



Amendment No. 5
To
Contract No. NA140000113
For
Gas Monitoring Equipment and Related Services
Between
FarrWest Environmental Supply, Inc.
and the
City of Austin

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be July 28, 2019 through July 27, 2020. No options will remain.
- 2.0 The total contract amount is increased by \$38,000.00 by this extension period. The total contract authorization is recapped below:

Action	Action Amount	Total Contract Amount
Initial Term: 07/28/2014 – 07/27/2017	\$120,000.00	\$120,000.00
Amendment No. 1: Added delivery terms and transportation charges to contract 08/18/2014	\$0.00	\$120,000.00
Amendment No. 2: Per City Manager authority increase base term by \$53,000.00 and add three extension options at \$38,000.00 each. 07/13/2016	\$53,000.00	\$173,000.00
Amendment No. 3: Option 1 – Extension 07/28/2017 – 07/27/2018	\$38,000.00	\$211,000.00
Amendment No. 4: Option 2 – Extension 07/28/2018 – 07/27/2019	\$38,000.00	\$249,000.00
Amendment No. 5: Option 3 – Extension 07/28/2019 – 07/27/2020	\$38,000.00	\$287,000.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the vendor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the GSA List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Sign/Date:

Handwritten signature of Travis Brown in black ink.

6/10/2019

Printed Name: Travis Brown- CEO
Authorized Representative

FarrWest Environmental Supply, Inc.
108 Commercial Place, Suite 200
Schertz, Texas 78154
(210) 566-1857
jmfarr@farrwestenv.com

Sign/Date:

Handwritten signature of Matthew Duree in blue ink.

Matthew Duree
Procurement Manager

City of Austin
Purchasing Office
124 W. 8th Street, Ste. 310
Austin, Texas 78701



Amendment No. 4
to
Contract No. NA140000113
for
Gas Monitoring Equipment and Related Services
between
FarWest Environmental Supply, Inc.
and the
City of Austin

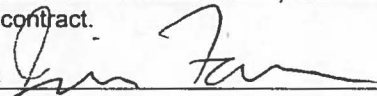
- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective July 28 2018, to July 27, 2019. One option remain.
- 2.0 The total Contract amount is increased by \$38,000.00 for the extension option period. The total Contract authorization is recapped below:

Term	Original Amount of Contract	Action Amount change to	Total Contract Amount
Basic Term: 07/28/14 – 07/27/17	\$120,000.00	N/A	\$120,000.00
Amendment No. 1: Added delivery terms and transportation charges to contract 08/18/14	\$0.00	\$0.00	\$120,000.00
Amendment No. 2: (Contract Summary) Add Increase to the base term and to the extension options 7/13/2016	\$120,000.00 \$15,000.00 \$15,000.00 \$15,000.00	\$53,000.00 (Initial Term) \$38,000.00 (Option 1) \$38,000.00 (Option 2) \$38,000.00 (Option 3)	\$173,000.00 \$211,000.00 \$249,000.00 \$287,000.00


Amendment No. 3 Option 1 07/28/17 – 07/27/18	\$38,000.00	\$211,000.00
Amendment No. 4: Option 2 07/28/18 – 07/27/19	\$38,000.00	\$249,000.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature: 
Printed Name: Jim Farr
Authorized Representative

FarWest Environmental Supply, Inc.
108 Commercial Place, Suite 200
Schertz, TX 78154
Jim Farr
jimfarr@farwestenv.com
210-566-1857

Signature:  7-9-18
Beatrice Washington, Contract Management Specialist III
City of Austin
Purchasing Office



Amendment No. 3
to
Contract No. NA140000113
for
Gas Monitoring Equipment and Related Services
between
FarrWest Environmental Supply, Inc.
and the
City of Austin

- 1.0 The City hereby exercises the extension option for the above-referenced contract. Effective July 28 2017, to July 27, 2018. Two options remain.
- 2.0 The total Contract amount is increased by \$38,000.00 for the extension option period. The total Contract authorization is recapped below:

Term	Original Amount of Contract	Action Amount	Total Contract Amount
Basic Term: 07/28/14 – 07/27/17	\$120,000.00	N/A	\$120,000.00
Amendment No. 1: Added delivery terms and transportation charges to contract 08/18/14	\$0.00	\$0.00	\$120,000.00
Amendment No. 2: Increase to base term and extension options	\$120,000.00 \$15,000.00 \$15,000.00 \$15,000.00	\$53,000.00 (Initial Term) \$38,000.00 (Option 1) \$38,000.00 (Option 2) \$38,000.00 (Option 3)	\$173,000.00 \$211,000.00 \$249,000.00 \$287,000.00
Amendment No. 3: Option #1 07/28/17 – 07/27/18	\$15,000.00	\$38,000.00	\$211,000.00

- 3.0 MBE/WBE goals were not established for this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature:

Handwritten signature of Travis Brown.

Printed Name: Travis Brown
Authorized Representative: General Manager

Signature:

Handwritten signature of Cindy Reyes.

Cindy Reyes, Contract Management Specialist III
City of Austin
Purchasing Office

FarrWest Environmental Supply, Inc.
108 Commercial Place, Suite 200
Schertz, TX 78154
Jim Farr
jimfarr@farrwestenv.com
210-566-1857



Amendment No. 2
of
Contract No. NA140000113
for
Gas Monitoring Equipment and Related Services
between
FarrWest Environmental Supply, Inc.
and the
City of Austin

- 1.0 The City hereby wishes to administratively increase the contract by the amounts listed in the table below.
- 2.0 The total contract authorization is recapped below:

Term	Original Amount of Contract	Action Amount	Total Contract Amount
Basic Term: 07/28/2014 – 07/27/2017	\$120,000.00	N/A	\$120,000.00
Delivery Terms and Transportation Charges - August 2014	\$120,000.00	\$0.00	\$120,000.00
Amendment No. 2: Increase to base term and extension options	\$120,000.00 \$15,000.00 \$15,000.00 \$15,000.00	\$53,000.00 (Initial Term) \$38,000.00 (Renewal 1) \$38,000.00 (Renewal 2) \$38,000.00 (Renewal 3)	\$173,000.00 \$211,000.00 \$249,000.00 \$287,000.00

- 3.0 MBE/WBE goals do not apply to this contract.
- 4.0 By signing this Amendment the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration (GSA) List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.
- 5.0 All other terms and conditions remain the same.

BY THE SIGNATURE affixed below, this amendment is hereby incorporated into and made a part of the above-referenced contract.

Signature: [Signature] 7/13/16
FarrWest Environmental Supply, Inc. Date
108 Commercial Place, Suite 200
Schertz, TX 78154

Signature: [Signature] 7-13-16
Erin D'Vincent, Senior Buyer Specialist Date
City of Austin
Purchasing Office



Amendment No. 1
to
Contract No. NA140000113
for
Gas Monitoring Equipment and Technical Support for the Austin Fire Department
Between
Farrwest Environmental Supply, Inc.
and the
City of Austin

1.0 The above referenced Contract is amended as follows:

1.1 Section 5.12 is hereby added to the Contract as follows:

5.12 Delivery Terms and Transportation Charges: The Contractor's price shall include all delivery and transportation charges and Deliverables shall be shipped F.O.B Destination unless otherwise stated on the Contractor's quote. The City shall have the right to designate the method of transportation used to ship the Deliverables. The delivery location shall be that set forth in the purchase order or purchase release document.

2.0 All other terms and conditions remain unchanged and in full force and effect

BY THE SIGNATURES affixed below, Amendment No.1 is hereby incorporated into and made a part of the above-referenced contract.

Signature: *Quinn Rulley*

Corp Contract Compliance Mgr

City of Austin
Purchasing Office

Date

8/18/14

Signature: *Jim Farr*

Printed Name: Jim Farr

Authorized Representative
Farrwest Environmental Supply, Inc.
108 Commercial Place, Suite 200
Schertz, Texas 78154

Date

8/18/2014



Financial and Administrative Service Department
Purchasing Office
P.O. Box 1088, Austin, Texas, 78767

July 25, 2014

FarrWest Environmental Supply, Inc.
Travis Brown
108 Commercial Place, Suite 200
Schertz, TX 78154

Dear Mr. Brown:

The City of Austin has approved the award and execution of a contract with your company for gas monitoring equipment and related services.

Responsible Department:	Austin Fire Department
Department Contact Person:	Claudia Rodriguez
Department Contact Email:	Claudia.Rodriguez@austintexas.gov
Department Contact Telephone:	512-974-4132
Project Name:	Gas Monitoring Equipment and Related Services
Contractor Name:	FarrWest Environmental Supply, Inc.
Contract Number:	NA140000113
Contract Period:	7/28/14 – 7/27/17
Contract Period Amount	\$120,000
Extension Options:	Three, 12-month options @ \$15,000 for each option
Requisition Number:	13072900518
Solicitation Number:	N/A – Sole Source
Agenda Item Number:	46
Council Approval Date:	6/12/14

Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact the person referenced under Department Contact Person above.

Sincerely,

Erin D'Vincent
Purchasing Office

**CONTRACT BETWEEN THE CITY OF AUSTIN
AND
Farrwest Environmental Supply, Inc.
For
Gas Monitoring Equipment and Technical Support for the Austin Fire Department**

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Farrwest Environmental Supply, Inc. ("Contractor"), having offices at 108 Commercial Place, Suite 200, Schertz, Texas 78154.

SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

- 1.1 Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.
- 1.2 Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for providing the commodities identified in Section 2. In the event that the need arises for the Contractor to provide deliverables beyond those stated in the Section 2, the Contractor and the City shall negotiate mutually agreeable terms and compensation for such.
- 1.3 Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in delivering the commodities. Specifically, the Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress.
- 1.4 Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Travis Brown, Phone: (210)566-1857, tbrown@farrwestenv.com. The City's Contract Manager for the engagement shall be Claudia Rodriguez, (512) 974-4132, claudia.rodriquez@austintexas.gov. The City's and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

SECTION 2. SCOPE OF WORK.

- 2.1 Contractor's Obligations.** The Contractor shall fully and timely provide all deliverables described herein and in the Contractor's Offer and in the City's Contract Scope of Work attached hereto as Exhibit A in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
- 2.2 Tasks.** In order to accomplish the work described here, the Contractor shall perform each of the following tasks on an as-needed, as requested basis by the Austin Fire Department ("AFD"):
- 2.2.1 Contractor shall provide in-house warranty, non-warranty work, and technical support for RAE System equipment and Sensit monitors. In-house warranty, non-warranty work and technical support shall be provided by Contractor 24 hours per day, 365 days a year.
 - 2.2.2 Contractor shall provide RAE Systems Authorized Training for AFD personnel at a site designated by AFD.
 - 2.2.3 Contractor shall provide support and sales for Smith Detection equipment.
 - 2.2.4 Contractor shall perform any necessary maintenance, calibrations, and training of AFD personnel at AFD's designated site on the specific requirements required by a hazmat team.
 - 2.2.5 Contractor shall have a RAE System Certified Trainer available for equipment currently utilized by AFD.
 - 2.2.6 Contractor shall have a ProBoard Certified hazmat technician available 24 hours per day, seven days per week for application emergencies as needed by AFD.

- 2.2.7 Contractor shall provide support to AFD for special projects such as large-scale public venue monitoring
- 2.2.8 Contractor shall maintain a sufficient stock of RAE System and Sensit loaner equipment to provide to AFD on a temporary basis and at no additional charge in the event AFD equipment is not operational or impaired.

2.3 Contractor shall provide the following manufacturer's equipment and consumables at the below discounted rates. Contractor shall indicate both list and discount pricing on all quotes and invoices.

- 2.3.1 RAE Systems Gas Detection
 - 2.3.1.1 MultiRAE/PID's Products – 15% off list price
 - 2.3.1.2 Radiation Products – 10% off list price
 - 2.3.1.3 Single-gas/4-gas products – 18% off list price
 - 2.3.1.4 Wireless Products – 0% of list price per manufacturer contract
 - 2.3.1.5 Colorimetric Tubes – 20% off list price
 - 2.3.1.6 Parts and Consumables – 18% off list price
- 2.3.2 Sensit Gas Detection
 - 2.3.2.1 Monitors/Accessories – 9% off list price
- 2.3.3 Smith's Detection – 0% off list price per manufacturer contract
- 2.3.4 Farnwest Calibration Gas
 - 2.3.4.1 REFILL 116L Cylinder Non-Reactive Gases - \$120.00/ea
 - 2.3.4.2 REFILL 116L Cylinder Reactive Gases - \$250.00/ea
 - 2.3.4.3 All other Gases and Cylinders – 25% off list
 - 2.3.4.4 Regulators and Accessories – 25% off list
- 2.3.5 Kappler Protective Clothing
 - 2.3.5.1 Level A Suits – 25% off list price
 - 2.3.5.2 All other suits – 30% off list price
 - 2.3.5.3 ChemTape – 20% off list price
- 2.3.6 Radiation Equipment
 - 2.3.6.1. Third party calibration – 10% off list

2.4 Contractor shall provide the following in-house services.

- 2.4.1 Equipment repair services, Level A pressure testing, and any training - \$45.00 per hour labor charge

2.5 Contractor shall provide Event Monitoring Support based upon need of AFD staff for events such as Formula One, University of Texas football games, South by Southwest, Presidential visits, etc.

- 2.5.1 Unplanned Support: Contractor shall provide a monitoring team of up to three (3) persons to support AFD with chemical, biological, radiological and explosive (CBRE)/hazmat monitoring or detection on site as requested by AFD. Contractor shall provide one command vehicle and any monitoring equipment requested by AFD. Contractor shall charge \$750 per twelve (12) hour day, per event as a base rate for monitoring support which includes up to three (3) persons to provide support. Contractor shall charge AFD an additional \$175 per hour, per event for any event requiring more than a twelve (12) hour work detail. Contractor shall submit to AFD a written detailed explanation of all charges, any extra expenses or increased daily rate and such invoice is subject to the approval of AFD.
- 2.5.2 Contractor shall provide monitoring equipment of an exact match to current AFD equipment in order to supplement AFD's monitoring capabilities. Contractor will also utilize AFD's equipment, if necessary and at the discretion of AFD, to increase the monitoring capabilities. Contractor shall carry a cache of equipment which includes RAE gas and radiation monitors, Smith's Detection equipment, biological detection and sampling equipment and personal protective equipment as needed and as requested by AFD. Contractor's equipment cache for each event shall depend on the size, profile and known threats of the event and through coordination with AFD personnel.
- 2.5.3 Contractor shall not respond to an incident or threat on the scene of an event. Contractor's purpose

on site shall be to facilitate an AFD response by providing information, monitoring support, supplemental equipment, reference materials and suggested sampling/monitoring techniques as coordinated with AFD personnel.

- 2.5.4 **Planned Support:** Contractor shall charge \$750 per twelve (12) hour day, per event as a base rate for monitoring support which includes up to three (3) persons to provide support. The needs for a particular event may vary depending on length of the event, scale and profile and the amount of personnel and equipment provided by Contractor may vary. Contractor shall, prior to the event, provide AFD a written detailed explanation of extra expenses or increased daily rate to be approved by AFD prior to the start of the event. Contractor shall charge AFD an additional \$175 per hour, per event for any event requiring more than a twelve (12) hour work detail. Any additional rates or charges for additional time shall be negotiated and approved by AFD prior to the start of any event.

SECTION 3. COMPENSATION:

3.1 **Contract Amount.** The Contractor will be paid as indicated upon the successful completion of the Scope of Work, as described herein a total not-to-exceed amount of \$120,000 for the initial thirty-six month term, with three (3) twelve (12) month extension options in an estimated amount not exceed \$15,000 per extension option for a total contract amount not-to-exceed \$165,000. There is no guaranteed minimum number of days or amount of services to be performed or goods to be provided.

3.2 **Invoices**

3.2.1 The Contractor shall submit separate invoices in duplicate on each purchase order or delivery order after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.

3.2.2 **Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized, and shall include the manufacturer's list price, and the applicable discount as referenced in Section 2.2 of this Contract. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. Invoices shall be mailed to the below address:

	City of Austin
Department	Austin Fire Department
Attn:	Karen Bitzer
Address	4201 Ed Bluestein Blvd
City, State, Zip Code	Austin, TX 78721

3.2.3 Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

3.2.4 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.2.5 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

3.3 **Payment**

3.3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

3.3.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

3.3.3 The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

3.3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

3.3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

3.3.3.3 failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;

3.3.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

3.3.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

3.3.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

3.3.3.7 failure of the Contractor to comply with any material provision of the Contract Documents.

3.3.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

3.4 **Non-Appropriation.** The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

3.5 **Final Payment and Close-Out**

3.5.1 If an MBE/WBE Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the project manager or contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.

3.5.2 The making and acceptance of final payment will constitute:

3.5.2.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

3.5.2.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

SECTION 4. TERM AND TERMINATION

4.1 **Term of Contract.** This Contract shall become effective on the date signed by the City and shall be in effect for an initial term of thirty-six (36) months and may be extended thereafter for up to three (3) additional twelve (12) month periods, subject to the approval of the Contractor and the City's Purchasing Officer or her designee.

4.2 **Right To Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

4.3 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the "Right to Assurance" paragraph herein, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

4.4 **Termination For Cause.** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

4.5 **Termination Without Cause.** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.

4.6 **Fraud.** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

SECTION 5. OTHER DELIVERABLES

5.1 **Insurance.** The following insurance requirement applies:

5.1.1 **General Requirements**

5.1.1.1 The Contractor shall at a minimum carry insurance in the types and amounts indicated herein for the duration of the Contract and during any warranty period.

5.1.1.2 The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within fourteen (14) calendar days after written request from the City.

5.1.1.3 The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.

5.1.1.4 The Contractor shall not commence work until the required insurance is obtained and has been reviewed by City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.

5.1.1.5 The City may request that the Contractor submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.

5.1.1.6 The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better.

5.1.1.7 All endorsements naming the City as additional insured, waivers, and notices of cancellation endorsements as well as the Certificate of Insurance shall be mailed to the following address:

City of Austin
Purchasing Office
P. O. Box 1088
Austin, Texas 78767

5.1.1.8 The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.

5.1.1.9 If insurance policies are not written for amounts specified in Paragraph 5.1.2, Specific Coverage Requirements herein, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.

5.1.1.10 The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.

5.1.1.11 The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.

5.1.1.12 The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

5.1.1.13 The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.

5.1.1.14 The Contractor shall endeavor to provide the City thirty (30) calendar days written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.

5.1.2 Specific Coverage Requirements. The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

5.1.2.1 Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are \$1,000,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries). The policy shall contain the following provisions and endorsements.

5.1.2.1.1 Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.

5.1.2.1.2 Contractor/Subcontracted Work.

5.1.2.1.3 Products/Completed Operations Liability for the duration of the warranty period.

5.1.2.1.4 Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage

5.1.2.1.5 Thirty (30) calendar days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage.

5.1.2.1.6 The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.

5.1.2.2 Business Automobile Liability Insurance. The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000 per occurrence for bodily injury and property damage. The policy shall contain the following endorsements:

5.1.2.2.1 Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage.

5.1.2.2.2 Thirty (30) calendar days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage.

5.1.2.2.3 The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage.

5.1.2.3 Worker's Compensation and Employers' Liability Insurance. Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee. The policy shall contain the following provisions and endorsements.

5.1.2.3.1 The Contractor's policy shall apply to the State of Texas

5.1.2.3.2 Waiver of Subrogation, Form WC 420304, or equivalent coverage

5.1.2.3.3 Thirty (30) calendar day's Notice of Cancellation, Form WC 420601, or equivalent coverage

5.1.2.4 Endorsements The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

5.2 Contractor To Package Deliverables The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

5.3 Shipment Under Reservation Prohibited The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

5.4 Title & Risk of Loss Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.

5.5 Right Of Inspection And Rejection The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.

5.6 No Replacement Of Defective Tender Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.

5.7 Special Tools & Test Equipment If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

5.8 Equal Opportunity

5.8.1 Equal Employment Opportunity No Contractor or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Bid submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Contractor has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. The Contractor shall sign and return the Non-Discrimination Certification attached hereto as Exhibit B. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

5.8.2 Americans With Disabilities Act (ADA) Compliance No Contractor, or Contractor's agent shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

5.9 Acceptance of Incomplete or Non-Conforming Deliverables If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

5.10 Delays

5.10.1 The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

5.10.2 Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

5.11 Rights to Proposal and Contractual Material All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

SECTION 6. WARRANTIES

6.1 Warranty - Price

6.1.1 The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.1.2 The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6.1.3 In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

6.2 Warranty - Services The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

6.2.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

6.2.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may

be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

SECTION 7. MISCELLANEOUS

7.1 Place and Condition of Work: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

7.2 Workforce

7.2.1 The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

7.2.2 The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property:

7.2.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract.

7.2.2.1.1 use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

7.2.3 If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

7.3 Compliance with Health, Safety, and Environmental Regulations: The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

7.4 Significant Event: The Contractor shall immediately notify the Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

7.4.1 disposal of major assets;

7.4.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this contract;

7.4.3 any significant termination or addition of provider contracts;

7.4.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

7.4.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this contract;

7.4.6 reorganization, reduction and/or relocation in key personnel such as, but not limited to, customer service representatives or claims adjusters;

7.4.7 known or anticipated sale, merger, or acquisition;

7.4.8 known, planned or anticipated stock sales;

7.4.9 any litigation filed by a member against the Contractor; or

7.4.10 significant change in market share or product focus.

7.5 Right To Audit

7.5.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

7.5.2 The Contractor shall include this provision in all subcontractor agreements entered into in connection with this Contract.

7.6 Stop Work Notice. The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

7.7 Indemnity:

7.7.1 Definitions

7.7.1.1 "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for

7.7.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors, the officers, agents, and employees of such subcontractors, and third parties), and/or

7.7.1.1.2 death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

7.7.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

7.7.2 **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

7.8 **Claims:** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

7.9 **Notices:** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office
ATTN: Contract Administrator
P.O. Box 1088
Austin, TX 78767

To the Contractor:

Farnwest Environmental Supply, Inc.
ATTN: Travis Brown, General Manager
108 Commercial Place, Suite 200
Schertz, Texas 78154

7.10 **Confidentiality:** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

7.11 **Advertising:** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

7.12 **No Contingent Fees:** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

7.13. Gratuities: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

7.14. Prohibition Against Personal Interest in Contracts: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

7.15. Independent Contractor: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

7.16. Assignment-Delegation: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

7.17. Waiver: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

7.18. Modifications: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

7.19. Interpretation: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

7.20. Dispute Resolution

7.20.1. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be

waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

7.20.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

7.21 Minority And Women Owned Business Enterprise (MBE/WBE) Procurement Program:

7.21.1 All City procurements are subject to the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program found at Chapters 2-9A, 2-9B, 2-9C and 2-9D of the City Code. The Program provides Minority-Owned and Women-Owned Business Enterprises (MBEs/WBEs) full opportunity to participate in all City contracts.

7.21.2 The City of Austin has determined that no goals are appropriate for this Contract. **Even though no goals have been established for this Contract, the Contractor is required to comply with the City's MBE/WBE Procurement Program, Chapters 2-9A, 2-9B, 2-9C and 2-9D, of the City Code, as applicable, if areas of subcontracting are identified.**

7.21.3 If any service is needed to perform the Contract and the Contractor does not perform the service with its own workforce or if supplies or materials are required and the Contractor does not have the supplies or materials in its inventory, the Contractor shall contact the Department of Small and Minority Business Resources (DSMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Contractor must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

7.22 SUBCONTRACTORS

7.22.1 If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan, the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

7.22.2 Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

7.22.2.1 require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract.

7.22.2.2 prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

7.22.2.3 require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

7.22.2.4 require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear, and

7.22.2.5 require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

7.22.3 The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

7.22.4 The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten days after receipt of payment from the City.

7.23 **Jurisdiction And Venue:** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

7.24 **Invalidity:** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

7.25 **Holidays:** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving

Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

7.26 Survivability of Obligations: All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

7.27 Non-Solicitation:

7.27.1 During the term of the contract, and for a period of six (6) months following termination of the contract, the Contractor, its affiliate, or its agent shall not hire, employ, or solicit for employment or consulting services, a City employee employed in a technical job classification in a City department that engages or uses the services of a Contractor employee.

7.27.2 In the event that a breach of this paragraph occurs the Contractor shall pay liquidated damages to the City in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation; or (ii) _____ percent of the employee's annual compensation while employed by the City. The Contractor shall reimburse the City for any fees and expenses incurred in the enforcement of this provision.

7.27.3 During the term of the contract, and for a period of six (6) months following termination of the contract, a department that engages the services of the Contractor or uses the services of a Contractor employee will not hire a Contractor employee while the employee is performing work under a contract with the City unless the City first obtains the Contractor's.

7.27.4 In the event that a breach of this) occurs, the City shall pay liquidated damages to the Contractor in an amount equal to the greater of: (i) one (1) year of the employee's annual compensation or (ii) _____ percent of the employee's annual compensation while employed by the Contractor

7.28 Non-Suspension or Debarment Certification: The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

7.29 Incorporation of Documents: Section 0100, **Standard Purchase Definitions**, is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available on the Internet at the following online address:

In witness whereof, the parties have caused duly authorized representatives to execute this Contract on the dates set forth below.

FARRWEST ENVIRONMENTAL SUPPLY, INC.

By Jim Farr
Signature

Name: Jim Farr
Printed Name

Title: Vice President

Date: 7/24/14

CITY OF AUSTIN

By Erin Vincent
Signature

Name: Erin Vincent
Printed Name

Title: Senior Buyer Specialist

Date: 7/25/14

List of Exhibits

Exhibit A – City's Scope of Work

Exhibit B – City's Non Discrimination Certification

EXHIBIT A
City of Austin
Contract Scope of Work
for
FarrWest Environmental Supply, Inc.
Gas Monitoring Equipment and Technical Support for the Austin Fire Department

1.1 Vendor Performance Requirements

1.1.1 The repair technician assigned by the Vendor ("Farrwest") to perform repair services on AFD's gas monitoring equipment shall be trained and certified by the manufacturer. Proof of certification and training shall be made available to the Austin Fire Department ("AFD") upon request. AFD reserves the right to determine if the training and certification levels held by the repair technician are adequate to meet the department's needs.

1.1.2 Farrwest shall maintain a readily available inventory of all equipment and supplies needed to fulfill the requirements of this Contract.

1.1.3 The types and quantities of the monitoring equipment are subject to change over the life of this Contract. AFD will contact Farrwest with updated product information as needed.

2.2 Repair Services (Warranty and Non-warranty)

2.2.1 AFD will order repair services, as needed, for the gas monitoring equipment covered under this Contract.

2.2.2 Farrwest shall be complete the repairs so that the unit is returned to full operation as specified by the manufacturer.

2.2.3 Once contacted by AFD, Farrwest shall schedule a time to pick up the equipment needing repair from the AFD Special Operations Office located at 4305 Airport Blvd. The equipment shall be picked up, and the repair estimate shall be submitted to AFD within 48 hours of the request; Monday-Friday 8am-5pm. Once the repair estimate is approved, Farrwest shall begin working on the repair.

2.2.4 If the repair is estimated by Farrwest to take longer than 72 hours to complete, Farrwest shall provide AFD, upon request, an equipment loaner free of charge. The loaner shall be returned to Farrwest once AFD's equipment is repaired and delivered back to AFD Special Operations Office.

3.3 Supplies - Calibration Gases

3.3.1 AFD will purchase from Farrwest calibration gases and other supplies as needed.

EXHIBIT A
City of Austin
Contract Scope of Work
for
FarrWest Environmental Supply, Inc.
Gas Monitoring Equipment and Technical Support for the Austin Fire Department

3.3.2 The calibration gas sold to AFD shall be supplied in refillable portable cylinders. AFD will not purchase cylinders.

3.3.3 The empty cylinders will be picked up by Farrwest from the AFD Special Operations Office. The cylinder shall be filled and be returned to the AFD Special Operations office within 24 hours of request. In order to meet the delivery time for refills, Farrwest shall be required to carry an adequate supply of gases in stock.

3.3.4 All supplies purchased by AFD under this contract shall have an expiration date of at least twelve (12) months from date of sale. With the exception of the reactive calibration gases, currently Cl₂ and HCN, which are good for six (6) months.

3.3.5 AFD will return all Farrwest-owned cylinders at the end of the Contract.

4.4 Training and Technical Services

4.4.1 AFD will request training and technical services, as needed, for the equipment covered under this Contract

4.4.2 Farrwest shall provide, at no cost to AFD, a complete training on how to operate, handle, and maintain new equipment purchased through this Contract. The training shall include a minimum two (2) hours of class time on three (3) separate dates (for three shifts) on a per year basis for a minimum of 20 attendees, per session. AFD gas detection equipment will be used for the training demonstrations. All other training materials shall be provided by Farrwest at no additional cost to AFD.

4.4.3 AFD will request Farrwest provide additional training sessions as needed at an additional cost of \$45 per training session for up to 40 people for other departmental requirements. Any training that is requested outside the scope of the equipment listed in this Contract, the cost per training session could change at the discretion of the Farrwest.

4.4.4 Once contacted by AFD, Farrwest shall respond within forty-eight (48) hours in order to schedule a time with AFD Special Operations Office to provide training and/or technical services between the hours of Monday-Friday 8am-5pm.

4.4.5 Farrwest shall provide technical services, as needed, on an emergency basis. Farrwest shall be available for these services on a 24 hour basis, 7 days per week basis with a dedicated technician available to provide phone support. Farrwest shall

EXHIBIT A
City of Austin
Contract Scope of Work
for
FarrWest Environmental Supply, Inc.
Gas Monitoring Equipment and Technical Support for the Austin Fire Department

have one (1) hour to respond and provide technical support via phone. This service is provided at no additional cost to AFD.

4.4.6 If an on-site technician is required for technical services, Farrwest shall have four (4) hours to respond. AFD shall be charged \$45/hr for on-site technical support provided by FarrWest. Thereafter, Farrwest shall not charge any additional emergency service charge in responding to AFD after the hours of 8am-5pm, Monday –Friday

5.5 Reporting Requirements

5.5.1 Farrwest shall provide AFD with a list of all loaner gear inventory and will advise AFD how many of their clients have access to this list of gear.

5.5.2 Farrwest shall provide AFD with updates to their loaner gear inventory at a minimum of two (2) times per year, in six (6) month intervals.

5.5.3 Farrwest shall be responsible for keeping records on all repairs to the equipment covered under this Contract.

5.5.4 Farrwest shall send AFD a mandatory quarterly report showing the equipment, date of repairs done in the period, cost of the repair, and any other information requested by AFD.

5.5.5 The content of the records maintained by Farrwest shall be agreed upon between the Farrwest and AFD and shall change as needed by AFD.

6.6 Delivery Requirements

6.6.1 All deliveries shall be sent to AFD Special Operations 4305 Airport Blvd. Austin, TX 78721.

6.6.2 All supply deliveries shall include a packing slip referencing a valid AFD purchase order number.

EXHIBIT B
City of Austin, Texas
EQUAL EMPLOYMENT/FAIR HOUSING OFFICE
NON-DISCRIMINATION CERTIFICATION

City of Austin, Texas
Human Rights Commission

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

Sec. 4-2 Discriminatory Employment Practices Prohibited. As an Equal Employment Opportunity (EEO) employer, Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractor in which said union or organization has agreed not to engage in any discriminatory employment practices defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliatory effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

City of Austin
Minimum Standard Non-Discrimination in Employment Policy:

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, OR THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF SEPARATE SUBMITTAL.

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 24th day of July, 2014

CONTRACTOR

Authorized Signature

Title

Farr West Environmental Supp.
Jim Farr
Vice President



Farrwest Environmental Supply, Inc.
108 Commercial Place, Suite 200
Schertz, TX 78154

March 25, 2014

This proposal is to offer Farrwest Environmental as a sole-source supplier for gas detection and various hazmat equipment/ parts, calibration supplies, factory-authorized repair/service and on-site/ over the phone technical support for the City of Austin Fire Department. Farrwest Environmental Supply is the currently the only known agency within Central Texas that would be able to provide these various services and support to the Austin Fire Department.

Scope of Services and Benefits:

- 1) The only RAE Systems repair provider in Central Texas able to perform in-house warranty and non-warranty work AND the only RAE Systems Authorized Training provider in Central Texas.
- 2) The only company in Central Texas to have both RAE Systems and Sensit factory-certified technicians on staff and available 24/7/365, able to provide in-house warranty and non-warranty work and technical support on RAE Systems and Sensit monitors.
- 3) The only company to provide support and sales in Texas for Smiths Detection equipment.
- 4) The ability to perform all maintenance, calibrations and training on-site based on the specific requirements needed by the hazmat team.
- 5) Having a RAE Systems Certified Trainer for equipment used by Austin Fire Department.
- 6) Having a ProBoard-Certified hazmat technician available 24/7 for application emergencies.
- 7) Having the capability, knowledge and resources to support Austin Fire Department with special projects such as large-scale public venue monitoring.
- 8) Farrwest works with and has contracts in place with most other city, County, State and Federal agencies in and around the State of Texas supporting them in the same manner that is being proposed to the City of Austin. These would include TCEQ, Homeland Security, 6th Civil Support Team, EPA, San Antonio Fire, Bexar County, Hays County, Williamson County, Round Rock Fire.
- 9) Previous knowledge of working with Austin Fire Department and Travis County in establishing public venue monitoring applications at large scale venues such as Circuit of the Americas.
- 10) Farrwest maintains a large inventory of loaner equipment to provide for down equipment or additional support.

There is no other known company available in the Central Texas area that would be able to provide these specific services or support at this time to the City of Austin Fire Department.

Farrwest Environmental Supply will also be able to offer the City of Austin exclusive pricing at a discounted rate for all the following manufacturer's equipment and consumables. Farrwest maintains a large inventory of parts and consumables on-hand at all times in order to reduce delivery and down-time of equipment.

Manufacturers and Pricing Discount:

- 1) RAE Systems Gas Detection
 - a) MultiRAE/ PID's Products- 15% off list price
 - b) Radiation Products- 10% off list price
 - c) Single-gas/ 4-gas Products- 18% off list price
 - d) Wireless Products- 0% off list price per manufacturer contract
 - e) Colorimetric Tubes- 20% off list price
 - f) Parts and Consumables- 18% off list price
- 2) Sensit Gas Detection
 - a) Monitors/ Accessories- 9% off list price
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- 4) Farrwest Calibration Gas
 - a) NEW 116L Cylinder Non-Reactive Gases- 25% off list price
 - b) REFILL 116L Cylinder Non-Reactive Gases- \$120.00/ea.
 - c) NEW 116L Cylinder Reactive Gases- 25% off list price
 - d) REFILL 116L Cylinder Reactive Gases- \$250.00/ea.
 - e) All Other Gases and Cylinders- 25% off list
 - f) Regulators and Accessories- 25% off list
- 5) Kappler Protective Clothing
 - a) Level A Suits- 25% off list price
 - b) All other suits- 30% off list price
 - c) ChemTape- 20% off list price
- 6) Radiation Equipment
 - a) 3rd party calibration- 10% off list

Farrwest In-House Labor Rate- \$45.00 per hour

- 1) Includes equipment repair services, Level A pressure testing, misc. training.


Farrwest Event Monitoring Support- \$750 per day (starting)

At any given time, additional services and discount product pricing may be added to the above list.

If you desire additional information, please don't hesitate to contact me at (210)566-1857 or email me at tbrown@farrwestenv.com. Thank you for your interest in our products and services.

Sincerely,

Travis Brown- General Manager
Farrwest Environmental Supply, Inc.





City of Austin FSD Purchasing Office Certificate of Exemption

DATE: 12/26/2013 DEPT: Fire
TO: Purchasing Officer or Designee FROM: Claudia Rodriguez
BUYER: Terry Nicholson PHONE: (512) 974-4132

Chapter 252 of the Local Government Code requires that municipalities comply with the procedures established for competitive sealed bids or proposals before entering into a contract requiring an expenditure of \$50,000 or more, unless the expenditure falls within an exemption listed in Section 252.022.

Senate Bill 7 amended Chapter 252 of the Local Government Code to exempt from the requirements of such Chapter expenditures made by a municipally owned electric utility for any purchases made by the municipally owned electric utility in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by those procedures. The Austin City Council has adopted Resolution No. 040610-02 to establish circumstances which could give rise to a finding of critical business need for Austin Energy.

This Certification of Exemption is executed and filed with the Purchasing Office as follows:

1. The undersigned is authorized to submit this certification
2. The undersigned certifies that the following exemption is applicable to this purchase. (Please check which exemption you are certifying)
 - ☐ a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality
 - ☒ a procurement necessary to preserve or protect the public health or safety of municipality's residents
 - ☐ a procurement necessary because of unforeseen damage to public machinery, equipment, or other property
 - ☐ a procurement for personal, professional, or planning services
 - ☐ a procurement for work that is performed and paid for by the day as the work progresses
 - ☐ a purchase of land or right-of-way
 - ☐ a procurement of items available from only one source, including items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies, films, manuscripts, or books, gas, water, and other utility services, captive replacement parts or components for equipment; books, papers, and other library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; and management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits
 - ☐ a purchase of rare books, papers, and other library materials for a public library
 - ☐ paving, drainage, street widening and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements
 - ☐ a public improvement project already in progress, authorized by voters of the municipality for which there is a deficiency of funds for completing the project in accordance with the plans and purposes as authorized by the voters

4. Please attach any documentation that supports this exemption.

5. Please provide any evaluation conducted to support the recommendation. Include the efforts taken to ensure the selected vendor is responsible and will provide the best value to the City (Ex (valuation of other firms, knowledge of market, etc).

AFD has made previous purchases of RaeSystems equipment from other local RaeSystems equipment distributors, and we have verified that other competitors cannot provide the training or set-up that Rae monitors require. FarrWest Environmental is the only authorized training provider for Rae equipment within 150 miles of Austin, Texas. FarrWest has also confirmed they are able to train and service the other equipment currently in the department's gas monitoring equipment inventory and they are able to provide one-stop shop services. Gas detection equipment technical training and 24/7 technical support are critical to the department in order to respond to and mitigate Hazardous Material Incidents.

6. Because the above facts and documentation support the requested exemption, the City of Austin intends to contract with FarrWest Environmental Supply, Inc which will cost approximately \$ 165,000.00 (Provide estimate and/or breakdown of cost).

Recommended
Certification

Charles Kordupuz 12/27/13
Originator Date

Approved
Certification

Jung Eun 30 DEC 2013
Department Director or designee Date

Mark Dell 1/24/14
Assistant City Manager / General Manager Date
or designee (if applicable)

Purchasing Review
(if applicable)

John H 1/22/14
Buyer Date Manager initials

Exemption Authorized
(if applicable)

J. Miller 5/22/14
Exempting Officer (if applicable) Date



Farrwest Environmental Supply, Inc.
108 Commercial Place, Suite 200
Schertz, TX 78154

March 25, 2014

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Sincerely,

Travis Brown- General Manager
Farrwest Environmental Supply, Inc.





Farrwest Environmental Supply, Inc.
108 Commercial Place, Suite 200
Schertz, TX 78154

June 25, 2014

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- 4) Farrwest Calibration Gas
 - a) REFILL 116L Cylinder Non-Reactive Gases- \$120.00/ea.
 - b) REFILL 116L Cylinder Reactive Gases- \$250.00/ea.
 - c) All Other Gases and Cylinders- 25% off list
 - d) Regulators and Accessories- 25% off list
- 5) Kappler Protective Clothing
 - a) Level A Suits- 25% off list price
 - b) All other suits- 30% off list price
 - c) ChemTape- 20% off list price
- 6) Radiation Equipment
 - a) 3rd party calibration- 10% off list

Farrwest In-House Labor Rate- \$45.00 per hour

- 1) Includes equipment repair services, Level A pressure testing, misc. training.

Farrwest Event Monitoring Support- \$750 per day (starting)

For the event monitoring support we are referring to events such as Formula 1, UT Football, SXSW, Presidential visits, etc....

- Farrwest will provide their own monitoring team (up to 3 people) in order to support AFD with CBRE (chemical, biological, radiological and explosive)/ hazmat monitoring. We will provide our own command vehicle and monitoring equipment.
- Equipment will be exact match of AFD equipment in order to supplement their monitoring capabilities. We would also utilize AFD's equipment in addition to ours, if necessary, to increase the monitoring capability. Farrwest will carry a cache of equipment to include RAE gas and radiation monitors, Smiths Detection equipment, biological detection and sampling equipment and PPE. Equipment cache will depend on size, profile and known threats of event.
- Farrwest will not be responsible for responding to an incident, however, the main purpose will be to facilitate an AFD response by providing information, monitoring support, supplemental equipment, reference material and suggested sampling/ monitoring techniques.

- We will charge AFD a **\$750 per 12hr. day base rate** for monitoring support. *Depending on the length, scale and profile of the event, amount of Farrwest personnel/ equipment requested and amount of notice given this rate can vary.* Extra expenses or increased daily rate will be provided to in detail and approved by AFD PRIOR to the start of the event. For any event requiring longer than a 12hr. work detail, AFD will be charged an additional \$175 per hour. This rate may be negotiated prior to the start of any monitoring event.

At any given time, additional services and discount product pricing may be added to the above list.

If you desire additional information, please don't hesitate to contact me at (210)566-1857 or email me at tbrown@farrwestenv.com. Thank you for your interest in our products and services.

Travis Brown- General Manager
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