



AGENDA REPORT

Meeting Date: October 6, 2015

Item Number: D-10

To: Honorable Mayor and City Council

From: Trish Rhay, Assistant Director of Public Works Services,
Infrastructure & Field Operations

Caitlin Sims, Senior Management Analyst

Michelle Tse, Senior Management Analyst

Subject: AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
HACH COMPANY TO PROVIDE CHEMICAL REAGENTS AND
MAINTENANCE SERVICE OF WATER UTILITY ON-LINE
MONITORING SYSTEMS AND LABORATORY EQUIPMENT;
AND

APPROVAL OF A PURCHASE ORDER IN A NOT TO EXCEED
AMOUNT OF \$208,331

Attachments: 1. Agreement

RECOMMENDATION

Staff recommends that the City Council waive the bidding requirements as outlined in the Municipal Code as the procedures would be contrary to the best interests of the City, approve a three-year agreement with Hach Company and move to approve a Purchase Order in the amount of \$208,331 for the purchase of chemical reagents and maintenance service of water utility on-line monitoring systems and laboratory equipment related to the City's water operations.

DISCUSSION

The City utilizes equipment and services provided by vendor Hach Company to monitor and calibrate its water quality monitoring system and equipment related to the City's reverse osmosis treatment plant, laboratory, and reservoirs. The monitoring system is used to run several different tests to ensure overall water quality. The calibration

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services are needed to comply with the State Water Resources Control Board's Division of Drinking Water regulations for water quality.

Hach Company is the only company that manufactures the equipment and chemical reagents used by the City. The City currently has an existing one-year contract with Hach Company to provide regular maintenance for its system and equipment which terminates on September 30, 2015. The attached agreement is a three-year service agreement for maintenance services through September 2018.

Beverly Hills Municipal Code Section 3-3-204 authorizes the City to enter into an agreement without undertaking a public bidding process if compliance with the purchasing procedures would be contrary to the best interests of the City. If the City were to seek other vendors to provide the chemical reagents and maintenance service of the City's water monitoring system and equipment, the manufacturer's warranty would be void.

Staff recommends that the City Council waive the bidding requirements as outlined in the Municipal Code as the procedures would be contrary to the best interests of the City, approve a three-year agreement with Hach Company, and move to approve a Purchase Order in the amount of \$208,331 for the purchase of chemical reagents and maintenance service of water utility on-line monitoring systems and laboratory equipment related to the City's water operations.

FISCAL IMPACT

Funding for these services has been budgeted in the City's Water Enterprise fund.



Approved By
George Chavez

Attachment 1

AGREEMENT BETWEEN THE CITY OF BEVERLY
HILLS AND HACH COMPANY TO PROVIDE
CHEMICAL REAGENTS AND MAINTENANCE
SERVICE OF WATER UTILITY ON-LINE
MONITORING SYSTEMS AND LABORATORY
EQUIPMENT

NAME OF CONTRACTOR: HACH COMPANY

RESPONSIBLE PRINCIPAL OF
CONTRACTOR: Stephanie Smith, Customer Sales

CONTRACTOR'S ADDRESS: Hach Company
5600 Lindbergh Drive
Loveland, CO 80539-0389
Attention: Stephanie Smith,
Customer Sales

CITY'S ADDRESS: City of Beverly Hills
345 Foothill Road
Beverly Hills, CA 90210
Attention: George Chavez,
Director of Public Works Services

COMMENCEMENT DATE: September 28, 2015

TERMINATION DATE: September 27, 2018

CONSIDERATION: Total not to exceed \$208,331

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS
AND HACH COMPANY TO PROVIDE CHEMICAL
REAGENTS AND MAINTENANCE SERVICE OF WATER
UTILITY ON-LINE MONITORING SYSTEMS AND
LABORATORY EQUIPMENT

THIS AGREEMENT is made by and between the City of Beverly Hills
(hereinafter called "CITY"), and HACH COMPANY (hereinafter called "CONTRACTOR").

RECITALS

A. CITY desires to have certain services and/or goods provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.

B. CONTRACTOR represents that it is qualified and able to perform the Scope of Works.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONTRACTOR's Scope of Work. CONTRACTOR shall perform the Scope of Work described in Exhibit A in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. CITY shall have the right to order, in writing, changes in the Scope of Work. Any changes in the Scope of Work by CONTRACTOR must be made in writing and approved by both parties. The cost of any change in the Scope of Work must be agreed to by both parties in writing.

Section 2. Time of Performance. CONTRACTOR shall commence its services under this Agreement upon the Commencement Date or upon a receipt of a written notice to proceed from CITY. CONTRACTOR shall complete the performance of services by the Termination Date set forth above and/or in conformance with the project timeline established by the City Manager or his designee.

The City Manager or his designee may extend the time of performance in writing for two additional one-year terms or such other term not to exceed two years from the date of termination pursuant to the same terms and conditions of this Agreement.

Section 3. Compensation.

(a) Compensation. CITY agrees to compensate CONTRACTOR for the services and/or goods provides under this Agreement, and CONTRACTOR agrees to accept in full satisfaction for such services, a sum not to exceed the Consideration described in Exhibit B, attached hereto and incorporated herein.

(b) Additional Services. CITY may from time to time require CONTRACTOR to perform additional services not included in the Scope of Services. Such

requests for additional services shall be made by CITY in writing and agreed upon by both parties in writing.

Section 4. Method of Payment. Unless otherwise provided for herein, CONTRACTOR shall submit to CITY a detailed invoice for the services pursuant to this Agreement. Each invoice shall itemize the services and the amount due. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall pay CONTRACTOR said consideration in accordance with the schedule of payment set forth in Exhibit B.

Section 5. Independent Contractor. CONTRACTOR is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 6. Assignment. This Agreement shall not be assigned in whole or in part, by CONTRACTOR without the prior written approval of CITY. Any attempt by CONTRACTOR to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

Section 7. Responsible Principal(s).

(a) CONTRACTOR's Responsible Principal set forth above shall be principally responsible for CONTRACTOR's obligations under this Agreement and shall serve as principal liaison between CITY and CONTRACTOR. Designation of another Responsible Principal by CONTRACTOR shall not be made without prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of the Agreement on behalf of CITY.

Section 8. Personnel. CONTRACTOR represents that it has, or shall secure at its own expense, all personnel required to perform CONTRACTOR's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

Section 9. Permits and Licenses. CONTRACTOR shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

Section 10. Interests of CONTRACTOR. CONTRACTOR affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by CONTRACTOR for the purposes of performing the obligations of CONTRACTOR hereunder.

Section 11. Insurance.

(a) CONTRACTOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

(1) A policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, Policy is aggregated at \$5M combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONTRACTOR.

(2) A policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by CONTRACTOR in performing the Scope of Work required by this Agreement.

(3) Workers' compensation insurance as required by the State of California.

(b) CONTRACTOR shall require each of its sub-contractors to maintain insurance coverage which meets all of the requirements of this Agreement.

(c) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+;VII in the latest edition of Best's Insurance Guide.

(d) CONTRACTOR agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either immediately terminate this Agreement.

(e) At all times during the term of this Agreement, CONTRACTOR shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONTRACTOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. CONTRACTOR shall provide to CITY thirty (30) days prior written notice prior to the cancellation or reduction of any of the policies required under this Agreement.

(f) The insurance provided by CONTRACTOR shall be primary to any coverage available to CITY.

Section 12. Indemnification. CONTRACTOR agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, from any claim, liability or financial loss (including, without limitation, attorneys fees and costs arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR or any person employed by CONTRACTOR in the performance of this Agreement.

Section 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to CONTRACTOR. CONTRACTOR agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by CITY, due to no fault or failure of performance by CONTRACTOR, CONTRACTOR shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONTRACTOR be entitled to receive more than the amount that would be paid to CONTRACTOR for the full performance of the services required by this Agreement. CONTRACTOR shall have no other claim against CITY by reason of such termination, including any claim for compensation.

Section 14. CITY's Responsibility. CITY shall provide CONTRACTOR with all pertinent data, documents, and other requested information as is available for the proper performance of CONTRACTOR's Scope of Work.

Section 15. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by CONTRACTOR and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Records and Inspections. CONTRACTOR shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of 3 years. CITY shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same and to make copies and transcripts therefrom, and to inspect all program data, documents, proceedings and activities.

Section 17. Changes in the Scope of Work. CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by CONTRACTOR must be made in writing and approved by both parties.

Section 18. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses set forth above, or to such other addresses as the parties may, from time to time, designate in writing pursuant to this section.

Section 19. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

Section 20. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and CONTRACTOR, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and CONTRACTOR.

Section 21. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 22. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 23. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONTRACTOR.

Section 24. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the ____ day of _____ 201__, at Beverly Hills, California.

CITY OF BEVERLY HILLS, a municipal
corporation

JULIAN A. GOLD, M.D.
Mayor of the City of Beverly Hills, California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

CONTRACTOR: HACH COMPANY

Kevin A. Klau
KEVIN A. KLAU
PRESIDENT

Mike Strycker
MIKE STRYCKER
Vice President of Finance

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT

MAHDI ALUZRI
Interim City Manager



GEORGE CHAVEZ
Director of Public Works Services



KARL KIRKMAN
Risk Manager

EXHIBIT A
SCOPE OF WORK

CONTRACTOR shall perform the following services:

1. CONTRACTOR shall perform on site visits on a quarterly schedule to maintain and service, but not limited to, CONTRACTOR instruments located in the Reverse Osmosis Water Treatment Plant (RO-Plant), laboratory and reservoir sites.

CONTRACTOR shall also provide all materials to provide the service.

2. CONTRACTOR service technician shall replace parts free of charge, if needed, and perform maintenance, but not limited to, the equipment listed in Exhibit B-1.
3. CONTRACTOR shall provide Emergency Maintenance Service upon CITY's request, for CITY priority emergency field repair at no additional cost.

DELIVERABLES: CONTRACTOR shall provide maintenance and service, but not limited, to the instruments as described in Attachment 1 to Exhibit B. CONTRACTOR shall also provide as needed chemical reagents as described in Attachment 1 to Exhibit B.

1. Maintenance and Service of the Instruments located in the RO Plant, laboratory and reservoir sites.

Work can be initiated once given the instruction to proceed. Maintenance and service are quarterly scheduled and can be subjected to earlier schedule if service is requested for emergency. CONTRACTOR shall provide all materials and parts for maintenance and service.

2. On-Site Visit: On-site travel cost per year is included in the service contract.

EXHIBIT B
COMPENSATION

CITY shall compensate CONTRACTOR for the satisfactory performance of the work described in this Agreement in a total not to exceed amount of \$208,331 (Two Hundred Eight Thousand Three Hundred Thirty One Dollars) for the term of the Agreement at the rates set forth in Attachment 1 to this Exhibit.

ATTACHMENT 1 TO EXHIBIT B

Maintenance & Service Rates for the Water Utility On-Line Monitoring Systems and Laboratory Equipment are shown below (2 pages).

City of Beverly Hills										
Instrument	Part #	2015			2016			2017		
		Qty	Price	Ext \$	Qty	Price	Ext Price	Qty	Price	Ext Price
1720E	FSP1720E	2	\$680.00	1,360.00	2	\$700.40		2	\$721.41	
1720D	PMP-1720D-4V	2	\$660.00	1,320.00	2	\$679.80		2	\$700.19	
2100N	FSP2100N - 1V	1	\$371.00	371.00	1	\$382.13		1	\$393.59	
Supp Labor	FSPSuppLabor	1	\$1,200.00	1,200.00	1	\$1,236.00		1	\$1,273.08	
CA610	FSPCA610	1	\$1,962.00	1,962.00	1	\$2,020.86		1	\$2,081.49	
CA610	PMP-CA610-2V	1	\$1,835.00	1,835.00	1	\$1,890.05		1	\$1,946.75	
CL17	FSPCL17	2	\$1,080.00	2,160.00	2	\$1,112.40		2	\$1,145.77	
CL17	PMP-CL17-2V	2	\$710.00	1,420.00	2	\$731.30		2	\$753.24	
DR2800	BSPPLUSDR2800	1	\$600.00	600.00	1	\$618.00		1	\$636.54	
DR3900	BSPPIusDR3900	2	\$809.00	1,618.00	2	\$833.27		2	\$858.27	
DR2500	PMP-DR2500-2V	1	\$793.00	793.00	1	\$816.79		1	\$841.29	
DR800	BSPPIusDR8XX	1	\$200.00	200.00	1	\$206.00		1	\$212.18	
G63	FSPG63-4V	3	\$250.00	750.00	3	\$257.50		3	\$265.23	
GLPHORP	PMP-GLPHORP-4V	5	\$550.00	2,750.00	5	\$566.50		5	\$583.50	
HQD	BSPPIusHQD	3	\$304.00	912.00	3	\$313.12		3	\$322.51	
Pocket Colorimtr	PMP-Pocket-4V	1	\$142.00	142.00	1	\$146.26		1	\$150.65	
SC1000	FSPSC1000-1V	1	\$240.00	240.00	1	\$247.20		1	\$254.62	
SL1000	BSPPIusSL1000	2	\$590.00	1,180.00	2	\$607.70		2	\$625.93	
	Admin Fees				1	\$624.39		1	\$1,267.51	
		Year 1 Total	20,813.00		Year 2 Total	21437.39		Year 3 Total	\$22,080.51	

Unit costs for Chemical Reagents are shown below:

Line	Parr Number	Description	Qty	Unit Price	Extended Price	
1	2105560	Free Chlorine replacement vial for SwiftTest Dispenser. Includes reagent for 250 tests for 10 ml samples. DPD FREE REFILL VIAL *This product has not been evaluated to test for chlorine and chloramines in medical applications in the United States.	1	45.69	45.69	
2	2105660	Total chlorine replacement vials for the SwiftTest Dispenser. Contains enough DPD for 250 tests for 10 ml samples. This product has not been evaluated to test for chlorine and chloramines in medical applications in the United States.	1	45.69	45.69	
3	2105669	DPD Total Chlorine, 10mL pk/100 Powder Pillows *This product has not been evaluated to test for chlorine and chloramines in medical applications in the United States.	1	20.19	20.19	
4	2105569	DPD Free Chlorine 10mL, pk/100 Powder Pillows *This product has not been evaluated to test for chlorine and chloramines in medical applications in the United States.	1	20.19	20.19	
5	2653199	Ammonia Cyanurate Reagent, pk/100	1	45.65	45.65	
6	2653299	Ammonia Salicylate, pk/100	1	71.59	71.59	
7	PCIIICHLOR	KTO: PCIIICHLOR, SPECIAL CHLORINE	1	567.00	567.00	
8	2506025	Fluoride Reagent, SPADNS, pk/25, AccuVac Ampuls	1	35.79	35.79	
9	2107169	NitriVer 3 Nitrite Reagent, low range 0-0.2 mg/L or 0-0.5 mg/L as nitrite-N, 10 mL sample, pk/100 Powder Pillows	1	36.29	36.29	
10	2802299	MONOCHLOR F REAGENT PK/100	1	58.15	58.15	
11	141832	Hydrochloric Acid, 2.5N, 100 mL, Measured Dropping Bottle	1	16.59	16.59	
12	16726H	Potassium Iodide, ACS, 100g	1	47.20	47.20	
13	2333353	Iodine Standard, 0.0282N 1000mL Solution	1	31.89	31.89	
14	9425200	ASSY., PACK, CHEMKEY, 25 PIECE, TOTAL AMMONIA	1	61.25	61.25	
15	9429600	KTO CHEMKEY, 25 PIECE MONO-CHLOR. AND 25 PIECE FREE AMMONIA	1	96.25	96.25	
16	9429000	ASSY., PACK, CHEMKEY, 25 PIECE, FREE CHLORINE	1	17.50	17.50	
17	9429100	ASSY., PACK, CHEMKEY, 25 PIECE, TOTAL CHLORINE	1	17.50	17.50	
18	9429200	ASSY., PACK, CHEMKEY, 25 PIECE, COPPER	1	38.50	38.50	
19	9429400	ASSY., PACK, CHEMKEY, 25 PIECE, MONO- CHLOROMINE	1	43.75	43.75	
20	9429300	ASSY., PACK, CHEMKEY, 25 PIECE, NITRITE	1	33.75	33.75	
				Grand Total	5	1,320.41

EXHIBIT C

CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below :

NAMED INSURED

COMPANIES AFFORDING COVERAGE

ADDRESS

- A.
- B.
- C.

COMPANY (A.B.C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	LIMITS P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> BLANKET CONTRACTUAL <input type="checkbox"/> CONTRACTOR'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKER'S COMPENSATION					

It is hereby understood and agreed that the City of Beverly Hills, its City Council and each member thereof and every officer and employee of the City shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: Contractor agrees to indemnify, hold harmless and defend City, its City Council and each member thereof and every officer and employee of City from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs and expenses of litigation brought against City, its City Council and each member thereof and any officer or employee of City which results directly or indirectly from the wrongful or negligent actions of contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the City of Beverly Hills.

In the event of cancellation or material change in the above coverage, the Contractor will give 30 days' written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance 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.

DATE : _____ BY : _____

 Authorized Insurance Representative

TITLE : _____

AGENCY : _____ Address : _____

