

AGREEMENT FOR PURCHASE AND SALE OF GOODS

Bid/Proposal No. Waiver of bid / Sole Source

Contract No.

Project Name Badger Meters for the Utilities Department

THIS AGREEMENT FOR PURCHASE AND SALE OF GOODS (the "Agreement") is made this 1st day of September, 2010, by and between **Innovative Metering Solutions, Inc.**, whose address is 2501-A Merchant Ave, Odessa, FL 33556 ("Seller") and THE CITY OF NAPLES, a Florida municipal corporation, the address of which is 735 Eighth Street South, Naples, Florida 34102 ("Buyer"). In consideration of the mutual covenants and agreements hereinafter set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Buyer and Seller agree as follows:

1. **Description of Goods; Sale and Delivery.** Seller shall sell, transfer, and deliver to Buyer water meters as described on the Description/Proposal attached hereto and made a part of as Exhibit "A" subject to such terms as are set forth in the Description/Proposal and in this Agreement.
2. **Acceptance; Purchase.** Buyer shall accept the goods and pay an annual amount not-to-exceed **\$600,000.00** for the goods in accordance with the terms of this Agreement.
3. **Identification of Goods.** Identification of the goods shall not be deemed to have been made until both Buyer and Seller have agreed that the goods in question are to be appropriate to the performance of this Agreement.
4. **Rate and Time of Payment.** Unless otherwise specified, Buyer shall make payment to Seller for the goods within 30 days after the goods are received by Buyer.
5. **Receipt of Goods.** The goods shall be deemed received by Buyer when delivered to Buyer at City of Naples, Attn: Purchasing Warehouse, 270 Riverside Circle, Naples, Florida 34102. Delivery of the goods to Buyer shall occur on a business day and shall not occur after 3:15 p.m. on the delivery day.
6. **Risk of Loss.** The risk of loss from any casualty to the goods, regardless of the cause, shall be on Seller up to the time of receipt of the goods by Buyer at the place of delivery, but only after any proper inspection has been completed without rejection of the goods. Thereafter, such risk shall be on Buyer, including any goods thereafter returned to Seller until their receipt by Seller.
7. **Warranty Against Encumbrances.** Seller warrants that the goods are now free, and at the time of delivery shall be free, from any security interest or other lien or encumbrance.
8. **Warranty of Title.** Seller warrants that at the time of signing this Agreement, Seller neither knows, nor has reason to know, of the existence of any outstanding title or claim of title hostile to the rights of Seller in the goods.
9. **Product Warranty.** Seller provides general warranties of fitness and general warranties that the goods are free from defects, for 1 year from acceptance of the goods, except as may otherwise be set forth in the Description/Proposal, or other attached warranty.

10. **Right of Inspection.** Buyer shall have the right to inspect the goods at the time and place of delivery, and within 5 business days after delivery, Buyer must give notice to Seller of any claim for damages on account of the condition, quality, or grade of the goods, and Buyer must specify in detail the basis of such claim. The failure of Buyer to comply with these conditions shall constitute irrevocable acceptance of the goods by Buyer.

11. **Procedure as to Rejected Goods.** On receipt of notification of rejection, Seller will immediately arrange to receive back the goods for shipment and return. However, within 5 days, Seller may have an agent inspect such goods for nonconformity; otherwise, such inspection will be made on return to Seller's storage facility. When such goods are confirmed or acquiesced in as nonconforming, Seller will ship conforming goods within 30 days of the notice of rejection unless Buyer earlier notifies Seller to forgo such shipment.

12. **Governing Law.** The parties acknowledge that the transaction that is the subject matter of this Agreement bears a reasonable relation to the State of Florida and agree that the law of the State of Florida will govern their rights and duties. The parties specifically intend that the provisions of Article 2 of the Florida Uniform Commercial Code will control as to all aspects of this Agreement and its interpretation, and that all the definitions contained therein will be applicable to this Agreement except where this Agreement may expressly provide otherwise.

13. **Notices and Address of Record.** All notices required or made pursuant to this Agreement to be given by Seller to Buyer shall be in writing and shall be delivered by overnight courier, by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following:

To Buyer:

City of Naples
Attention: A. William Moss, City Manager
735 Eighth Street South
Naples, Florida 34102-3796

All notices required or made pursuant to this Agreement to be given by Buyer to Seller shall be made in writing and shall be delivered by overnight courier, by hand or by the United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following:

To Seller: **Innovative Metering Solutions, Inc.**
Address: 2501-A Merchant Ave
Odessa, FL 33556
Attention: Steve Portlance, President

Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

15. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall together constitute one and the same instrument.

16. **Effective Date.** This three-year Agreement shall commence October 1, 2010 and expire September 30, 2013 with the City's option to renew for two additional one-year periods.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first written above.

ATTEST:

(Print Name: _____)

"SELLER":

Innovative Metering Solutions, Inc.
(Corporate Seal)

By: _____
Authorized Representative

ATTEST:

By: _____
Tara A. Norman, City Clerk

"BUYER"

City of Naples, Florida

By: _____
A. William Moss, City Manager

Approved as to form and legal sufficiency:

By: _____
Robert D. Pritt, City Attorney

Agreement for Purchase and Sale of Goods
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Innovative Metering Solutions, Inc.
 2501-A Merchant Ave.
 Odessa, FL 33556
 Phone 727.375.9701
 Fax 727.375.9703

Quotation

Date	Estimate No.
8/5/2010	00335

Name/Address

Attn: Ben Copland
 City of Naples
 735 Eight Street
 Naples, FL 34102

Ship To

City of Naples
 270 Riverside Circle
 Naples, FL 34102
 Attn: Sal

Fax #	Phone #	Freight	Terms:
	239-213-7104	FOB Naples, FL.	Net 30

Description	Qty	Price
BADGER DISPLACEMENT ORION METERS		
M 25, 5/8x3/4", Int 3ft.,Data Profiling		131.76
M 35, 3/4x9", Int 3ft.,Data Profiling		153.86
M 55, 1" Int 3ft.,Data Profiling		192.08
M 120, 1.5", Hex, Int 3ft.,Data Profiling		309.84
M 170, 2", Hex, Int 3ft.,Data Profiling		362.12
BADGER RETROFITS - DISPLACEMENT ORION REGISTERS		
R 25, Int 3ft.,Data Profiling		117.20
R 35, Int 3ft.,Data Profiling		117.20
R 55, Int 3ft.,Data Profiling		122.40
R 70, Int 3ft.,Data Profiling		122.40
R 120, Int 3ft.,Data Profiling		125.56
R 170, Int 3ft.,Data Profiling		129.68
BADGER TURBO SERIES ORION METERS		
M T200, 2", ELL (2 bolt Oval flanges), Int 3ft.,Data Profiling		486.52
M T450, 3" RD, Int 3ft.,Data Profiling		565.56
M T1000, 4" RD, Int 3ft.,Data Profiling		809.96
M T2000, 6" RD, Int 3ft.,Data Profiling		1,398.60
M T3500, 8" RD, Int 3ft.,Data Profiling		1,637.80
BADGER RETROFITS - TURBO ORION REGISTERS		
RT 2",RT 3",RT 4",RT 6",RT 8", Int 3ft.,Data Profiling (Specify size when ordering)		135.00

Prices are firm for acceptance within 30 days and an order placed within that time period will indicate acceptance. Prices are subject to change without notice unless specifically stated in this quotation. All sales are subject to applicable sales tax unless tax exempt certificate is provided. Returned material is subject to restocking charges. IMS payment terms are Net 30 days.

Signature

Steve Portlance



Innovative Metering Solutions, Inc.
 2501-A Merchant Ave.
 Odessa, FL 33556
 Phone 727.375.9701
 Fax 727.375.9703

Quotation

Date	Estimate No.
8/5/2010	00335

Name/Address

Attn: Ben Copland
 City of Naples
 735 Eight Street
 Naples, FL 34102

Ship To
City of Naples 270 Riverside Circle Naples, FL 34102 Attn: Sal

Fax #	Phone #	Freight	Terms:
	239-213-7104	FOB Naples, FL.	Net 30

Description	Qty	Price
BADGER COMPOUND SERIES ORION METERS - Includes (2) Integral Orion, Data Profiling per meter		
M CS, 2", ELL, (2 bolt Oval flanges) Int 3ft.,Data Profiling		1,412.72
M CS, 3", RD, Int 3ft.,Data Profiling		1,494.68
M CS, 4", RD, Int 3ft.,Data Profiling		1,807.11
M CS, 6", RD, Int 3ft.,Data Profiling		3,015.43
BADGER RETROFITS - COMPOUND ORION REGISTERS (2 Integrals Orion Data Profiling per meter)		
RCS 2",RCS 3",RCS 4",RCS 6", Int 3ft.,Data Profiling (Specify required Size when ordering)		261.88
FIRE SERVICE ORION METERS (2 Integrals Orion Data Profiling per meter)		
M FSAA, 4" x 2", Int 3ft.,Data Profiling		4,447.88
M FSAA, 6" x 2", Int 3ft.,Data Profiling		5,955.78
M FSAA, 8" x 2", Int 3ft.,Data Profiling		7,453.48
M FSAA, 10" x 2", Int 3ft.,Data Profiling		10,448.68

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Steve Portlance



Innovative Metering Solutions, Inc.
 2501-A Merchant Ave.
 Odessa, FL 33556
 Phone 727.375.9701
 Fax 727.375.9703

Quotation

Date	Estimate No.
7/26/2010	00335A

Name/Address

City of Naples
 735 Eight Street
 Naples, FL 34102
 Attn: Accounts payable

Ship To
City of Naples 270 Riverside Circle Naples, FL 34102 Attn: Sal

Fax #	Phone #	Freight	Terms:
	239-213-7104		Net 30

Description	Qty	Price
Badger Meter products with New "FHSS" Orion Transmitters		
BADGER DISPLACEMENT ORION METERS		
M 25, 5/8x3/4", Int 3ft., FHSS, Data Profiling		137.96
M 35, 3/4x9", Int 3ft., w/ FHSS and Data Profiling		160.06
M 55, 1" Int 3ft., w/ FHSS and Data Profiling		198.38
M 120, 1.5", Hex, Int 3ft., w/ FHSS and Data Profiling		316.21
M 170, 2", Hex, Int 3ft., w/ FHSS and Data Profiling		368.06
BADGER FHSS RETROFITS - DISPLACEMENT ORION REGISTERS		
R 25, Int 3ft., w/ FHSS and Data Profiling		123.40
R 35, Int 3ft., w/ FHSS and Data Profiling		123.40
R 55, Int 3ft., w/ FHSS and Data Profiling		128.70
R 70, Int 3ft., w/ FHSS and Data Profiling		128.70
R 120, Int 3ft., w/ FHSS and Data Profiling		131.93
R 170, Int 3ft., w/ FHSS and Data Profiling		135.50
BADGER TURBO SERIES ORION METERS		
M T200, 2", ELL (2 bolt Oval flanges), Int 3ft., w/ FHSS and Data Profiling		493.92
M T450, 3" RD, Int 3ft., w/ FHSS, and Data Profiling		572.96
M T1000, 4" RD, Int 3ft., w/ FHSS and Data Profiling		817.36
M T2000, 6" RD, Int 3ft., w/ FHSS and Data Profiling		1,406.00
M T3500, 8" RD, Int 3ft., w/ FHSS and Data Profiling		1,645.20
BADGER FHSS RETROFITS - TURBO ORION REGISTERS		
RT 2" - RT 3" - RT 4" - RT 6" - RT 8" (Specify Size when ordering)		142.40

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Fax #	Phone #	Freight	Terms:
	239-213-7104		Net 30

Description	Qty	Price
BADGER COMPOUND SERIES ORION METERS Includes (2) Integral Orion w/ FHSS and Data Profiling per meter		
M CS, 2", ELL, (2 bolt Oval flanges) Int 3ft., w/ FHSS and Data Profiling		1,427.52
M CS, 3", RD, Int 3ft., w/ FHSS and Data Profiling		1,509.48
M CS, 4", RD, Int 3ft., w/ FHSS and Data Profiling		1,821.91
M CS, 6", RD, Int 3ft., w/FHSS and Data Profiling		3,030.23
BADGER FHSS RETROFITS - COMPOUND ORION REGISTERS (2 Integrals Orion w/ FHSS and Data Profiling per meter)		
RCS 2" - RCS 3" - RCS 4" - RCS 6" (Specify size when ordering)		276.68
BADGER FIRE SERVICE METERS (2 Integrals Orion w/ FHSS and Data Profiling per meter)		
M FSAA, 4" x 2", Int 3ft., w/ FHSS and Data Profiling		4,462.68
M FSAA, 6" x 2", Int 3ft., w/ FHSS and Data Profiling		5,970.58
M FSAA, 8" x 2", Int 3ft., w/ FHSS and Data Profiling		7,468.28
M FSAA, 10" x 2", Int 3ft., w/ FHSS and Data Profiling		10,463.48
BADGER "RECLAIM" TURBO ORION METERS		
M T160 RECLAIM 1.5", ELL (2 bolt flanged) w/ FHSS ** Only 1 1/2" include Built-in strainer and Test Plug**		703.90
M T200 RECLAIM 2", ELL (2 bolt flanged), Int 3ft., w/ FHSS and Data Profiling		497.92
M T450 RECLAIM 3" RD, Int 3ft., w/ FHSS, and DataProfiling		576.96
M T1000 RECLAIM 4" RD, Int 3ft., w/ FHSSand Data Profiling		821.36

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Signature

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