

**ATTACHMENT 1**

AMR SYSTEM PURCHASE DOCUMENTS  
BADGER METER COMPANY

## CONTRACT

THIS CONTRACT is made and entered into by and between the CITY OF FRESNO, a municipal corporation, hereinafter referred to as the "City," and BADGER METER, INC., a Wisconsin corporation, hereinafter referred to as the "System Vendor," as follows:

1. Contract Documents. The "Notice Inviting Bids," "Instructions to Bidders," "Bid Proposal," and the "Specifications" including "General Conditions", "Special Conditions", and "Technical Specifications" for the following: SUPPLY WATER METERS AND WATER METER REPORTING SYSTEM PHASE 2: PRICE PROPOSALS FROM QUALIFIED SYSTEM VENDORS (BID FILE NO. 2862) (ALTERNATIVE BID PROPOSAL TWO) copies of which are annexed hereto, together with all the drawings, plans, and documents specifically referred to in said annexed documents, including a Performance Bond, if required, in substantially the form as included in the Specifications and are hereby incorporated into and made a part of this Contract, and shall be known as the Contract Documents.

2. Price and Work. For the estimated monetary consideration of TWENTY-TWO MILLION FOURTEEN THOUSAND FIVE HUNDRED FIFTY-FOUR DOLLARS AND EIGHTY-NINE CENTS (\$22,014,554.89), as set forth in the Bid Proposal for the initial term (total of Alternative Bid Proposal Two Schedules 2.1, 2.2, 2.4 and 2.5), and for the pricing as set forth in the Bid Proposal during any extension or survival period (Alternative Bid Proposal Two Schedules 2.1, 2.2, 2.3 and 2.4), the System Vendor promises and agrees to furnish or cause to be furnished, in a new and working condition, and to the satisfaction of the City, and in strict accordance with the Specifications, all of the items as set forth in the Contract Documents.

3. Payment. The City accepts the System Vendor's Bid Proposal as stated and agrees to pay the consideration stated, at the times, in the amounts, and under the conditions specified in the Contract Documents.

4. Indemnification. To the furthest extent allowed by law including California Civil Code section 2782, the System Vendor shall indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including, but not limited to personal injury, death at any time and property damage) incurred by the City, the System Vendor or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Contract. The System Vendor's obligations under the preceding sentence shall apply regardless of whether the City or any of its officers, officials, employees, agents or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active negligence or willful misconduct of the City or any of its officers, officials, employees, agents or volunteers.

If the System Vendor should subcontract all or any portion of the work to be performed under this Contract, the System Vendor shall require each subcontractor to indemnify, hold harmless and defend the City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Contract.

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IN WITNESS WHEREOF, the parties have executed this Contract on the day and year here below written, of which the date of execution by the City shall be subsequent to that of the System Vendor's, and this Contract shall be binding and effective upon execution by both parties.

BADGER METER, INC.,  
a Wisconsin corporation

By: Richard A. Meeusen

Richard A. Meeusen  
(Type or print Written Signature.)

Title: Chairman, President and CEO

Dated: 01/27/10

By: Pamela G. Stokke-Ceci

Pamela G. Stokke-Ceci  
(Type or Print Written Signature.)

Title: Assistant Secretary

Dated: 01/27/10

CITY OF FRESNO,  
a municipal corporation

By: Jason MacDonald

Jason MacDonald,  
Purchasing Manager  
General Services Department

Dated: 2-26-10

ATTEST:  
REBECCA E. KLISCH  
City Clerk

By: Cindy Brewer 2/22/10  
Deputy Date

APPROVED AS TO FORM:  
JAMES C. SANCHEZ  
City Attorney

By: Nancy A. Algier 2-25-10  
Nancy A. Algier Date  
Senior Deputy

City address:

City of Fresno Water Division  
Attention: Mark Hughson  
1910 E. University  
Fresno, CA 93703-2927

City of



General Services Department

Purchasing Division  
2101 "G" Street • Fresno, California 93706-1675  
(559) 621-1332 • FAX (559) 488-1069  
www.fresno.gov

**Kenneth A. Nerland**  
Director of General Services

February 26, 2010

BADGER METER INC  
4545 W BROWN DEER RD  
MILWAUKEE WI 53223

Dear Ms. Stokke-Ceci:

SUBJECT: NOTICE TO PROCEED  
SUPPLY WATER METERS AND WATER METER REPORTING SYSTEM  
PHASE 2: PRICE PROPOSALS FROM QUALIFIED SYSTEM VENDORS  
BID FILE NO. 2862, ALTERNATE BID PROPOSAL TWO


Enclosed you will find an executed copy of a contract for the subject project. The contract shall be in effect until December 31, 2012, not including requested extensions for maintenance.

Purchase order number PO 0000060457 in the amount of \$22,247,679.89 has been issued for accountability purposes and this number should appear on your invoice. This purchase order is in effect only until funds encumbered are depleted. New purchase orders may be issued after that date or for additional encumbrances.

If you have any questions regarding this contract, please do not hesitate to call.

Sincerely,

PURCHASING DIVISION

*for*   
Jason B. MacDonald  
Purchasing Manager

BC/ha  
Enclosures

Purchase Order

PO No. 0000060457

Dispatch via Print

City of Fresno

Purchasing Division
2101 G Street, Bldg. A
Fresno CA 93706
(559)621-1332 FAX: (559)488-1069

Vendor: 0000007213
BADGER METER INC
P.O. BOX 245036
MILWAUKEE WI 53224-9536

Table with 4 columns: Purchase Order, Date, Revision, Page. Row 1: FRSNO-0000060457, 02/26/2010, , 1. Row 2: Payment Terms, Freight Terms, Ship Via. Row 3: Buyer, Phone, Currency.

Ship To: Water Division
1910 E. University
Fresno CA 93703

Bill To: Water Division
1910 E. University
Fresno CA 93703

Fax: 888-371-5982

Replenishment Option: Standard

Table with 5 columns: Line-Sch, Description, Quantity UOM, PO Price, Extended Amt, Due Date. Row 1: 1- 1 Supply water meters and water meter reporting system. Bid file no. 2862, 22,247,679.89EA, 1.00, 22,247,679.89, 02/26/2010

Schedule Total 22,247,679.89

Supply water meters and water meter reporting system. Bid file no. 2862. Provide a fully functional fixed network AMR system, all encoder registers and 111,000 water meters.

Item Total 22,247,679.89

This purchase order is issued for accountability purposes only in support of a contract awarded by the City Council on 1/14/2010 for SUPPLY WATER METERS AND WATER METER REPORTING SYSTEM Bid File #2832

Total PO Amount 22,247,679.89

- 1. ALL DELIVERIES MUST BE F.O.B. DESTINATION UNLESS OTHERWISE SPECIFIED ABOVE.
2. PACKING LIST MUST ACCOMPANY ALL MERCHANDISE DELIVERED ON THIS ORDER.
3. CITY OF FRESNO RESERVES THE RIGHT TO CANCEL THIS ORDER IF GOODS NOT SHIPPED AS DIRECTED.
4. IF THIS PRODUCT CONTAINS ANY HAZARDOUS SUBSTANCE AS DEFINED BY THE STATE OF CALIFORNIA DIRECTOR OF INDUSTRIAL RELATIONS, A MATERIAL SAFETY DATA SHEET MUST ACCOMPANY DELIVERY.
5. PURCHASE ORDER NUMBER MUST APPEAR ON ALL PAYMENT AND DELIVERY CORRESPONDANCE.

Authorized Signature

Handwritten signature of Bob Callistro



**Department of Public Utilities**

Administration Division  
2600 Fresno Street, Room 3065  
Fresno, California 93721-3624  
559-621-8600 – FAX 559-498-1304  
www.fresno.gov



*Providing Life's Essential Services*

August 24, 2011

Badger Meter, Inc.  
4545 W. Brown Deer Road  
Milwaukee, WI 53223

Attention: Pamela G. Stokke-Ceci

**SUBJECT: NOTICE TO PROCEED- CONTRACT CHANGE ORDER NO. 1  
CITY RESIDENTIAL METER IMPLEMENTATION PROJECT**

Per the enclosed Change Order dated June 30, 2011, I have request a Purchase Order in the amount of \$21,000.00 for the additional administration costs necessary for the compliance with the Davis Bacon requirements as required by the new State Revolving Fund loan received by the City for this project.

The completion date for this project is December 31, 2012.

When submitting billing to the City of Fresno, please use PO # 63828.

Thanks for all of your help in assisting the City with this important project.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Andersen".

Robert N. Andersen, P.E.  
Assistant Director

Enclosure

c: Fred Sharp, Sharp Inspection Group  
Ed Pelkey, Water Division  
Glenn Knapp, Water Division

Purchase Order

0000063828

Dispatch via Print

City of Fresno

Purchasing Division
2101 G Street, Bldg. A
Fresno CA 93706
(559)621-1332 FAX: (559)488-1069

Vendor: 0000007213
BADGER METER INC
P.O. BOX 245036
MILWAUKEE WI 53224-9536

Table with 4 columns: Purchase Order, Date, Revision, Page. Includes details for FRSNO-0000063828, date 07/29/2011, revision 1, and buyer Laura Rapp.

Ship To: Water Division
1910 E. University
Fresno CA 93703

Bill To: Water Division
1910 E. University
Fresno CA 93703

Fax: 888-371-5982

Replenishment Option: Standard

Table with 6 columns: Line-Sch, Item/Description, Quantity, UOM, PO Price, Extended Amt, Due Date. Contains one line item for Contract Change Order #1 to Badger Meter, Inc.

Schedule Total 21,000.00

This P.O. to be issued to Badger Meter, Inc. for implementation of additional administrative services required for implementation of a State Revolving Fund No-Interest Loan for the City's Residential Meter Retrofit Project.

Contact: Glenn Knapp / 621-5321

Item Total 21,000.00

Total PO Amount 21,000.00

- 1. ALL DELIVERIES MUST BE F.O.B. DESTINATION UNLESS OTHERWISE SPECIFIED ABOVE.
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4. IF THIS PRODUCT CONTAINS ANY HAZARDOUS SUBSTANCE AS DEFINED BY THE STATE OF CALIFORNIA DIRECTOR OF INDUSTRIAL RELATIONS, A MATERIAL SAFETY DATA SHEET MUST ACCOMPANY DELIVERY.
5. PURCHASE ORDER NUMBER MUST APPEAR ON ALL PAYMENT AND DELIVERY CORRESPONDANCE

Authorized Signature

Handwritten signature of Laura Rapp

**City of Fresno**  
**PUBLIC UTILITIES DEPARTMENT**  
**WATER DIVISION**  
 1810 East University Avenue Fresno, CA 93703-2827  
 Phone (559) 821-3300

**CONTRACT CHANGE ORDER NO. 1**

CONTRACT AWARDED BY:  CITY COUNCIL  REDEVELOPMENT AGENCY  INFORMAL

DATE OF AWARD Jan 14, 2010

PROJECT: Requirements Contract for Purchase of AMR Water Meters

SHEET 1 of 23

P.O. NO: 000060457 PROJECT ID NO. WC00063

BID FILE NO. RFP 2862

TO: Badger Meter, Inc.

CONTRACTOR

*You are hereby requested to make the herein described changes from the plans and specifications or do the following described work not included in the plans and specifications on this contract.*

NOTE: THIS CHANGE IS NOT EFFECTIVE UNTIL FULLY EXECUTED. Change requested by: City of Fresno

**Description:**

**I. CHANGES TO CONTRACT PLANS AND SPECIFICATIONS.**

- A. Modify the Plans and Specifications to include and incorporate the Davis Bacon Act and California Department of Public Health provisions and other requirements set forth in Exhibit "A", including Attachment 1, which are attached to the Contract Change Order.
- B. For each worker employed upon the project from October 30, 2009 through contract completion, contractor shall determine the required *Craft Classification(s)* and hourly wage rate(s) based upon inclusion of Davis Bacon Act provisions as noted above. Such *Craft Classification(s)* as determined shall be those utilized for each worker employed upon the project retroactive to October 30, 2009. Where the originally utilized *Craft Classification(s)*, being in conformance with applicable General Prevailing Wage Determinations made by the California Director of Industrial Relations, change due to inclusion of Davis Bacon Act provisions and associated hourly wage rate(s) increase the contractor shall determine and pay to each worker employed upon the project, both previously and subsequently during the remaining term of the Contract, the difference between the wages initially paid and those required due to inclusion of Davis Bacon Act provisions. Existing Contract provisions related to Labor Standard Provisions including General Prevailing Wage Determinations made by the California Director of Industrial Relations remain in full force and effect.
- C. Establish an Allowance Pay Item to compensate contractor for:
  - C. 1. the portion of actual payments made directly to workers employed upon the project which is the difference between wages paid based upon initial *Craft Classification* and those required due to inclusion of Davis Bacon Act provisions as described in Item B above, as approved in advance by the Engineer and as provided upon contractor supplied Certified Payroll Reports authorized by the Engineer.
  - C. 2. the various costs required to administer and carry out those obligations and tasks described in Item B above. Compensation under this section shall be the mutually agreed upon Lump Sum Cost of \$11,000.00.

Estimated Increase of the Contract Price Items C.1. and C.2. .... \$ 21,000.00

**II. CONTRACT PRICE**

The dollar amount shown is an allowance set aside by the City. The Contractor shall be paid only for the value of payments which have been authorized in writing by the Engineer. The Contractor shall have no claim for anticipated amounts should the Engineer fail to authorize any payments or should the value of authorized payments be less than that anticipated by the Contractor.

Net Estimated Increase to Contract Price Not to Exceed..... \$ 21,000.00

**III. CONTRACT TIME**

No Increase in Contract Time Due To This Change Order

<b>Cost of this Change Order</b>	\$ 21,000.00	Increase
Estimated <input checked="" type="checkbox"/>		Decrease
Original Contract Price	\$ 22,247,679.89	
Approved Cost Changes to Date	\$ -	
Total of all Contract Changes including this Change Order	\$ 21,000.00	
Net change in Contract Price is of the original Contract Price	0.1%	
Revised Contract Price	\$ 22,268,679.89	

**STATEMENT OF CONTRACT TIME**

	NUMBER OF DAYS	DATE
Date of Notice to Proceed		Feb 25, 2010
Contract Working Calendar Days	N/A	
Computed Date for Completion		Jan 1, 2013
Time extension days this CCO	0	
Total time extension days all CCO's	0	
Weather Days through	0	
Suspended Days through	0	
Extended Date for Completion		N/A
Substantial Completion		N/A

*We, the undersigned contractor, have given careful consideration to the change proposed and hereby agree, if this proposal is approved, that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work above specified, and will accept as full payment therefor the price shown above for any and all cost and time impacts resulting from this change order.*

Accepted Date June 29, 2011

Contractor: Badger Meter, Inc.

Signed By *Tamela J. Stokke-Ceci*

Title Assistant Secretary

*If the contractor does not sign acceptance of this order, his attention is directed to the requirements of the specifications as to proceeding with the ordered work.*

Submitted By *Martin Cusato*  
 Martin Cusato, Assistant Public Utilities Director - Water

Approval Recommended *Robert Anderson*  
 Robert Anderson, Public Utilities Department Engineer

Date 6/30/11

Authorized  Chief Administrative Officer  
 Ex-officio Executive Director of the Redevelopment Agency  
*(if change orders or total of change orders exceed 5 percent of contract price)*

Authorized  City Council  Redevelopment Agency  
*(if change order or total change orders exceed 10 percent of contract price or if individual change order exceeds Fresno City Charter limit or Section 20429 Health and Safety Code for Agency contracts.)*

Approved  Public Utilities Director  
 Engineer for the Redevelopment Agency

*Robert Anderson*

Date 6/30/11

c. Robert Anderson, Project Manager