type="checkbox"/> Yes, see enclosed. <input checked="" type="checkbox"/> No, bidder takes no exceptions.
Are exceptions, if any, to the City's procurement solicitation listed separately, described, compared to the City's intention as expressed and implied by the City's solicitation documents and submitted?	<input type="checkbox"/> Yes, see enclosed. <input checked="" type="checkbox"/> No, bidder takes no exceptions.
Total quoted all-inclusive estimated bid price for all specified services for a twelve (12) month period (vendors are invited to bid on any or all of the specified contract services):	
Industrial pretreatment sampling and testing, and Water Reclamation Facility influent and effluent testing (City of Franklin Purchasing Office Solicitation No. 2016-005):	\$ 39,964.00
Aquatic toxicity (biomonitoring) testing (City of Franklin Purchasing Office Solicitation No. 2016-006):	\$ 4,400.00
Annual stream bioassay sampling, testing and identification (City of Franklin Purchasing Office Solicitation No. 2016-007):	\$ No Bid
Are the City's preferred delivery terms (FOB destination, freight prepaid and added) acceptable to bidder?	<input checked="" type="checkbox"/> Yes. <input type="checkbox"/> No, bidder requests the following delivery terms: _____
Are the City's preferred payment terms (net 30 days from date of delivery or date of invoice, whichever is later) acceptable to bidder?	<input checked="" type="checkbox"/> Yes. <input type="checkbox"/> No, bidder requests the following payment terms: _____

Bid Submittal Form

a form required of Bidders and Proposers on purchases of supplies, materials, equipment and services for the
City of Franklin, Tennessee

Purchasing Office Solicitation No.: 2016-005 through 2016-007

Vendor's name:	ESC Lab Sciences
Last date (no sooner than December 31, 2015) that bid and associated pricing is valid and may be accepted by the City:	June 20, 2017
Method of payment – The City prefers to pay its vendors electronically, either by direct deposit (i.e., “ACH” or “Electronic Funds Transfer”), or by Visa credit card, rather than by conventional check. Which payment method would the bidder prefer?	<input type="checkbox"/> ACH or Electronic Funds Transfer. <input checked="" type="checkbox"/> Visa credit card.
Are the following components included with this Bid Submittal Form in the bid submittal? <ul style="list-style-type: none"> Detailed vendor-supplied description of bid product(s) and/or service(s); City of Franklin specifications for this procurement, marked by the bidder as to compliance therewith as per the instructions therein; Detailed vendor-supplied identification, listing and description of any exceptions to the written specifications as per the instructions therefor; Vendor-supplied contact information for minimum of three references; City of Franklin Standard Procurement Terms and Conditions, with the vendor's contact information inserted; Vendor's proposed terms and conditions, if any, that are not inconsistent with the City's Standard Procurement Terms and Conditions; City of Franklin Affidavit of Non-Collusion, executed in full; If bidder employs not less than five employees, then City of Franklin Affidavit of Drug-Free Workplace, executed in full; City of Franklin Affidavit of Title VI Compliance, executed in full; and A complete digital copy of submitted bid documents per the Instructions for Bidders. 	<input checked="" type="checkbox"/> Yes, see enclosed. <input type="checkbox"/> No, bidder chooses <u>not</u> to include all of these components (WARNING: doing so may cause the City to deem the bid non-responsive).
Acknowledge any and all issued addenda to this solicitation: (Prior to submitting its bid, it is the responsibility of each potential bidder to determine whether any addenda to this procurement solicitation have in fact been issued by the City.)	<input type="checkbox"/> Addendum No. _____. <input type="checkbox"/> Addenda Nos. _____. <input checked="" type="checkbox"/> No addenda.
Signature of bidder's authorized representative: I have obtained and read, and do understand and consent, to all instructions, terms and conditions, including those imposed by reference, which apply to this procurement solicitation and compliance with which is required as a condition precedent to consideration of the bid submitted herewith.	 _____ (signature)
Title of bidder's authorized representative:	CEO
Date of signature: <i>Pete A. Schulz - 9-9-15</i>	September 9, 2015



12065 Lebanon Rd.
 Mt. Juliet, TN 37122
 Ph.: (800) 767-5859
 Fax: (615) 758-5859

Internet: www.envsci.com

Quote: FRANKTN090915S2
 REP: Travis Johnson (615) 519-0752 tjohnson@esclabsciences.com
 Lab: Shain Schmitt (615) 773-7549 sschmitt@esclabsciences.com

City of Franklin

Purchasing - City Hall, Suite 107, 109 Third Avenue South
 Franklin, TN 37064

Email: purchasing@franklintn.gov

Phone: 615-550-6692

Project: Solicitation No. 2016-006 Aquatic Toxicity (Biomonitoring) Testing; final Effluent, Outfall 001

Matrix: Wastewater

Payment Terms: Net 30 Days

Date: September 9, 2015 Quote Exp. Date: June 30, 2017

Parameter	Method	Cost/Sample	
Minimum Biomonitoring Requirements - Chronic			
11.3.1.1.1	C.dubia 5 dilutions	1002.0	\$550.00
	P.promelas 5 dilutions	1000.0	\$550.00
	Total Per Quarter		\$1,100.00
		x 4 quarters	\$4,400.00
		Annual Cost	\$4,400.00

Notes:

- * Per requirements listed in Solicitation No. 2016-006

Prices quoted reflect a 10 to 14 working day turnaround and include the following service options:

- * All necessary sampling containers, coolers, and preservatives.
- * Pre-printed labels and chain of custody forms.
- * Data delivery via email or secure web access. Additional \$5.00 per set charge applicable for hard copies.
- * Email notification of sample login.
- * On-Line Data Management.

Please reference your job number and/or job name on chain of custody along with the ESC quote number, or attach copy of this quote with chain of custody upon submittal of samples to laboratory. FRANKTN090915S2

If you have any technical questions, or would like to place an order for bottles, please contact Shain Schmitt

ESC's Terms & Conditions are now available on our website! Please visit www.esclabsciences.com and click on the "About Us" section. If you have any questions, please feel free to contact sales_service@esclabsciences.com.

City of Franklin Specifications

Purchasing Office Solicitation No.: 2016-005 through 2016-007

1. Solicitation identified: These specifications apply to the following procurement:
performance upon demand of each of the following wastewater treatment laboratory contract services for the specified term of award: (A) industrial pretreatment sampling and testing, Water Reclamation Facility influent and effluent testing, and testing of river samples (Purchasing Office Solicitation No. 2016-005); (B) aquatic toxicity (biomonitoring) testing (2016-006); and (C) annual stream bioassay sampling, testing and identification (2016-007); each being bid independently

Purchasing Office Solicitation No.: 2016-005 through 2016-007

2. Notice to Bidders publication date: **August 20, 2015**
3. Solicitation release date: **August 20, 2015**
4. Deadline for optional submittal in writing of questions seeking to revise or clarify any aspect of this procurement solicitation: **September 1, 2015, 2:00 p.m. Central Time**
5. Bids submittal deadline and scheduled opening: **September 10, 2015, 2:00 p.m. Central Time**
6. Tentative date of release of City's tabulation of bids received and notice of intent to award: **October 9, 2015**
7. Tentative date of award: Meeting of Board of Mayor and Aldermen at which is tentatively scheduled to be awarded the selection of the lowest and best responsive and responsible bid: **November 10, 2015**
8. Objective: To secure, by means of a competitive procurement process, the selection of the least expensive responsive and responsible bid from a vendor to furnish all labor, materials and means necessary to supply and perform for the City of Franklin Water Reclamation Facility, 135 Claude Yates Drive, Franklin, TN 37064, the following three (3) specified wastewater treatment laboratory contract services for the specified term of award:
- industrial pretreatment sampling and testing, Water Reclamation Facility influent and effluent testing, and testing of river samples (Purchasing Office Solicitation No. **2016-005**);
 - aquatic toxicity (biomonitoring) testing (Purchasing Office Solicitation No. **2016-006**); and
 - annual stream bioassay sampling, testing and identification (Purchasing Office Solicitation No. **2016-007**).

City of Franklin Specifications

Purchasing Office Solicitation No.: 2016-005 through 2016-007

All three (3) specified contract services are being bid out simultaneously, but each specified contract service is being bid out separately from and independently of the others. Vendors are invited to submit bids for any or all of the specified contract services. See the accompanying Instructions for Bidders for additional information and instructions.

9. Exceptions:

- a. In order to avoid the need to take an exception to a specification, potential bidders may request revisions to the specifications before the deadline for optional submittal in writing of questions seeking to revise or clarify any aspect of the specifications. See the accompanying Instructions for Bidders for contact information.
- b. Any deviation or variance from the City's specifications shall be considered to be an exception.
- c. Any exceptions to the City's specifications shall be identified by the bidder on the City's specifications document as well as listed and described in detail, along with any other exceptions to this procurement solicitation, in a separate written document to be prepared and submitted by the bidder, referencing any subsection number. Such listing shall include a description of exactly how such exceptions deviate from the City's expectations as expressed and implied by the procurement solicitation, and shall indicate why such exceptions should be judged by the City to meet or exceed those expectations. Any and all exceptions to this procurement solicitation which the City, in its sole discretion, deems not to meet or exceed the City's intention as expressed and implied by the procurement solicitation may be considered by the City as a factor in evaluating the bid.

10. General terms and conditions:

- a. Bid price. The bid price shall include the cost of all equipment, labor, insurance coverages, materials and delivery and/or freight charges, and any required trade and/or contractor license fees, business license fees and construction and/or building permit(s), necessary to render the specified service(s).
- b. Licenses and permits. The successful bidder shall obtain all required licenses and permits, in accordance with applicable state and local codes, necessary to render the specified service(s), and shall pay any fees therefor, including but not limited to: trade and/or contractor licenses; state, county and/or city business licenses; and construction and/or building permits.
- c. Delivery terms. As a matter of practice, the City of Franklin expects the successful bidder to ship any and all deliverables FOB destination, freight prepaid and added. The City's preferred delivery terms, as described in the preceding sentence, are offered to the bidder or proposer as a condition of award. If the City's preferred delivery terms are unacceptable to the bidder or proposer, then the bidder or proposer shall indicate on the Submittal Form its preferred delivery terms. Delivery terms may be a factor in the City's selection criteria. Delivery terms are non-negotiable after award is made.

City of Franklin Specifications

Purchasing Office Solicitation No.: 2016-005 through 2016-007

- d. Payment terms. As a matter of practice, the City of Franklin pays for goods and/or services only after receipt and acceptance by the City of such goods and/or services, and only after receipt of an accurate, proper, complete and itemized invoice for such goods and/or services, net 30 calendar days from date of delivery and/or completion/installation/rendering or date of invoice, whichever is later. The City's preferred payment terms, as described in the preceding sentence, are offered to the bidder or proposer as a condition of award. If the City's preferred payment terms are unacceptable to the bidder or proposer, then the bidder or proposer shall indicate on the Submittal Form its preferred payment terms. Payment terms may be a factor in the City's selection criteria. Payment terms are non-negotiable after award is made.
- e. Applicable laws and regulations. All applicable federal and state laws, city ordinances, orders, rules and regulations of all authorities having jurisdiction over the specified service(s) shall apply to the quoted purchase price, and they will be deemed to be included in these specifications the same as though they are written out in full herein.
- f. Use of subcontractors. The successful bidder may subcontract any portion of the award but only with the prior consent of the City. Requirements for references and insurance shall apply to any subcontractor.
- g. Safe work area. The successful bidder will be expected to utilize best practices to minimize the risk of personal injury to the public, City personnel and employees of the bidder and/or the bidder's subcontractors, if any.
- h. Other documents to be required of successful bidder. See the accompanying "Instructions for Bidders" for a listing of other documents to be required of the successful bidder.
- i. Damages. The successful bidder shall be responsible for any damages it causes in the course of performing the specified service(s), including to existing utilities, underground irrigation, concrete, asphalt, buildings, or grounds, and shall repair or replace any damaged property to the satisfaction of the City of Franklin at its own expense.
- j. Standard Procurement Terms and Conditions. By submitting its bid, the vendor certifies that it has read and accepts all terms, conditions and requirements of this solicitation, including the terms and conditions identified and listed in the City of Franklin Standard Procurement Terms and Conditions attached hereto and hereby incorporated by reference.
- k. Refusal to honor submittal. If and after an award is made by the City, if the vendor refuses to execute an agreement or contract or in any other way honor the terms and conditions of its submittal, the City shall be entitled to seek compensation for its damages, which may include the cost of conducting a new solicitation.
- l. Confidential and/or proprietary information; trade secrets. All contents of all submittals are subject to public disclosure and shall not contain any confidential and/or proprietary information and/or trade secrets. Further, by submitting its bid, the vendor indemnifies and holds the City of Franklin harmless against any loss or damage, including reasonable attorney fees, it may incur as a result of the City's reliance upon

City of Franklin Specifications

Purchasing Office Solicitation No.: 2016-005 through 2016-007

the vendor's representation that materials supplied by the vendor do not contain trade secrets or proprietary information which is not subject to public disclosure.

- m. Drug-free workplace. The City is requiring bidders for this procurement solicitation who employ five (5) or more employees to include, as a required component of a complete bid submittal, the City's Affidavit of Drug-Free Workplace, executed in full, and to attest that the bidder operates a drug-free workplace program or other drug or alcohol testing program with requirements at least as stringent as that of the program operated by the City. The City operates, at the time of issuance of this procurement solicitation, a drug-free workplace program that is certified under T.C.A. § 50-9-101 et seq. The City's drug-free workplace program may be described as follows:

The City of Franklin is covered under the Drug and Alcohol Testing for the Omnibus Transportation Employee Testing Act of 1991 with regard to the drug and alcohol testing of certain employee groups. In accordance with the Omnibus Transportation Employee Testing Act of 1991 (the Act) through the Federal Highway Administration (FHWA), the City of Franklin will conduct pre-employment, reasonable suspicion, random, post-accident, return to duty and follow up alcohol and controlled substances testing of city employees who perform safety-sensitive functions (i.e., operating a commercial motor vehicle with a GVW of 26,001 which requires a commercial driver's license or requires a CDL as part of the job description). For other safety-sensitive positions that do not require a commercial driver's license, the City of Franklin follows the TN Drug Free Workplace guidelines. This includes all full-time, part-time, occasional and leased staff, and independent contractors.

11. Detailed specifications: Please note:

- Bidders are required to submit with their bid a detailed description of all bid products, items and/or services.
- Bidders are required to mark with a "C" the blank line next to any specification below to which their bid COMPLIES.
- Bidders are required to mark with an "E" the blank line next to any specification below to which their bid takes EXCEPTION.
- Any exceptions to the City's specifications shall be identified by the bidder on the City's specifications document as well as listed and described in detail, along with any other exceptions to this procurement solicitation, in a separate written document to be prepared and submitted by the bidder, referencing any subsection number. Such listing shall include a description of exactly how such exceptions deviate from the City's expectations as expressed and implied by the procurement solicitation, and shall indicate why such exceptions should be judged by the City to meet or exceed those expectations.
- Bidders are required to submit with their bid these Specifications for this procurement, marked by the bidder as to compliance herewith as per the instructions above.

City of Franklin Specifications

Purchasing Office Solicitation No.: 2016-005 through 2016-007

- 11.1.** Notes pertaining to the provision of all or any of the three (3) contract services specified below:
- 11.1.1.** C The contract services specified below are required by the City for the routine operation of the City's wastewater treatment system. Contract services as bid shall be designed to meet the needs of the City according to industry standards for this intended purpose, all in conformance with applicable US EPA, State of Tennessee and City of Franklin rules and procedures.
- 11.1.2.** C The City seeks bids for the following three (3) specified wastewater treatment laboratory contract services for a term of award to commence as of a date to be established in the Procurement Agreement that shall memorialize the final terms of this procurement, tentatively on or about December 1, 2015, and shall terminate June 30, 2017:
- 11.1.2.1.** industrial pretreatment sampling and testing, Water Reclamation Facility influent and effluent testing, and testing of river samples (Purchasing Office Solicitation No. **2016-005**);
- 11.1.2.2.** aquatic toxicity (biomonitoring) testing (Purchasing Office Solicitation No. **2016-006**); and
- 11.1.2.3.** annual stream bioassay sampling, testing and identification (Purchasing Office Solicitation No. **2016-007**).
- 11.1.3.** C All three (3) specified contract services are being bid out simultaneously, but each specified contract service is being bid out separately from and independently of the others. Vendors are invited to bid on any or all of the specified contract services.
- 11.1.4.** C The frequencies of each of the contract services are indicated below. For each of the three (3) respective contract services for which the bidder intends to compete, bidders are to quote one all-inclusive estimated price for all specified services for a twelve (12) month period. Bidders shall prepare and submit along with the Bid Submittal Form an itemized explanation of how it determined the all-inclusive estimated price for all specified services. The itemized explanation shall list estimated quantities, unit prices and extended prices (quantity multiplied by unit price) for each item for a twelve (12) month period. The unit prices shall be inclusive of all costs to the vendor of providing the specified services. The sum of the extended prices shall equal the all-inclusive estimated price for all specified services for a twelve (12) month period. The unit prices indicated on the itemized explanation shall be binding for the term of the award.

City of Franklin Specifications

Purchasing Office Solicitation No.: 2016-005 through 2016-007

11.1.5. C At any time after commencement but before or as soon as practicable after the expiration of this term of award, the City and the vendor may, by mutual consent, exercise an option to extend the term of award up to three times, each time for up to one (1) additional year, provided: (a) that both parties consent to such an extension at that time; (b) that the decision to exercise such an extension is memorialized in writing and is executed by authorized representatives of each party; (c) that the same terms and conditions that apply to the original term of award shall also apply to such an extension, including pricing; and (d) that if the vendor chooses not to consent to an extension to the term of award, then it shall notify the City of that decision a minimum of six (6) months in advance of the scheduled expiration of the term of award. Note that the City and the vendor each specifically retain the right, with or without cause, not to extend the term of award.

11.1.6. C Insurance requirements:

11.1.6.1. C Before award of the procurement by the City, the successful bidder (that is, the vendor who is recommended be awarded the purchase) shall provide one or more unexpired certificates of insurance providing evidence of the following minimum types and limits of insurance coverage:

Type of Coverage	Limits of Coverage	Certificate of Insurance
Commercial General Liability	\$1,000,000 Each Occurrence \$2,000,000 General Aggregate \$1,000,000 Personal and Advertising Injury \$2,000,000 Products-Completed Operations Aggregate	Certificate of Insurance shall indicate Certificate Holder* as Additional Insured with Additional Insured endorsement attached
Automobile Liability (Owned, Non-Owned, and Hired Vehicles)	\$1,000,000 Combined Single Limit Each Accident	Certificate Holder* only
Workers Compensation	Statutory limits	Certificate Holder* only
Employers Liability	\$1,000,000 Bodily Injury Each Accident \$1,000,000 Policy Limit Bodily Injury by Disease \$1,000,000 Each Employee Bodily Injury by Disease	Certificate Holder* only
Professional liability (environmental testing)	\$1,000,000 Combined Single Limit	Certificate Holder* only

*Certificate Holder shall be listed as follows:

City of Franklin
109 3rd Ave. South
Franklin, TN 37064

City of Franklin Specifications

Purchasing Office Solicitation No.: 2016-005 through 2016-007

- 11.1.6.2. C If and when insurance coverage documented by the certificate(s) of insurance referenced above expires before the expiration of any specified term of award, including any extensions thereto, or the supply, delivery and acceptance of the ordered products and/or services, pursuant to this procurement solicitation, then the successful bidder shall immediately suspend work or supply unless and until it provides one or more unexpired replacement certificates of insurance that indicates the new date(s) of insurance coverage expiration and that meets or exceeds the insurance requirements as specified above.
- 11.1.6.3. C In the event that insurance coverage documented by the certificate(s) of insurance referenced above is materially modified or canceled before the expiration of any specified term of award, including any extensions thereto, or the supply, delivery and acceptance of the ordered products and/or services, pursuant to this procurement solicitation, then the successful bidder shall, immediately upon learning of any such material modification or cancellation, suspend work or supply and shall, within three (3) calendar days of such learning, notify the City of any such material modification or cancellation.
- 11.1.6.4. C The successful bidder agrees to impose the City's insurance requirements upon any subcontractors it utilizes for this procurement. Use of any particular subcontractor for this procurement shall have been approved by the City in advance of that subcontractor commencing work for this procurement.

City of Franklin Specifications

Purchasing Office Solicitation No.: 2016-005 through 2016-007

- 11.3. Aquatic toxicity (biomonitoring) testing (Purchasing Office Solicitation No. 2016-006)
- 11.3.1. Specified services for Purchasing Office Solicitation No. 2016-006:
 - 11.3.1.1. C Minimum Biomonitoring Requirements Chronic:
 - 11.3.1.1.1. C This bidder shall conduct a 3-Brood Ceriodaphnia dubia Survival and Reproduction Test and a 7-day Fathead Minnow (Pimephales promelas) larval Survival and Growth Test on samples of final effluent from Outfall 001.
 - 11.3.1.1.2. C The measured endpoint for toxicity shall be the inhibition concentration causing 25% reduction in survival, reproduction and growth (IC25) of the test organisms. The IC25 shall be determined based on a 25% reduction as compared to the controls, and as derived from linear interpolation. The average reproduction and growth responses shall be determined based on the number of Ceriodaphnia dubia or Pimephales promelas larvae used to initiate the test.
 - 11.3.1.1.3. C Tests shall be conducted and its results reported based on appropriate replicates of a total of five serial dilutions and a control, using the percent effluent dilutions as presented in the following table:

SERIAL DILUTIONS FOR WHOLE EFFLUENT TOXICITY (WET) TESTING					
PERMIT LIMIT (PL)	0.50 x PL	0.25 x PL	0.125 x PL	0.0625 x PL	CONTROL
% EFFLUENT					
100	50	25	12.5	6.25	0

- 11.3.2. Notes pertaining to the provision of the services of Purchasing Office Solicitation No. 2016-006:
 - 11.3.2.1. C Quarterly analysis – four (4) tests per year.
 - 11.3.2.2. C All other EPA and State protocol is applicable.
 - 11.3.2.3. C Any and all necessary containers, preservatives, coolers, ice and transportation shall be supplied by the successful bidder.
 - 11.3.2.4. C All EPA verification samples (spike) shall be analyzed at no additional cost to the City of Franklin. Any item not analyzed by the original bidder must have the permission granted by the City of Franklin Water Reclamation Facility.
 - 11.3.2.5. C Any additional testing performed for the City of Franklin shall be performed at the same unit pricing as indicated in the original bid.

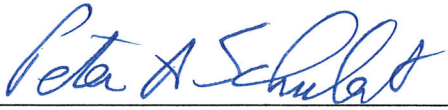
Indemnification Agreement
a form required of Bidders and Proposers on purchases of services for the
City of Franklin, Tennessee

On behalf of Bidder/Proposer, Peter A. Schulert agrees that:
(printed name of person signing Agreement)

1. He or she is the CEO of
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)
ESC Lab Sciences,
(legal name of entity submitting bid or proposal)

the Bidder or Proposer who has submitted the attached bid or proposal;

2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. The Bidder or Proposer agrees to indemnify and save the Government of Franklin, the City of Franklin and individual, on or off duty, officers, and employees of the City of Franklin, harmless from any and all losses, damages and expenses, including court costs and attorneys fees, by reason of any loss, whatsoever, arising out of or relating to or in consequence of the work done in connection with the contract of which this Agreement is a part, excepting only such losses as shall be occasioned solely by the negligence of the City of Franklin; and
4. This Agreement is made on personal knowledge.


(signature of person whose printed name appears above)

CEO
(title of person whose printed name appears above)

(Submitted in response to City of Franklin Purchasing Office Solicitation No. 2016-005 - 2016-007)

Form revised 02/25/2005



Exceptions

ESC has no exceptions for Solicitation No. 2016-005 through 2016-006

ESC will not be bidding on 2016-007

One Lab Nationwide





Solicitation No.: 2016-005 through 2016-006

References:

Barge, Waggoner, Sumner & Cannon

Mr. Any Foy - Engineer

211 Commerce Street, Suite 600

Nashville, TN 37201

615-254-1500

Work Performed: Testing for Sanitary Landfills, Raw Water, Water Quality & Indoor Air

City of Columbia, TN

Mr. Don Allman – Plant Supervisor

1244 Treatment Plant Road

Columbia, TN 38401

931-388-2419

Work Performed: Wastewater Influent, Effluent and Industrial Wastewater.

City of Franklin, TN Wastewater Treatment Plant

Mr. Juan Davis – Plant Supervisor

135 Claude Yates Drive

Franklin, TN 37064

615-791-3240

Work Performed: Biomonitoring

One Lab Nationwide



Standard Procurement Terms and Conditions

City of Franklin, Tennessee

1. Assignment/Subcontracting. Neither party may assign any rights or obligations under these Standard Procurement Terms and Conditions or any Statement of Work without the prior written consent of the other party. These Standard Procurement Terms and Conditions will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Vendor may subcontract any portion of the work only with the prior consent of the City, but such subcontracting will not relieve Vendor of its duties under these Standard Procurement Terms and Conditions.
2. Time of the Essence. The parties agree that TIME IS OF THE ESSENCE with respect to the vendor's performance of all provisions of this procurement.
3. Taxes. As a tax-exempt entity, the City shall not be responsible for sales or use taxes incurred for products or services. Upon request, the City shall supply Vendor with a copy of its Sales and Use Tax Exemption Certificate. Vendor shall bear the burden of providing its suppliers with a copy of the City's tax exemption certificate and shall assume all liability for such taxes, if any, that should be incurred.
4. Notices. Any notice provided pursuant to these Standard Procurement Terms and Conditions, if specified to be in writing, will be in writing and will be deemed given: (a) if by hand delivery, then upon receipt thereof; (b) if mailed, then three (3) City business days after deposit in the mail where sender is located, postage prepaid, certified mail return receipt requested; (c) if by next day delivery service, then upon such delivery; or (d) if by facsimile transmission or electronic mail, then upon confirmation of receipt. All notices will be addressed to the parties at the addresses set forth below (or set forth in such other document which these Standard Procurement Terms and Conditions may accompany, or such other address as either party may in the future specify in writing to the other):

In the case of the City:

City of Franklin

Attn: Purchasing Manager

Re: City of Franklin Purchasing Office Solicitation No. 2016-005 - 2016-007

109 Third Ave. South

P.O. Box 305

Franklin, TN 37065-0305

FAX: 615/550-0079

E-mail: purchasing@franklintn.gov

In the case of Vendor:

ESC Lab Sciences

Attn: Carla S. Hennesy

12065 Lebanon Road

PO Box 5003, Lebanon TN 37088-5003 (remittance only)

Mt. Juliet, TN 37122

615-75-5859

chennesy@esclabsciences.com

Standard Procurement Terms and Conditions

City of Franklin, Tennessee

5. Confidentiality and Proprietary rights. Vendor waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page (or section as the case may be) as confidential or proprietary. Proprietary rights do not extend to the data created by the City's users of the System; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation and City shall retain exclusive rights, title, and ownership of all data and images created therefrom at the moment of creation and utilization, through and including image creation. City may be required to disclose documents under state or federal law. City shall notify Vendor if a request for documents has been made and shall give Vendor a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. In exchange, Vendor agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Vendor 's representation that materials supplied by Vendor (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Vendor and Vendor assumes control over that claim.
6. Derivative Works. To the extent that the Agreement contains Vendor's reservation of rights, such definitions and limitations are superseded by the following: "Derivative Work" means a program that is based on or derived from one or more existing programs or components. If the original software is modified to create a new program, a derived work is created. If the original software was designed to accept plug-ins or drivers using a defined mechanism, such a driver or plug-in does not form a derived work. Linking to a library in the way it was designed to be interfaced with, does *not* constitute deriving a work. "Derivative work" is *not* the data that the Licensee inputs, manipulates, modifies or otherwise improves, nor the images resulting therefrom.
7. Arbitration/Mediation. No arbitration shall be required as a condition precedent to filing any legal claim arising out of or relating to the Contract. No arbitration or mediation shall be binding.
8. Waiver. Neither party's failure or delay to exercise any of its rights or powers under these Standard Procurement Terms and Conditions will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.
9. Warranties/Limitation of Liability/Waiver. City reserves all rights afforded to local governments under law for all general and implied warranties. The City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Vendor to limit its liability shall be void and unenforceable.
10. Severability. If any term or provision of these Standard Procurement Terms and Conditions is held to be illegal or unenforceable, the validity or enforceability of the remainder of these Standard Procurement Terms and Conditions will not be affected.

Standard Procurement Terms and Conditions

City of Franklin, Tennessee

11. Precedence. In the event of conflict between the provisions of these Standard Procurement Terms and Conditions and any contract, agreement or other document which these Standard Procurement Terms and Conditions may accompany, the provisions of these Standard Procurement Terms and Conditions will to the extent of such conflict take precedence unless such document expressly states that it is amending these Standard Procurement Terms and Conditions.
12. Indemnification. Vendor agrees to indemnify and save the Government of Franklin, the City of Franklin and individual, on or off duty, officers, and employees of the City of Franklin, harmless from any and all losses, damages and expenses, including court costs and attorneys' fees, by reason of any loss, whatsoever, arising out of or relating to or in consequence of the work done in connection with the contract of which this agreement is a part, excepting only such losses as shall be occasioned solely by the negligence of the City of Franklin.
13. Additions/Modifications. If seeking any addition or modification to the Contract, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of the Contract, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order, acknowledgement, or other writings specifically refer to the Contract or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify the Contract; and (c) such purchase order, acknowledgement, or other writings are signed, with specific material clauses separately initialed, by authorized representatives of both parties.
14. Applicable Law; Choice of Forum/Venue. These Standard Procurement Terms and Conditions are made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to any state's choice-of-law rules. The choice of forum and venue shall be exclusively in the Courts of Williamson County, TN.
15. Termination. Unless the City has indicated otherwise for a specific procurement solicitation, either party may terminate these Standard Procurement Terms and Conditions, with or without cause, upon thirty (30) calendar days' notice to the other. Upon termination by the vendor, the City shall be entitled to retain ownership of any and all goods and equipment purchased. Upon termination by the City, the vendor shall be entitled to receive any amounts due as a result of goods and equipment already delivered and/or services already rendered; however, the City shall maintain ownership and control of any goods and equipment purchased. Upon termination of services, whether connected or unconnected to goods and equipment, such services shall be rendered until the conclusion of the 30th calendar day as stated in the notice or until a contractual benchmark has been achieved, or as the parties may otherwise agree.

Standard Procurement Terms and Conditions

City of Franklin, Tennessee

16. Breach. Upon deliberate breach of these Standard Procurement Terms and Conditions, or of any contract, agreement or other document which these Standard Procurement Terms and Conditions may accompany, by either party, the non-breaching party shall be entitled to terminate these Standard Procurement Terms and Conditions without notice, with all of the remedies it would have in the event of termination under section 10 (“Severability”) above, and may also have such other remedies as it may be entitled to in law or in equity.
17. Default. If Vendor fails to perform or comply with any provision of these Standard Procurement Terms and Conditions, or of any contract, agreement or other document which these Standard Procurement Terms and Conditions may accompany, then the City (i) may cancel the purchase award and/or the accompanying contract or agreement or purchase order, in whole or in part, without penalty or protest by Vendor; (ii) may consider such failure to perform or comply as a breach of contract; (iii) reserves the right to purchase its requirements from the vendor that submitted the next lowest and best responsive and responsible bid, or the vendor that submitted the next best proposal, if that vendor will still honor that bid or proposal, or to seek new bids or proposals, or to pursue one or more other options available to the City in compliance with its then current purchasing policy; and (iv) may hold the defaulting vendor liable for all damages provided by law, including cost of cover.
18. Entire Agreement. These Standard Procurement Terms and Conditions, including any contract, agreement or other document which these Standard Procurement Terms and Conditions may accompany, constitutes the entire agreement between the parties and supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of these Standard Procurement Terms and Conditions. The terms and conditions of these Standard Procurement Terms and Conditions may not be changed except by an amendment expressly referencing these Standard Procurement Terms and Conditions by section number and signed by an authorized representative of each party.
19. Survival. These Standard Procurement Terms and Conditions shall survive the completion of or any termination of any contract, agreement or other document which these Standard Procurement Terms and Conditions may accompany.

ESC Lab Sciences Standard Terms and Conditions

- 1. These Standard Terms and Conditions shall govern all work provided by ESC Lab Sciences (ESC) and no other terms and conditions shall prevail unless ESC and Client have a separate signed agreement in place. These Terms and Conditions may be modified from time to time and all work performed by ESC shall be governed by the Terms and Conditions in effect at the time an order is accepted by ESC.**
- 2. ESC Certifications.** ESC agrees to maintain or obtain such permits, licenses or certifications as are necessary to allow ESC to perform its Laboratory Testing Services.
- 3. ESC's Obligations.**
 - (a) ESC shall render Laboratory Testing Services in a manner, which will promote availability, adequacy and continuity of such services. ESC shall remain solely responsible for the quality of its Laboratory Testing Services and shall render such services in accordance with generally accepted analytical and environmental laboratory practice, and professionally recognized standards relating to the furnishing of laboratory services.
 - (b) ESC will render Laboratory Testing Services to Client in the same manner as offered to ESC's other clients. ESC shall prepare and maintain appropriate records related to the Laboratory Testing Services performed by ESC hereunder. The records shall be maintained in accordance with prudent record keeping.
- 4. Client's Obligations.** With each sample, which Client or Client's designee forwards to ESC, Client or its designee will provide:
 - (a) The name of the Client's Project Manager responsible for the project associated with the sample;
 - (b) The name of the party (Client or its designee) submitting the sample;
 - (c) The location from which the sample was collected including site identification information and sample identification;
 - (d) Sample collection date and time;
 - (e) The Laboratory Testing Services to be provided;
 - (f) Directions on where reports regarding the sample shall be sent.
- 5. Other Client Obligations.** Client agrees to inform ESC of any hazardous characteristics suspected or known about the sample or suspected based on the sample collection site or circumstances. Likewise, information on hazard prevention and personal protection shall be provided to ESC.
- 6. ESC's Fees.** ESC shall perform the Laboratory Testing Services for the fees as set forth by written agreement between the Client and ESC. ESC shall render its invoices to Client as samples are reported. Client shall pay the amount of such invoices to ESC within thirty (30) days of invoice date or as otherwise agreed in writing between the Client and ESC. A 1-1/2% per month late charge is added to all unpaid balances past the 30-day terms. ESC reserves the right to cease all work in the event Client does not pay its invoice(s). In the event of default in payment for services rendered, Client is responsible for reasonable collection and/or legal fees. All fees are charged or billed directly to Client. If we accept work from you that you want billed to a third party, that work remains your financial responsibility until ESC has a written agreement from that third party that acknowledges and accepts payment responsibility, and has been approved for credit by ESC. Client agrees to notify ESC of any invoicing or reporting disputes within 30 days of invoice date. ESC reserves the right to charge an additional fee for payments made by credit card.
- 7. Ordering.** Client may order services (i.e., specify a Scope of Work) by submitting a written purchase order, by placing a telephone order which will be subsequently be confirmed in writing, by sending ESC a request for analytical services via internet, or by confirming in writing or internet our quotation for analytical services. Supplemental analyses on existing samples that have already been analyzed shall be re-logged and billed additional fees.
- 8. Advance Notice.** Client agrees to provide at least 5 days advance notice of the sample delivery schedule, or any changes to the schedule, whenever possible. Greater advance notice (e.g. 1-2 weeks) will allow ESC to better meet client's needs. When client sends ESC samples on the agreed-upon schedule, ESC will use its best efforts to meet mutually agreed upon turnaround times. If client gives ESC less notice of when it will send samples, it may be necessary to change ESC's turnaround time commitment; ESC may not be able to accept all client's samples, and any late delivery will not be held to be due to ESC's fault or neglect. All turnaround times will be calculated from the date of Sample Delivery Acceptance by the laboratory.
- 9. Sample Containers.** ESC provides sample containers upon request. ESC reserves the right to charge a fee for sample containers and it is ESC's standard to provide such supplies using ground delivery. Delivery/shipment terms other than ESC standard may be subject to additional fees. Client agrees to NOT use ESC sample containers for work submitted to any lab other than ESC. Unused supplies and sample containers not returned to ESC may be subject to fees to recover the cost of containers, outbound/return shipping, and sample disposal. ESC also reserves the right to charge a minimum invoice fee in certain instances.
- 10. Delivery of Samples.** Upon timely delivery of samples, ESC will use its best efforts in meeting mutually agreed upon turnaround times. ESC will advise client of samples that are missing or received in damaged, contaminated, or improperly preserved condition. The risk of loss or damage to the sample will be assumed by ESC upon Sample Delivery Acceptance. Sample Delivery Acceptance occurs when the sample is delivered to an employee of ESC and it is logged in or when an ESC courier takes possession of the sample. Samples must be accompanied by: a) adequate instruction on type of analysis requested, and b) complete written disclosure of the known or suspected presence of any hazardous substances, as defined by applicable federal and state law(s). ESC reserves the right to refuse to accept or to rescind acceptance of any sample, which in the judgment of ESC is likely to pose any unreasonable risk in handling and/or analysis.
- 11. Shipment of Hazardous Samples.** Client represents and warrants that any sample containing any known hazardous substance which is to be delivered to ESC is labeled, packaged, manifested, transported, and delivered to ESC in accordance with the most current state and federal regulations of the Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), Toxic Substances Control Act (TSCA), Resource Conservation and Recovery Act (RCRA), the Department of Transportation (DOT), the Food and Drug Administration (FDA), and any federal, state, and local agencies. If you send ESC highly contaminated samples without the required disclosure and these cause interruptions in the lab's ability to process work due to injury of ESC staff or contamination of instruments or work areas, at ESC's option you may be held responsible for the costs of clean up and recovery. ESC does not accept samples with radioactive contamination.
- 12. Holding Times.** ESC will initiate preparation and/or analysis within holding times if Sample Delivery Acceptance occurs within 48 hours of sample collection or within ½ of the holding time if the test's holding time is less than 96 hours. If Sample Delivery Acceptance occurs outside this period, ESC will use its best efforts to meet the holding times. The holding time commitment will be satisfied if ESC does an initial analysis within holding time, even if reanalysis for Quality Assurance requirements occurs outside holding times.
- 13. Reports and Use of Data.** ESC prohibits the use of its name in connection with any unauthorized use of its reports without its prior written consent. If results delivered by ESC do not meet the warranties described in these Terms and Conditions, but nevertheless are used by client and its client, then ESC still will be paid the contract price for its work. If ESC's work is challenged, it shall be given the right to independently defend its data directly with the challenger; and if this right

ESC Lab Sciences Standard Terms and Conditions

is not given to ESC, then client will pay ESC in full for the challenged work.

- 14. Special Reports.** Additional charges may be necessary for customized reports that differ significantly from ESC's standard format. Additional charges will apply for specific QA/QC reports and data packages. ESC's standard format for reporting results or data packages is electronic. ESC reserves the right to charge a fee for report delivery other than electronic.
- 15. Hazardous Wastes.** ESC reserves the right to charge a fee for sample disposal for any and all samples received from Client. ESC's standard is to dispose of samples within 45 days of receipt. ESC also reserves the right to return to the Client upon completion of the analytical work unused portions of samples found or suspected to be hazardous according to state or federal guidelines. The cost of returning such samples may be invoiced to the Client.
- 16. Litigation.** In the event ESC receives a subpoena or other legal or administrative process requiring the deposition or court appearance of ESC personnel or production of documents and records arising out of the services provided hereunder and in which ESC is not a named party and/or the Services are not subject of dispute, ESC shall be reimbursed on a time and material basis at its then effective labor rates and direct expense for all costs incurred in connection therewith. ESC will attempt to promptly notify Client of the subpoena or other legal process to allow Client to take such action through the courts, as it may deem appropriate. It is understood that ESC's compliance with the subpoena or other legal process shall not constitute any breach of any obligation of confidentiality which may exist between ESC and Client.
- 17. Indemnification, Liability, and Insurance.** ESC agrees to indemnify, defend, and save client, its officers, directors, employees, agents, and representatives harmless from all losses, expenses, demands, and claims made against client, its officers, directors, employees, agents, and representatives because of any personal injuries, death, or property damage to the extent caused by the gross negligence or willful misconduct of ESC, its employees, agents, or representatives in connection with the performance of services under these Terms and Conditions, except to the extent such losses, expenses, demands, or claims occur as a result of the negligent or willful acts or omissions of client, its officers, directors, employees, agents, and representatives; however, such indemnification and damages shall, in the aggregate, be limited to an amount equal to the lesser of (a) damages suffered by client as the direct result thereof, or (b) the limit of the applicable insurance coverage. Client shall indemnify ESC for all third party claims relating to the work performed by ESC for the Client.
- 18. Warranty and Limits of Liability.** In accepting analytical work, ESC warrants the accuracy of test results for the sample(s) submitted. **The foregoing express warranty is exclusive and is given in lieu of all other warranties, expressed or implied. ESC disclaims any warranty of fitness for particular purpose and warranty of merchantability. In no event shall ESC be liable for indirect, special, consequential, or incidental damages including, but not limited to, damages for loss of profit or goodwill regardless of (a) the negligence (either sole or concurrent) of ESC and (b) whether ESC has been informed of the possibility of such damages.** ESC accepts no legal responsibility for the purposes for which the client uses the test results. No purchase order for work shall be accepted by ESC which includes any conditions that vary from the above described terms of these Terms and Conditions, and ESC hereby objects to any conflicting terms contained in any acceptance or order submitted by client.
- 19. Force Majeure, Etc.** In no event shall ESC have any responsibility or liability to client for any failure or delay in performance by ESC, which results, directly or indirectly, in whole or in part, from any cause or circumstance beyond ESC's reasonable control. Such causes and circumstances include, but are not limited to, acts of God, client actions, acts or orders of any governmental authority, strikes or other labor disputes, natural disasters, accidents, wars, civil disturbances, equipment breakdown, unavailability of supplies from usual and customary suppliers, difficulties or delays in transportation, mail or delivery services, or any other cause beyond ESC's reasonable control.
- 20. Independent Contractors.** The parties agree that each are at all times acting and performing as independent contractors and that neither party shall be considered an agent, servant, employee, joint venturer or partner with the other party.
- 21. Notices.** Any notice required by these Terms and Conditions shall be in writing and shall be deemed given upon receipt. Written notices may be delivered personally, via facsimile, or by U. S. mail, registered or Certified, return receipt requested; or by commercial delivery. Written notice shall be provided as indicated on signature page/cover sheet for this terms and conditions document.
- 22. Amendment and waivers.** These Terms and Conditions may not be amended, supplemented or modified, and no provision hereof may be waived, unless such amendment, supplement, modification or waiver is in writing and signed by the party against whom enforcement is sought. The waiver of any breach of default under these Terms and Conditions shall not constitute the waiver of any other breach or default, whether or not similar, nor any subsequent breach of the same provision. The election by either party of any right or remedy shall not be deemed exclusive of any other rights or remedies in law or in equity or as may be provided by these Terms and Conditions.
- 23. Confidential Information.** ESC and client agree to keep confidential and to take all reasonable precautions to prevent the unauthorized disclosure of any and all records required to be prepared or maintained by these Terms and Conditions, and ESC's fees set forth on the exhibits.
- 24. Governing Law.** These Terms and Conditions shall be interpreted and governed by rules and laws of the State of Tennessee.
- 25. Term and Termination.** Work under these Terms and Conditions is assumed by all parties to be ongoing until canceled by either the Client or ESC.

Affidavit of Non-Collusion

a form required of Bidders and Proposers on purchases of supplies, materials, equipment and services for the
City of Franklin, Tennessee

State of Tennessee)
County of Wilson) SS

Affiant, Peter A. Schulert, deposes and makes oath that:
(printed name of person signing Affidavit)

1. He or she is the CEO of ESC Lab Sciences
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)
(legal name of entity submitting bid or proposal)

the Bidder or Proposer who has submitted the attached bid or proposal;

2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. Such bid or proposal is genuine and is not a collusive or sham bid or proposal;
4. Neither the said Bidder or Proposer nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this Affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any official or agent of the City of Franklin or with any other firm, person, or potential or actual bidder or proposer to submit a collusive or sham bid or proposal in connection with the contract for which the attached bid or proposal has been submitted, or to refrain from bidding or proposing indirectly, or sought by agreement, or collusion, or communication, or conference with any other firm, person, or potential or actual bidder or proposer to fix the price or prices or cost element of the bid, quoted or proposed price or the bid, quoted or proposed price of any other potential or actual bidder or proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Franklin or any person interested in the proposed contract;
5. The price or prices quoted in the attached bid or proposal are fair and proper and are not tainted by a collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or Proposer or any of its agents, representatives, owners, employees, or parties in interest, including this Affiant; and
6. He or she understands that Article VIII, Section 16, of the City Charter of Franklin, and T.C.A. §6-54-107, prohibit any member of the Board of Mayor and Aldermen, or officer elected by said Board, from being interested in any contract, or work of any kind whatever, under its control and direction, and any contract in which any such person shall have an interest shall be void and unenforceable, subjecting any funds received by contractor to be returned in full to the City, in addition to any other penalties provided by law.

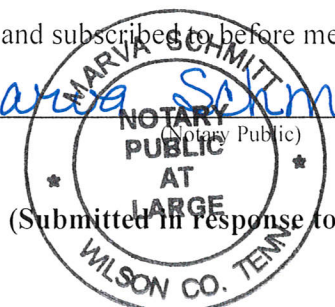
Peter A. Schulert
(signature of Affiant)

CEO
(title of Affiant)

Sworn and subscribed to before me this 9th day of September, 2015

Marva Schmitt
(Notary Public)

My Commission Expires: 8-5-2019



(Submitted in response to City of Franklin Purchasing Office Solicitation No. 2016-005 - 2016-007)

Affidavit of Drug-Free Workplace
a form required of Bidders and Proposers on purchases of services for the
City of Franklin, Tennessee

State of Tennessee)
County of Wilson) SS

Affiant, Peter A. Schulert, deposes and makes oath that:
(printed name of person signing Affidavit)

1. He or she is the CEO of
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)
ESC Lab Sciences,
(legal name of entity submitting bid or proposal)

the Bidder or Proposer who has submitted the attached bid or proposal;

2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. The Bidder or Proposer entity employs no less than five (5) employees;
4. The Bidder or Proposer has in effect, at the time of submission of its bid or proposal to perform the services described in the attached bid or proposal, a drug-free workplace program that complies with T.C.A. § 50-9-101 et seq.;
5. The Bidder or Proposer operates a drug-free workplace program or other drug or alcohol testing program with requirements at least as stringent as that of the program operated by the City as described in the City's procurement solicitation; and
6. This Affidavit is made on personal knowledge.

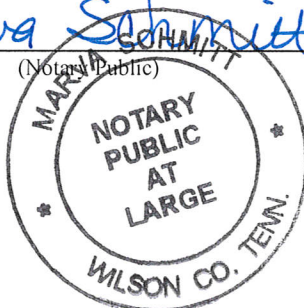
Peter A Schulert
(signature of Affiant)

CEO
(title of Affiant)

Sworn and subscribed to before me this 9th day of September, 2015

Marwa Schmitt
(Notary Public)

My Commission Expires: 8-5-2019



Affidavit of Title VI Compliance
a form required of Bidders and Proposers on purchases of services for the
City of Franklin, Tennessee

State of Tennessee)
County of Wilson) SS

Affiant, Peter A. Schulert, deposes and makes oath that:
(printed name of person signing Affidavit)

1. He or she is the CEO of
(Owner or Authorized Partner, Officer, Representative or Agent of Owner)
ESC Lab Sciences,
(legal name of entity submitting bid or proposal)

the Bidder or Proposer who has submitted the attached bid or proposal;

2. The Bidder or Proposer is fully informed respecting the preparation and content of the attached bid or proposal and of all pertinent circumstances respecting such bid or proposal;
3. No person on the grounds of handicap or disability, age, race, color, religion, sex, national origin or any other class protected by federal and/or Tennessee constitutional, statutory and/or case law shall be excluded from participation in, or denied benefits of, or be otherwise subjected to discrimination in, the performance of the contract that results from the procurement solicitation to which this affidavit is a component, or in the employment practices of the successful Bidder or Proposer during the performance of the contract that results from said procurement solicitation;
4. The successful Bidder or Proposer shall, upon request, show proof of such non-discrimination, and shall post in conspicuous places, available to employees and job applicants, notices of such non-discrimination;
5. If, with the prior consent of the City, the successful Bidder or Proposer subcontracts any portion of the contract that results from the procurement solicitation to which this affidavit is a component, then the successful Bidder or Proposer shall contractually obligate all of its subcontractors for said contract to comply with the same non-discrimination provisions as those required of the successful Bidder or Proposer; and
6. This Affidavit is made on personal knowledge.

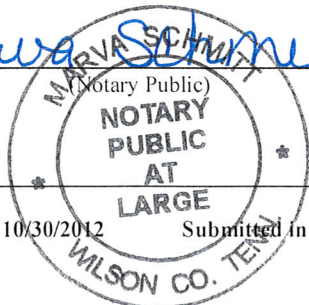
Peter A. Schulert
(signature of Affiant)

CEO
(title of Affiant)

Sworn and subscribed to before me this 9th day of September, 2015

Marva Schmitt

My Commission Expires: 8-5-2019



CITY OF FRANKLIN, TENNESSEE PROCUREMENT AGREEMENT

(City of Franklin Contract No. 2015-0329)

Attachment No. 2

CERTIFICATE OF INSURANCE

Certificate Date	Producer	Certificate Number	Certificate Holder	Type of Insurance	Policy Expiration
12/11/2014	Powell & Meadows Insurance Agency, Inc. of Carthage, Tennessee	not indicated	City of Franklin, TN	Commercial General Liability	12/30/2015
				Automobile Liability	12/30/2015
				Workers Compensation and Employers' Liability	12/30/2015
				Professional Liability & Pollution Liability	12/31/2015



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/11/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

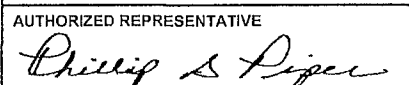
PRODUCER Powell & Meadows Ins Agcy Inc 1006 Main St N / P O Box 1 Carthage, TN 37030 Powell & Meadows - Carthage	CONTACT NAME: Sandra Maynard PHONE (A/C, No, Ext): 615-735-1111 E-MAIL ADDRESS: sandra@powell-meadows.com FAX (A/C, No): 615-735-1266														
INSURED Environmental Science Corp 12065 Lebanon Road Mt Juliet, TN 37122	<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : The Cincinnati Insurance Co.</td> <td>10677</td> </tr> <tr> <td>INSURER B : Crum &Forster Specialty Ins Co</td> <td>44520</td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : The Cincinnati Insurance Co.	10677	INSURER B : Crum &Forster Specialty Ins Co	44520	INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> contractual liab GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X		CPP0816991	12/30/2014	12/30/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			CPP0816991	12/30/2014	12/30/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0			CPP0816991	12/30/2014	12/30/2015	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC 191893407	12/30/2014	12/30/2015	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
B	Prof Liability & Pollution Liab			PKC101496 RETRO DATE 11/14/1994	12/31/2014	12/31/2015	Agg Limit 5,000,000 Each Loss 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Certificate holder, the engineer, their officers, agents and employees shall be named as additional insured.

CERTIFICATE HOLDER CITYOFR City of Franklin, TN 109 Third Avenue South Franklin, TN 37065-0305	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTOMATIC ADDITIONAL INSURED - WHEN REQUIRED IN CONTRACT OR AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. SECTION II - WHO IS AN INSURED, 2. is amended to include:

e. Any person or organization, hereinafter referred to as ADDITIONAL INSURED:

- (1) Who or which is not specifically named as an additional insured under any other provision of, or endorsement added to, this Coverage Part; and
- (2) For whom you are required to add as an additional insured on this Coverage Part

under:

- (1) A written contract or agreement; or
- (2) An oral agreement or contract where a certificate of insurance showing that person or organization as an additional insured has been issued;

but only with respect to liability arising out of "your work" performed for that additional insured by you or on your behalf. A person or organization's status as an insured under this endorsement continues for only the period of time required by the written contract or agreement, but in no event beyond the expiration date of this Coverage Part. If there is no written contract or agreement, or if no period of time is required by the written contract or agreement, a person or organization's status as an insured under this endorsement ends when your operations for that insured are completed.

2. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended to include:

1. Automatic Additional Insured Provision

The written or oral contract or agreement must be currently in effect or become effective during the term of this Coverage Part. The contract or agreement also must be executed prior to the "bodily injury", "property damage" or "personal and advertising injury" to which this endorsement pertains.

2. Conformance to Specific Written Contract or Agreement

If a written contract or agreement between you and the additional insured specifies that coverage for the additional insured:

- a. Be provided by the Insurance Services Office additional insured form number CG 20 10 or CG 20 37 (where edition specified); or
- b. Include coverage for completed operations; or
- c. Include coverage for "your work";

and where the limits or coverage provided to the additional insured is more restrictive than was specifically required in that written contract or agreement, the terms of Paragraphs 3., 4.a.(2) and / or 4.b., or any combination thereof, of this endorsement shall be interpreted as providing the limits or coverage required by the terms of the written contract or agreement, but only to the extent that such limits or coverage is included within the terms of the Coverage Part to which this endorsement is attached. If, however, the written contract or agreement specifies the Insurance Services Office additional insured form number CG 20 10 but does not specify which edition, or specifies an edition that does not exist, Paragraphs 3. and 4.a.(2) of this endorsement shall not apply and Paragraph 4.b. of this endorsement shall apply.

3. SECTION III - LIMITS OF INSURANCE is amended to include:

The limits applicable to the additional insured are those specified in the written contract or agreement or in the Declarations of this Coverage Part, whichever are less. If no limits are specified in the written contract or agreement, or if there is no written contract or agreement, the limits applicable to the additional insured are those specified in the Declarations of this Coverage Part. The limits of insurance are inclusive of and not in addition to the limits of insurance shown in the Declarations.

4. The following are added to SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions and SECTION I - COVERAGES, COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions:

The insurance provided to the additional insured does not apply to:

- a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the:
- (1) Rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
 - (a) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
 - (b) Supervisory, inspection, architectural or engineering activities;
 - (2) Sole negligence or willful misconduct of, or for defects in design furnished by, the additional insured or its "employees".
- b. "Bodily injury" or "property damage" arising out of "your work" included in the "products-completed operations hazard".

- c. "Bodily injury" or "property damage" arising out of "your work" for which a consolidated (wrap-up) insurance program has been provided by the prime contractor / project manager or owner of the construction project in which you are involved.

5. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 5. Other Insurance is amended to include:

- a. Where required by a written contract or agreement, this insurance is primary and / or noncontributory as respects any other insurance policy issued to the additional insured, and such other insurance policy shall be excess and / or noncontributing, whichever applies, with this insurance.
- b. Any insurance provided by this endorsement shall be primary to other insurance available to the additional insured except:
- (1) As otherwise provided in SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 5. Other Insurance, b. Excess Insurance; or
 - (2) For any other valid and collectible insurance available to the additional insured as an additional insured by attachment of an endorsement to another insurance policy that is written on an excess basis. In such case, the coverage provided under this endorsement shall also be excess.

**CITY OF FRANKLIN, TENNESSEE
PROCUREMENT AGREEMENT**

(City of Franklin Contract No. 2015-0329)

Attachment No. 3

**ESC LAB SCIENCES STANDARD TERMS AND
CONDITIONS MODIFIED FOR COF CONTRACT NO. 2015-
0329**

ESC Lab Sciences Standard Terms and Conditions
Modified for City of Franklin, TN Contract No. 2015-0329

- 1. These Terms and Conditions shall govern all work provided by ESC Lab Sciences (ESC) except to the extent they are in conflict with CoF Contract No. 2015-0329. These Terms and Conditions may be modified from time to time and all work performed by ESC shall be governed by CoF Contract No. 2015-0329 in effect at the time an order is accepted by ESC.**
- 2. ESC Certifications.** ESC agrees to maintain or obtain such permits, licenses or certifications as are necessary to allow ESC to perform its Laboratory Testing Services.
- 3. ESC's Obligations.**
 - (a) ESC shall render Laboratory Testing Services in a manner, which will promote availability, adequacy and continuity of such services. ESC shall remain solely responsible for the quality of its Laboratory Testing Services and shall render such services in accordance with generally accepted analytical and environmental laboratory practice, and professionally recognized standards relating to the furnishing of laboratory services.
 - (b) ESC will render Laboratory Testing Services to Client in the same manner as offered to ESC's other clients. ESC shall prepare and maintain appropriate records related to the Laboratory Testing Services performed by ESC hereunder. The records shall be maintained in accordance with prudent record keeping.
- 4. Client's Obligations.** With each sample, which Client or Client's designee forwards to ESC, Client or its designee will provide:
 - (a) The name of the Client's Project Manager responsible for the project associated with the sample;
 - (b) The name of the party (Client or its designee) submitting the sample;
 - (c) The location from which the sample was collected including site identification information and sample identification;
 - (d) Sample collection date and time;
 - (e) The Laboratory Testing Services to be provided;
 - (f) Directions on where reports regarding the sample shall be sent.
- 5. Other Client Obligations.** Client agrees to inform ESC of any hazardous characteristics suspected or known about the sample or suspected based on the sample collection site or circumstances. Likewise, information on hazard prevention and personal protection shall be provided to ESC.
- 6. ESC's Fees.** ESC shall perform the Laboratory Testing Services for the fees as set forth by written agreement between the Client and ESC. ESC shall render its invoices to Client as samples are reported. Client shall pay the amount of such invoices to ESC within thirty (30) days of invoice date or as otherwise agreed in writing between the Client and ESC. ESC reserves the right to cease all work in the event Client does not pay its invoice(s). All fees are charged or billed directly to Client. If we accept work from you that you want billed to a third party, that work remains your financial responsibility until ESC has a written agreement from that third party that acknowledges and accepts payment responsibility, and has been approved for credit by ESC. Client agrees to notify ESC of any invoicing or reporting disputes within 30 days of invoice date. ESC waives the right to charge an additional fee for payments made by credit card.
- 7. Ordering.** Client may order services (i.e., specify a Scope of Work) by submitting a written purchase order, by placing a telephone order which will be subsequently be confirmed in writing, by sending ESC a request for analytical services via internet, or by confirming in writing or internet our quotation for analytical services. Supplemental analyses on existing samples that have already been analyzed shall be re-logged and billed additional fees.
- 8. Advance Notice.** Client agrees to provide at least 5 days advance notice of the sample delivery schedule, or any changes to the schedule, whenever possible. Greater advance notice (e.g. 1-2 weeks) will allow ESC to better meet client's needs. When client sends ESC samples on the agreed-upon schedule, ESC will use its best efforts to meet mutually agreed upon turnaround times. If client gives ESC less notice of when it will send samples, it may be necessary to change ESC's turnaround time commitment; ESC may not be able to accept all client's samples, and any late delivery will not be held to be due to ESC's fault or neglect. All turnaround times will be calculated from the date of Sample Delivery Acceptance by the laboratory.
- 9. Sample Containers.** ESC shall provide sample containers. ESC waives the right to charge a fee for sample containers. Client agrees to NOT use ESC sample containers for work submitted to any lab other than ESC. ESC also waives the right to charge a minimum invoice fee.
- 10. Delivery of Samples.** Upon timely sample delivery acceptance of samples, ESC will use its best efforts in meeting mutually agreed upon turnaround times. ESC will advise client of samples that are missing or received in damaged, contaminated, or improperly preserved condition. The risk of loss or damage to the sample will be assumed by ESC upon Sample Delivery Acceptance. Sample Delivery Acceptance occurs when an ESC courier takes possession of the sample. Samples must be accompanied by: a) adequate instruction on type of analysis requested, and b) complete written disclosure of the known or suspected presence of any hazardous substances, as defined by applicable federal and state law(s). ESC reserves the right to refuse to accept or to rescind acceptance of any sample, which in the judgment of ESC is likely to pose any unreasonable risk in handling and/or analysis.
- 11. Shipment of Hazardous Samples.** Client represents and warrants that any sample containing any known hazardous substance which is to be delivered to ESC is labeled, packaged, manifested, transported, and delivered to ESC in accordance with the most current state and federal regulations of the Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), Toxic Substances Control Act (TSCA), Resource Conservation and Recovery Act (RCRA), the Department of Transportation (DOT), the Food and Drug Administration (FDA), and any federal, state, and local agencies. ESC does not accept samples with radioactive contamination.
- 12. Holding Times.** ESC will initiate preparation and/or analysis within holding times if Sample Delivery Acceptance occurs within 48 hours of sample collection or within ½ of the holding time if the test's holding time is less than 96 hours. If Sample Delivery Acceptance occurs outside this period, ESC will use its best efforts to meet the holding times. The holding time commitment will be satisfied if ESC does an initial analysis within holding time, even if reanalysis for Quality Assurance requirements occurs outside holding times.

**ESC Lab Sciences Standard Terms and Conditions
Modified for City of Franklin, TN Contract No. 2015-0329**

- 13. Reports and Use of Data.** ESC prohibits the use of its name in connection with any unauthorized use of its reports without its prior written consent. If results delivered by ESC do not meet the warranties described in these Terms and Conditions, but nevertheless are used by client and its client, then ESC still will be paid the contract price for its work. If ESC's work is challenged, it shall be given the right to independently defend its data directly with the challenger; and if this right is not given to ESC, then client will pay ESC in full for the challenged work.
- 14. Special Reports.** Additional charges may be necessary for customized reports that differ significantly from ESC's standard format. Additional charges will apply for specific QA/QC reports and data packages. ESC's standard format for reporting results or data packages is electronic. ESC reserves the right to charge a fee for report delivery other than electronic.
- 15. Hazardous Wastes.** ESC reserves the right to charge a fee for sample disposal for any and all samples received from Client and found or suspected to be hazardous according to state or federal guidelines. ESC's standard is to dispose of samples within 45 days of receipt. ESC also reserves the right to return to the Client upon completion of the analytical work unused portions of samples found or suspected to be hazardous according to state or federal guidelines. The cost of returning such samples may be invoiced to the Client.
- 16. Litigation.** In the event ESC receives a subpoena or other legal or administrative process requiring the deposition or court appearance of ESC personnel or production of documents and records arising out of the services provided hereunder and in which ESC is not a named party and/or the Services are not subject of dispute, ESC shall be reimbursed on a time and material basis at its then effective labor rates and direct expense for all costs incurred in connection therewith. ESC will attempt to promptly notify Client of the subpoena or other legal process to allow Client to take such action through the courts, as it may deem appropriate. It is understood that ESC's compliance with the subpoena or other legal process shall not constitute any breach of any obligation of confidentiality which may exist between ESC and Client.
- 17. Indemnification, Liability, and Insurance.** ESC agrees to indemnify, defend, and save client, its officers, directors, employees, agents, and representatives harmless from all losses, expenses, demands, and claims made against client, its officers, directors, employees, agents, and representatives because of any personal injuries, death, or property damage to the extent caused by the gross negligence or willful misconduct of ESC, its employees, agents, or representatives in connection with the performance of services under these Terms and Conditions, except to the extent such losses, expenses, demands, or claims occur as a result of the negligent or willful acts or omissions of client, its officers, directors, employees, agents, and representatives.
- 18. Warranty.** In accepting analytical work, ESC warrants the accuracy of test results for the sample(s) submitted. **The foregoing express warranty is exclusive and is given in lieu of all other warranties, expressed or implied. ESC disclaims any warranty of fitness for particular purpose and warranty of merchantability.** ESC accepts no legal responsibility for the purposes for which the client uses the test results. No purchase order for work shall be accepted by ESC which includes any conditions that vary from the above described terms of these Terms and Conditions, and ESC hereby objects to any conflicting terms contained in any acceptance or order submitted by client.
- 19. Force Majeure, Etc.** In no event shall ESC have any responsibility or liability to client for any failure or delay in performance by ESC, which results, directly or indirectly, in whole or in part, from any cause or circumstance beyond ESC's reasonable control. Such causes and circumstances include, but are not limited to, acts of God, client actions, acts or orders of any governmental authority, strikes or other labor disputes, natural disasters, accidents, wars, civil disturbances, or any other cause beyond ESC's reasonable control.
- 20. Independent Contractors.** The parties agree that each are at all times acting and performing as independent contractors and that neither party shall be considered an agent, servant, employee, joint venturer or partner with the other party.
- 21. Notices.** Any notice required by these Terms and Conditions shall be in writing and shall be deemed given upon receipt. Written notices may be delivered personally, via facsimile, or by U. S. mail, registered or Certified, return receipt requested; or by commercial delivery. Written notice shall be provided as indicated on signature page/cover sheet for this terms and conditions document.
- 22. Amendment and waivers.** These Terms and Conditions may not be amended, supplemented or modified, and no provision hereof may be waived, unless such amendment, supplement, modification or waiver is in writing and signed by the party against whom enforcement is sought. The waiver of any breach of default under these Terms and Conditions shall not constitute the waiver of any other breach or default, whether or not similar, nor any subsequent breach of the same provision. The election by either party of any right or remedy shall not be deemed exclusive of any other rights or remedies in law or in equity or as may be provided by these Terms and Conditions.
- 23. Confidential Information.** See CoF Contract No. 2015-0329.
- 24. Governing Law.** These Terms and Conditions shall be interpreted and governed by rules and laws of the State of Tennessee.
- 25. Term and Termination.** Work under these Terms and Conditions is pursuant to CoF Contract No. 2015-0329.