

## **FIRST AMENDMENT TO AGREEMENT**

This FIRST AMENDMENT TO AGREEMENT (Amendment) made and entered into \_\_\_\_\_, 2023 (Effective Date), amends the Agreement entered into by and between the City of Fresno, a California municipal corporation (City), and Badger Meter, Incorporated (Contractor).

### **RECITALS**

- A. WHEREAS, City and Contractor entered into an Agreement, dated May 1, 2020, for Water Meters, Parts, and Software Technology (Bid No. 9546);
- B. WHEREAS, in 2020, City Council approved an exception to formal bidding procedures and awarded a Sole Source agreement to Badger Meter, Incorporated, in the amount of \$1,200,000 per year, for three years and up to two one-year extensions, for a total contract amount of \$6,000,000 (Citywide);
- C. WHEREAS, due to increases in water meter installations, manufacturing costs, long lead times, and end of life for the originally installed equipment, the total contract amount has been exhausted with one and one-half years remaining;
- D. WHEREAS, additional funds in the amount of \$1,800,000 are necessary to carry out the remaining one and a half years of the agreement; and
- E. WHEREAS, City and Contractor desire to enter into this First Amendment to modify the agreement to increase monetary consideration in the amount of \$1,800,000 for a total contract amount of \$7,800,000 (Citywide).

### **AGREEMENT**

NOW, THEREFORE, the parties agree that the Agreement be amended as follows:

- 1. The monetary consideration shall increase in the amount of \$1,800,000 for a total contract amount of \$7,800,000 (Citywide);
- 2. Except as expressly modified by this Amendment, the Agreement remains in full force and effect. In the event of any conflict between the Agreement and this Amendment, this Amendment shall control. Furthermore, any terms or conditions expressed within the Agreement which purport to modify the allocation of risk between the parties, provided for within the body of this Amendment, shall be null and void.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year set forth above.

CITY OF FRESNO,  
a California municipal corporation

BADGER METER,  
INCORPORATED

By: \_\_\_\_\_  
Brock D. Buche, PE, PLS  
Director of Public Utilities

DocuSigned by:  
By: Kimberly K. Stoll \_\_\_\_\_ 10/25/2023  
CA9FCF532DC1475...  
Name: Kimberly K. Stoll

APPROVED AS TO FORM:  
ANDREW JANZ  
City Attorney

Title: Vice President – Sales & Marketing  
(If corporation or LLC., Board Chair,  
Pres. or Vice Pres.)

DocuSigned by:  
By: Jennifer M. Wharton \_\_\_\_\_ 10/26/2023  
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Deputy City Attorney

DocuSigned by:  
By: Rachel J. Meyer \_\_\_\_\_ 10/26/2023  
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Name: Rachel J. Meyer

ATTEST:  
TODD STERMER, CMC  
City Clerk

Title: Assistant Secretary/Proposal Lead  
(If corporation or LLC., CFO, Treasurer,  
Secretary or Assistant Secretary)

By: \_\_\_\_\_  
Deputy \_\_\_\_\_ Date

Addresses:

CITY:  
City of Fresno  
Attention: Ron Simons,  
Water System Supervisor  
1910 E. University Ave.  
Fresno, CA 93703  
Phone: (559) 621-5333  
FAX: (559) 457-1060

CONTRACTOR:  
BADGER METER, INCORPORATED  
Attention: Eric Foley,  
National Account Manager  
4545 W Brown Deer Rd. P.O. Box  
245036  
Milwaukee, WI 53224-9536  
Phone: (360) 791-4401  
FAX: (360) 236-0859