



AGENDA REPORT

Meeting Date: April 5, 2016
Item Number: D-10
To: Honorable Mayor & City Council
From: Trish Rhay, Assistant Director of Public Works Services,
Infrastructure & Field Operations

Caitlin Sims, Senior Management Analyst

Subject: APPROVAL OF AGREEMENT BY AND BETWEEN THE CITY OF BEVERLY HILLS AND AQUA METROLOGY SYSTEMS ("AMS") FOR INSTALLATION AND SERVICE OF A CONTINUOUS WATER MONITORING SYSTEM AT THE CITY WATER TREATMENT PLANT;

AND APPROVAL OF A PURCHASE ORDER FOR A NOT-TO-EXCEED AMOUNT OF \$65,000.

Attachments: 1. Agreement

RECOMMENDATION

Staff recommends that the City Council approve an agreement with Aqua Metrology Systems ("AMS") for the installation and service of a continuous water monitoring system at the City Water Treatment Plant and approve a purchase order for a not-to-exceed amount of \$65,000.

INTRODUCTION

The City's Reverse Osmosis Water Treatment Plant located at 345 Foothill Road treats water from four City wells to meet drinking water quality standards. One of the four city wells has elevated arsenic levels above these standards. As a result, the State Division of Drinking Water ("DDW") requires the City to submit a plan to ensure that arsenic levels meet regulatory standards after the water is treated and requires continuous arsenic monitoring to ensure public health.

When the Water Treatment Plant was operating, staff sent weekly water samples to a State-certified lab to be tested for arsenic. Arsenic levels after treatment meet regulatory standards.

Meeting Date: April 5, 2016

Currently, the Water Treatment Plant is offline for rehabilitation work, and it is anticipated that it will be in operation in May 2016. DDW has asked that a continuous arsenic monitoring system be in place by that time. New technology is available from Aqua Metrology Systems ("AMS") that would allow staff to have this continuous monitoring. The continuous monitoring will eliminate the need for manual testing currently conducted and provide a more efficient process to ensure that water quality meets State standards.

DISCUSSION

The State Division of Drinking Water requires that all public drinking water systems adhere to drinking water quality standards. The City's drinking water operating permit requires that the City test for arsenic in all of its groundwater wells and the treatment plant. As previously mentioned, staff currently sends water samples to a State-certified lab for weekly testing for arsenic. In addition, DDW is requiring the City to continuously monitor arsenic levels in the treatment process, specifically after treatment, to ensure public health.

New technology available from Aqua Metrology Systems ("AMS") provides a fully automated, online arsenic analyzer that would allow staff to continuously monitor arsenic levels throughout the treatment process. This equipment allows staff to make operational decisions more efficiently and ensures that water quality standards are met. AMS is the only firm that operates this new technology.

Staff is recommending that the City Council approve a one-year agreement with AMS for the installation and service of a continuous water monitoring system at the Water Treatment Plant.

FISCAL IMPACT

Funds have been budgeted in this fiscal year and are available for this purpose.


George Chavez
Approved By

Attachment 1

AGREEMENT BY AND BETWEEN THE CITY OF BEVERLY
HILLS AND AQUA METROLOGY SYSTEMS ("AMS") FOR
INSTALLATION AND SERVICE OF A CONTINUOUS WATER
MONITORING SYSTEM AT THE CITY WATER TREATMENT
PLANT

NAME OF CONTRACTOR: AQUA METROLOGY SYSTEMS

RESPONSIBLE PRINCIPAL OF CONTRACTOR: Rick Bacon, Chief Executive Officer

CONTRACTOR'S ADDRESS: 1225 E. Arques Avenue
Sunnyvale, California 94085
Attention: Rex Sisteck, Western Region
Business Development Manager

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

COMMENCEMENT DATE: April 5, 2016

TERMINATION DATE: April 20, 2017

CONSIDERATION: \$65,000.00, as more particularly described
in Exhibit B

AGREEMENT BY AND BETWEEN THE CITY OF BEVERLY HILLS AND AQUA METROLOGY SYSTEMS ("AMS") FOR INSTALLATION AND SERVICE OF A CONTINUOUS WATER MONITORING SYSTEM AT THE CITY WATER TREATMENT PLANT

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and Aqua Metrology Systems (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 set forth above and more particularly described in Exhibit B.

(b) Expenses

CONTRACTOR shall be entitled to reimbursement only for those expenses expressly set forth in Exhibit B. Any expenses incurred by CONTRACTOR which are not expressly authorized by this Agreement will not be reimbursed by CITY.

(c) 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. CITY shall pay CONTRACTOR said Consideration in accordance with the method and 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 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 or be associated with CONTRACTOR.

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, 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 or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at CONTRACTOR's expense, the premium thereon.

(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 liability insurance shall contain an endorsement naming CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(f) The insurance provided by CONTRACTOR shall be primary to any coverage available to CITY. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(g) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, CONTRACTOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONTRACTOR shall procure a bond guaranteeing payment of losses and expenses.

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 three 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. 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 18. 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 19. 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 20. 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 21. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 22. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than CONTRACTOR.

Section 23. 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 _____ 2016, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

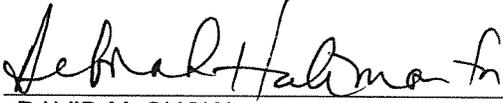
JOHN A. MIRISCH
Mayor of the City of Beverly Hills, California

ATTEST:

BYRON POPE (SEAL)
City Clerk

[Signatures continue]

APPROVED AS TO FORM:



DAVID M. SNOW
Interim City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager

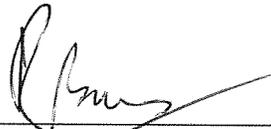


GEORGE CHAVEZ
Assistant City Manager/Director of Public Works
Services



KARL KIRKMAN
Risk Manager

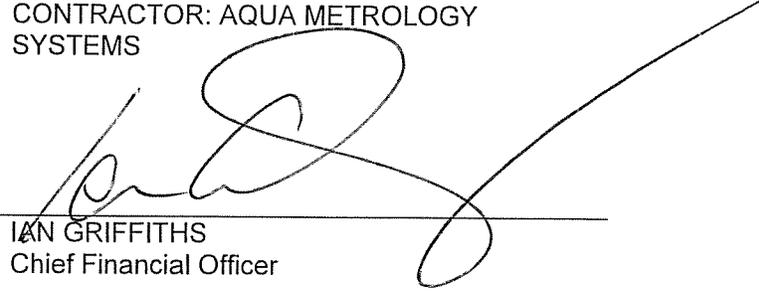
CONTRACTOR: AQUA METROLOGY
SYSTEMS



RICK BACON
Chief Executive Officer

[Signatures continue]

CONTRACTOR: AQUA METROLOGY
SYSTEMS



IAN GRIFFITHS
Chief Financial Officer

EXHIBIT A
SCOPE OF WORK

CONTRACTOR shall install an arsenic analyzer and perform arsenic analysis services at CITY's Water Treatment Plant as follows:

- Install an online total arsenic analyzer (Arsenic Guard Standard Configuration), which shall include the following components:
 - Arsenic measurement range
 - 4 Stream + Grab Sample Port
 - NEMA 12 Enclosure
 - Front Display Human-Machine Interface
 - Electrode Cleaning Kit
 - Tabulated and Colored Arsenic Guard Manual
 - Dual Filtration Mount (5 Micron and 1 Micron Filters)
 - AG Spare Parts Kit
 - System bring-up; testing
 - Commissioning at CITY site
 - System health telemetry
- Report analytical results to CITY staff in writing on a monthly basis. This shall include, without limitation, services performed such as calibration results and part replacements.
- From the commissioning of the arsenic analyzer provide twelve (12) months of service and support for the Arsenic Guard Standard Configuration that includes the following:
 - 12 month coverage of initial installation, including labor, spare parts, and maintenance reagents, telephone support

EXHIBIT B

RATES AND SCHEDULE OF PAYMENT

- A. CITY shall compensate CONTRACTOR for the satisfactory performance of the work described in this Agreement in the amount of Sixty-Five Thousand Dollars (\$65,000.00) including reimbursable expenses. Reimbursable expenses may include travel and other expenses reasonably incurred in the performance of the Agreement.

Online Total Arsenic Analyzer	\$54,050.00
• Arsenic measurement range	
• 4 Stream + Grab Sample Port	
• NEMA 12 Enclosure	
• Front Display Human-Machine Interface	
• Electrode Cleaning Kit	
• Tabulated and Colored ArsenicGuard Manual	
• Dual Filtration Mount (5 Micron and 1 Micron Filters)	
• AG Spare Parts Kit	
Service Agreement	\$10,950.00
TOTAL	\$65,000.00

- B. CITY shall pay CONTRACTOR \$65,000.00 upon satisfactory completion of the installation of all components.
- C. CONTRACTOR shall submit an itemized statement to CITY on a CITY approved form for its services performed, which shall include documentation setting forth in detail a description of the services rendered, and the hours of service, if appropriate. CITY shall pay CONTRACTOR the amount of such billing within thirty (30) days of receipt of same.

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"/> Consultant'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 company 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

AGENCY : _____ TITLE : _____

Address : _____