

CONTRACT DOCUMENTS

**CITY OF LINCOLN
NEBRASKA**

**ANNUAL SUPPLY
OF
ANALYTICAL TESTING SUPPLIES AND CHEMICALS
SOLE SOURCE**

**IDEXX Laboratories, Inc.
One IDEXX Drive
Westbrook, Maine 04092
800.321.0207 x64637**

**CITY OF LINCOLN
CONTRACT AGREEMENT**

THIS CONTRACT, made and entered into this 23rd day of November 2010, by and between IDEXX Laboratories, Inc., One IDEXX Drive, Westbrook, Maine 04092, hereinafter called "Contractor", and the City of Lincoln, Nebraska, a municipal corporation, hereinafter called "City".

WHEREAS, the City has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published an advertisement for and in connection with said Work, to-wit:

For providing Annual Supply of Analytical Testing Supplies and Chemicals, Sole Source
and,

WHEREAS, the Contractor, in response to such advertisement, has submitted to the City, in the manner and at the time specified, a sealed Proposal/Supplier Response in accordance with the terms of said advertisement; and,

WHEREAS, the City, in the manner prescribed by law has publicly opened, read aloud, examined, and canvassed the Proposals/Supplier Responses submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible bidder for the said Work for the sum or sums named in the Contractor's Proposal/Supplier Responses, a copy thereof being attached to and made a part of this Contract;

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the mutual covenants herein contained, the Contractor and the City has agreed and hereby agree as follows:

1. The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute and complete all Work included in and covered by the City's award of this Contract to the Contractor, such award being based on the acceptance by the City of the Contractor's Proposal, or part thereof, as follows:

Agreement to Attachment A

2. The City agrees to pay to the Contractor for the performance of the Work embraced in this Contract, the Contractor agrees to accept as full compensation therefore, the following sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided by the City:

City will pay for products/service, according to the Line Item pricing as listed in Contractors Proposal/Supplier Response, a copy thereof being attached to and made a part of this Contract. The City shall order on an as needed basis for the duration of the contract.

3. Equal Employment Opportunity. In connection with the carrying out of this project, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, ancestry, disability, age or marital status. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship.

4. E-Verify. In accordance with Neb. Rev. Stat. 4-108 through 4-114, the contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the state of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A 1324b. The contractor shall require any subcontractor to comply with the provisions of this section.
5. Termination. This Contract may be terminated by the following:
 - 5.1) Termination for Convenience. Either party may terminate this Contract upon thirty (30) days written notice to the other party for any reason without penalty.
 - 5.2) Termination for Cause. The City may terminate the Contract for cause if the Contractor:
 - 5.2.1) Refuses or fails to supply the proper labor, materials and equipment necessary to provide services and/or commodities.
 - 5.2.2) Disregards Federal, State or local laws, ordinances, regulations, resolutions or orders.
 - 5.2.3) Otherwise commits a substantial breach or default of any provision of the Contract Document. In the event of a substantial breach or default the City will provide the Contractor written notice of said breach or default and allow the Contractor ten (10) days from the date of the written notice to cure such breach or default. If said breach or default is not cured within ten (10) days from the date of notice, then the contract shall terminate.
6. Independent Contractor. It is the express intent of the parties that this contract shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed to be employees of the City and employees of the City shall not be deemed to be employees of the Contractor. The Contractor and the City shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the City's employees shall be entitled to any salary, wages, or benefits from the other party, including but not limited to overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.
7. Contract Term. This Contract shall be effective upon execution by both parties thru September 21, 2013.
8. The Contract Documents comprise the Contract, and consist of the following:
 1. Contract Agreement
 2. Attachment A - Pricing
 3. Attachment B - Sole Source Purchase Request

These Contract Agreements, together with the other Contract Documents herein above mentioned, form this Contract, and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and the City hereby agree that all the terms and conditions of this Contract shall be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and the City do hereby execute this contract.

EXECUTION BY THE CITY OF LINCOLN, NEBRASKA

ATTEST:

CITY OF LINCOLN, NEBRASKA

City Clerk

Mayor

Approved by Resolution No. _____

dated _____

EXECUTION BY CONTRACTOR

IF A CORPORATION:

ATTEST:

Stacy Bashaw 11/23/10

~~Secretary~~ Notary Public Maine (SEAL)

STACEY BASHAW
Notary Public, Maine
My Commission Expires June 14, 2014

IDEXX Distribution, Inc
Name of Corporation

One IDEXX Drive, Westbrook, ME 04092
(Address)

By: *Dan E. Belin*
Duly Authorized Official

Vice President
Legal Title of Official

IF OTHER TYPE OF ORGANIZATION:

Name of Organization

Type of Organization

(Address)

By: _____
Member

By: _____
Member

IF AN INDIVIDUAL:

Name

Address

Signature



QUOTE

Number / Date
20080829 / November/17/2010

Ship to Address
LINCOLN WATER SYSTEM
401 Highway 6
ASHLAND NE 68003
UNITED STATES
UNITED STATES

Sold to Address
LINCOLN WATER SYSTEM
PO Box 144
ASHLAND NE 68003
UNITED STATES
UNITED STATES

Terms of delivery : FPS,

Bill-to Customer 44435

Payment Terms : Within 30 days

Net weight : 10.810

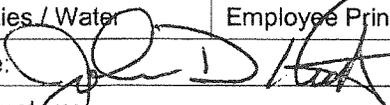
These prices are valid through 9/21/13.

Material ID Commodity/COO	Description Batch	Exp.Date	Quantity BO Item	UnitPrice	Total Value
98-09221-00 3926909910/US	WV120SBST-200, VESSELS W/S		1	80.00	80.00
98-12973-00 3822000002/US	WP200I GAMMA IRRAD COLILE		1	616.00	616.00
98-11682-00 3822000002/US	WP104 COLI P/A COMPARATOR		1	10.00	10.00
98-20748-01 3822000002/US	UN3373-WKIT 1001, QUANTI-		1	147.00	147.00
98-05761-01 3822000002/US	WHPC-100 HPC, SIMPLATE MUL		1	225.00	225.00
98-05760-01 3822000002/US	WHPC-25 HPC, SIMPLATE UNI		1	85.00	85.00
98-09444-00 3822000002/US	WSW-10 STERILE WATER (10		1	35.00	35.00
Items total					1,198.00
Freight Value					67.14
Tax total					69.59
Total amount					USD 1,334.73
					=====

All local taxes at customer charge

Sole Source Purchase Request

I am aware that the City of Lincoln's Municipal Code (Section 2.18) requires procurement's to be made competitively whenever practicable. I am requesting sole source procurement based on the following criteria. The following statements are complete and accurate, based on my professional judgment, and investigations. I also certify that no personal advantage, gain or privilege has (or will) accrue to my immediate family member or myself through the purchase from this vendor, nor is a family member employed by or is an officer of this vendor.

Department: PW/Utilities / Water	Employee Printed Name: John D. Keith
Employee's Signature: 	
Department Head Signature: 	
Date: 11/16/2010	Phone: 402-944-3306
Requisition #:	Account #: 70215.6801.1700
Vendor: IDEXX	

Briefly describe the product/service requested, its function and what it will be used for.

Products purchased from IDEXX are used for the analysis of various microbiological analytes including total coliform, e-coli, heterotrophic plate count (HPC) and others. The products are analytical testing supplies and chemicals.

These are used for Regulated Compliance Monitoring

Please select the category (or categories) that best describe your single/sole source requirement. Answer all of the questions pertaining to that category, attaching additional pages as needed. Complete only those categories that are applicable.

A. Compatibility with existing equipment, research protocol, methodology, or training:

1. With what other material must this requirement be compatible?

2. What is the approximate dollar value of the existing material?

3. What are the unique properties that make this the only product compatible with existing material or research?

4. Provide any other supporting information.

B. Only known manufacture of this product:

1. What investigation has been done to support this claim (i.e., trade shows, internet searches, professional journals, colleagues, etc.)? Please list sources.

LWS has researched this product thru internet searches, the AWWA Water Quality Technology Conference, and professional colleagues. The LWS Laboratory did do a evaluation/testing of a competitor product (Colitag by CPI International) which proved to be more difficult to use and less accurate than IDEXX Colilert.
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2. What other manufacturers did you solicit information from? Please list their names and summarize your findings.

Midland Scientific informed LWS that they cannot purchase the products from IDEXX. IDEXX only sells it product to the end user. Fisher Scientific and VWR did not provide pricing for IDEXX supplies when bidding for a Laboratory Supplies Contract.

3. Does this manufacturer sell directly to governments or through distributors?

IDEXX ONLY sells to the end user and does not use distributors.

4. Is this equipment or service under a GSA contract? If, on GSA there is no need for this justification.

NO.

C. **Only product that will meet the requirements of the intended use although other like items:**

1. What other manufacturers did you evaluate? Please identify the manufacturer and the product deficiencies that lead to their disqualification. Attach all vendor quotations to this form.

IDEXX Colilert was evaluated/tested against Colitag by CPI International. The Colitag was more difficult to use, supplies had increased chances of contamination due to design and more difficult to determine the presence/absence results of the test.

2. If this product is superior to all others, state the reasons why? (Give specific characteristics, capabilities and properties.)

The Colitag sample vessels had sealed tops which were difficult to remove and required placing the cap down on a counter which increases chances of contamination. The colitag sample vessel was an opaque color and the results of e-coli tests (positive if it becomes florescent) were difficult to determine.

3. Provide other supporting research to document the need for only this specific manufacturer, if applicable.

Only IDEXX Colilert and CPI International Colitag are approved by the USEPA for testing.

D. **Regional Support or Service of needed equipment:**

1. Is this the only known vendor to support and/or service this type of product in this region?

2. If yes, give support of your need for immediate service as the primary requirement for vendor selection when buying new equipment.

NOTE: This alone will not qualify as sole source if there are other manufactures that sell and service similar products within this region. Additional support would be required above.

E. Service Providers:

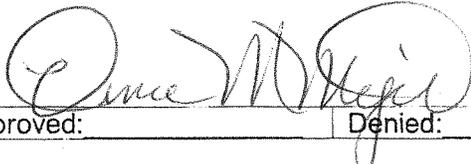
1. Is this the only known vendor that provides maintenance or repair services for existing equipment?

2. If another type of service is needed, explain why no other vendor is acceptable?

F. What are the consequences of not securing this specific item or service?

G. Provide any additional information not furnished above that supports your specific requirements necessitating single sole source purchase.

A Blanket Purchase Order has been generated for IDEXX PO# 13250-004 OD
IDEXX has provided a written quote which is applicable for three years until 09/21/2013. (see attached)

		11-18-2010
Approved:	Denied:	Date:
Purchasing Agent:		

cc: Department
Auditing
File



IDEXX Distribution, Inc.
One IDEXX Drive
Westbrook, Maine 04092
800-321-0207

11/15/2010

John Kieth
LINCOLN WATER SYSTEM
ASHLAND, NE 68003

Hello John.

Please accept this letter as confirmation that IDEXX Distribution, Inc. (FEIN # 35-2186625) is a wholly owned subsidiary of IDEXX Laboratories, Inc. and is the **sole supplier/distributor** of the following products to the US Water Market: Weber Scientific is only authorized to sell to the Dairy industry for IDEXX.

Product	Sole Manufacturer	Sole Supplier/Distributor in US Water Testing Market
Colilert® reagent	Yes	Yes
Colilert® Comparator	Yes	Yes
Colilert®-18 reagent	Yes	Yes
Colisure™ reagent	Yes	Yes
Enterolert™ reagent	Yes	Yes
IDEXX Vessels	Yes	Yes
Quanti-Tray® Sealer	Yes	Yes
Quanti-Tray®	Yes	Yes
All Colilert® Starter Kits	Yes	Yes
Colilert® Quanti-Cult™ QC kit		Yes
SimPlate™ for HPC test kit	Yes	Yes
Filta-Max® Automatic Wash Station	Yes	Yes
Filta-Max® xpress Elution Station	Yes	Yes

Please note that IDEXX Distribution, Inc. was formed as a wholly owned subsidiary of IDEXX Laboratories, Inc. because our shipping location moved from Westbrook, Maine to Memphis, Tennessee.

I hope this information is of assistance. If you have any questions, please call me at 800-321-0207 X-64637

Sincerely,

Boyd Hawkins