



# Department of Purchasing and Contracting NON-COMPETITIVE PROCUREMENT REQUEST FORM

Requesting Department: DWM  
Department Contact Person: Dora De Taboada Telephone: 770 621-7268  
Email: dldetaboada@dekalbcountyga.gov

Requisition Number: \_\_\_\_\_ Suggested Supplier: HACH  
Estimated Amount of Purchase: \$ 369,845.88  
Detailed Description of the Goods or Services to be purchased: Water Distribution Monitoring Panels

**Emergency** (For Emergency Requests, Please check this box and answer all questions below.)

1. Date and Time of Emergency Occurrence: \_\_\_\_\_

2. Please state the nature of the emergency posing a risk to public health, welfare, safety or resources:

\_\_\_\_\_

3. State how the Estimated Amount was determined to be Fair and Reasonable (attach supporting documentation):

\_\_\_\_\_

**Sole Source** (Please check box and answer all of the following completely.)

1. Provide an explanation why the product, service or supplier requested is the only method that can satisfy the requirements. Please explain why alternatives are unacceptable. Be specific with regard to specification, features, characteristics, requirements, capabilities and compatibility. (Attach additional documents, if necessary):

Please see attached Justification

2. Will this purchase obligate us to a particular vendor for future purchases? (Either in terms of maintenance that only this vendor will be able to perform and/or if we purchase this item, will we need more "like" items in the future to match this one?) Explain in detail.

The distribution system is already using Hach products. These analyzer will have to be served by their manufacture Hach.

3. Explain the impact to the County or Public if this request is not approved.

We are planning to optimize the water quality we deliver to our customers. These instruments will ensure that the chemical and microbiological water quality is safe for public consumption. They will allow for the modeling and constant overview of the chlorine residual in the system.

I hereby request that this non-competitive procurement request be approved for the purchase of the above stated work, material, equipment, commodity, or service.

Department Director (Typed/Printed Name) Scott Towler Signature: [Signature] Date: 1/5/2018

### Do Not Write Below – for the Department of Purchasing and Contracting Use Only

Procurement Agent (Typed/Printed Name) Crystal Creechmore Signature: [Signature] Date: 4/13/18

Procurement Manager (Typed/Printed Name) Cathryn Horner Signature: [Signature] Date: 4/18/18

Approved  Not Approved

Signature: [Signature], Director, Department of Purchasing and Contracting Date: 4/18/18

Complete agenda item for BOC approval.

(Additional information, attach pages if required):

Sole source justification for Water Distribution Monitoring Panels.

This product is compatible with the Hach instrumentation used in DeKalb County Distribution System and with the SCADA system. This multi parameter on-line panel assists in identifying potential problems that pose risks to public health when they occur in a distribution system, It detects chlorine residual, turbidity, pH, and conductivity. It is reagentless so it does not require a drain that may not exist near the selected sampling point of the distribution system.

## Public Notice of Proposed Award of Sole Source Procurement

### Section A – Description of Proposed Sole Source Procurement

**Description of Supplies/Services:** Water Distribution Monitoring Panels – Hach Company

**Demonstration of Contractor’s Unique Qualifications:** Hach brand water distribution monitoring panels are compatible with the Hach instrumentation used in the County’s water distribution system and SCADA system. The multi-parameter online panel assists in identifying potential problems that pose threats to public health that could occur in the distribution system. It is reagentless and detects chlorine residual, turbidity, pH, and conductivity. It does not require a drain that may not exist near the selected sampling point of the distribution system.

### Section B – To Be Completed by the Department of Purchasing and Contracting

#### Market Survey Results

**Date Public Notice posted on website:** February 7, 2018

**Date Public Notice closed:** February 13, 2018

#### Review of Offers

**Were any offers received (Yes/No):** No

**Number of offers received:** 0

**Responders:** N/A

#### **Purchasing Agent review and recommendation:**

DWM is currently using Hach brand instrumentation in the DeKalb County Distribution System with the SCADA system and subsequent servicing from the Hach Company. Continued use of the Hach Company products ensures compatibility and uniformity in service and maintenance of a system which is used to identify potential problems that could pose risk to public health.

Hach Company is the sole authorized manufacturer and direct distributor of the panels.

A sole source CPA (1042139) was awarded to the vendor, effective December 13, 2016 – December 31, 2018, in the amount of \$300,000.00 for water monitoring equipment and repair services. Currently, \$265,485.91 has been released on the CPA. The cost of the panels will exceed the amount that is left on the CPA. BOC approval of additional purchases will be necessary to move forward.

Recommend the sole source purchase of water distribution monitoring panels from Hach Company.



<u>Crystal Quechura</u> Agent Signature	<u>4/13/18</u> Date
<u>Chorae</u> Procurement Manager Signature	<u>4/18/18</u> Date

Terms and Conditions have been approved by law w/the attached Addendum meeting from vendor/County.



*Crystal*  
770.621.7200 (o)  
770.621.7271 (f)  
DeKalbCountyga.gov

Watershed Management  
1580 Roadhaven Drive  
Stone Mountain, GA 30083

*T.C.*  
**TO:** Talisa R. Clark, MBA, CPPO, Director of Purchasing and Contracting  
**THROUGH:** Ted Rhinehart, Deputy COO/Infrastructure *[Signature]*  
**FROM:** Scott A. Towler, P.E., Director, Department of Watershed Management  
**DATE:** December 27, 2017 *[Signature] 12-26-2017*  
**SUBJ:** Water Distribution Monitoring Panels

Chief Executive Officer  
Michael Thurmond  
Board of Commissioners  
District 1  
Nancy Jester  
District 2  
Jeff Rader  
District 3  
Larry Johnson  
District 4  
Stephen Bradshaw  
District 5  
Mereda Davis Johnson  
District 6  
Kathie Gannon  
District 7  
Gregory Adams Sr.

**Capital Project Description:**

**Priority (assigned by DCOO):**  High  Medium  Low

**Request is for:**  ITB  RFP  RFQ  RFPQ  Sole Source  Emergency  
 Cooperative Purchase Agreement  A/E Work Authorization/Task Order

**Scope of Work for the project:**

The monitors' data will provide the following benefits:

- Provide live data of the water quality along the distribution system for the water model to ensure that all citizens receive safe water quality.
- Asses the water quality near the areas suspected to have dead zones, old pipes and other water quality issues.
- Send data to plant control room to address potential water quality issues by adding additional disinfectant.
- The inclusive boxes will be used to protect the monitoring panels from the weather.

This product is compatible with the HACH instrumentation used in DeKalb County Distribution System with the SCADA system. This multi parameter on-line panel assists in identifying potential problems that pose risks to public health when they occur in a distribution system. It detects chlorine residual, turbidity, pH, and conductivity. It is reagentless so it does not require a drain that may not exist near the selected sampling point of the distribution system.

**Commission District:** 1      **Super District:** 6

**Funding source:** R&E

**CIP Line number or Account number if applicable:**

**Contract term (expiration):** [Click here to enter a date.](#)

**Performance term (interim completion, substantial completion and final completion dates):**

**Anticipated project amount/budget:** \$ 373,553.88

**Number of easements or parcels of right-of-way required for the project:**

Sole Source (SS) for Water Distribution Monitoring Panels

December 27, 2017

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Total: \_\_\_\_\_ Completed: \_\_\_\_\_ Pending: \_\_\_\_\_

**Estimated date for completion of easement or right-of-way acquisition:**

**Right of way encroachment permit(s):** City of Not Applicable Status: Not Applicable

DeKalb County Status: Not Applicable

State of Georgia Status: Not Applicable

**Other utility relocations or permits required for the project:** Electric Not Applicable

Gas Not Applicable Telecommunications Not Applicable

Railroad Not Applicable Other: \_\_\_\_\_ Not Applicable

**Describe requested:**

1. Bonding
2. Insurance
3. Liquidated Damage penalties
4. Retainage
5. OCIP application
6. Licensing/certification required

**Pre-proposal/Pre-bid meeting:**  Mandatory  Optional

**Name and contact information for Project Manager and Project Coordinator:**

Project Manager: Dora De Taboada, P.E., Engineer Senior (770) 621-7268

Project Coordinator: Antoinette Fox-Lewis (770) 621-7238

## The Sole Authorized Manufacturer and Direct Distributor Letter

4/13/2018

**Customer Name:** DeKalb County Government | Department of Purchasing & Contracting

**Customer Address:** Crystal Creekmore | Procurement Agent

1300 Commerce Drive, 2<sup>nd</sup> Floor

**Customer City, State, Zip:** Decatur, GA | 30030

**Customer Account Number:** 038379 Reference Quotation: 100293885

**Item(s):**

**Description(s):**

6846050

Water Dist. Monitoring Panel, Reagentless

This letter is to confirm that Hach Company is the sole authorized manufacturer and direct distributor of the item/items listed above.

Thank you for your interest in Hach Company Products. If we can be of further assistance, please contact us at 1-800-227-4224.

Thank you

*Alyssa Prill*

Alyssa Prill  
Bid Support Specialist  
Hach Company



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Be Right™

# Quotation

Quote Number: 100293885v4

Use quote number at time of order to ensure that you receive prices quoted

Hach  
 PO Box 608  
 Loveland, CO 80539-0608  
 Phone: (800) 227-4224  
 Email: quotes@hach.com  
 Website: www.hach.com

Quote Date: 02/23/2018

Quote Expiration: 05/22/2018

DEKALB COUNTY  
 4830 WINTERS CHAPEL RD  
 ATLANTA, GA 30360

Name: Crystal Creekmore  
 Phone: 404-371-2710  
 Email: ccreekmore@dekalbcountyga.gov

Customer Account Number : 033169

Sales Contact: Pat Lawrence Email: plawrenc@hach.com Phone: 800-227-4224

## PRICING QUOTATION

Line	Part Number	Description	Qty	Unit Price	% Disc	Net Unit Price	Extended Price	
1	6846050	WATER DIST. MONITORING PANEL, REAGENTLESS	20	16,255.00	6%	15,279.70	305,594.00	
		Includes: sc1000 controller, CLF10 (free chlorine) analyzer, 1720E turbidimeter, digital pH sensor, digital conductivity sensor, pressure sensor, wall mount panel, start-up kit, tubing and manuals.						
2	6989	dd Model 6989 Weatherguard enclsr with 1 in. rigid foam insulation . Standard lead time 60 days.	12	4,750.00		4,750.00	57,000.00	
		Sole Source Letter attached at end of quotation.						
Estimated UPS Ground Shipping							\$	7,251.88
Grand Total							\$	369,845.88

## RECOMMENDED ACCESSORIES & SERVICES

Line	Part Number	Description	Qty	Unit Price	% Disc	Net Unit Price	Extended Price
1	LZY885.99.00002	PROGNOSYS communication card, to be used with the Hach sc1000 digital controller. Comes with manual and instructions.	20	1,070.00	6%	1,005.80	20,116.00
		OPTIONAL SERVICE:					
2	WRTUPG5C1000	Comprehensive warranty upgrade includes: Instrument start-up, all parts, labor, and travel for on-site repairs, 1 on-site factory recommended maintenance (including required parts), unlimited technical support calls, and free firmware updates. On-site response for "down" instrument repairs is typically 3 business days. Standard business hours are 8am-5pm M-F local time, excluding holidays. Please see service terms and conditions for additional details on our service plans, and to ensure you have an opportunity to review our environmental and safety requirements.	20	259.00		259.00	5,180.00
		Comprehensive warranty upgrade includes: Instrument start-up, all parts, labor, and travel for on-site repairs, 4 on-site calibrations per year, factory recommended maintenance (including required parts), unlimited technical support calls, and					



Line	Part Number	Description	Qty	Unit Price	% Disc	Net Unit Price	Extended Price
3	WRTUPG1720E	free firmware updates. On-site response for "down" instrument repairs is typically 3 business days. Standard business hours are 8am-5pm M-F local time, excluding holidays. Please see service terms and conditions for additional details on our service plans, and to ensure you have an opportunity to review our environmental and safety requirements.	20	729.00		729.00	14,580.00
4	WRTUPGGLPHORP	Comprehensive warranty upgrade includes: Instrument start-up, all parts, labor, and travel for on-site repairs, 1 on-site calibration per year, factory recommended maintenance (including required parts), unlimited technical support calls, and free firmware updates. On-site response for "down" instrument repairs is typically 3 business days. Standard business hours are 8am-5pm M-F local time, excluding holidays. Please see service terms and conditions for additional details on our service plans, and to ensure you have an opportunity to review our environmental and safety requirements.	20	245.00		245.00	4,900.00
5	WRTUPGCOND	Comprehensive warranty upgrade includes: Instrument start-up, all parts, labor, and travel for on-site repairs, 1 on-site calibration per year, factory recommended maintenance (including required parts), unlimited technical support calls, and free firmware updates. On-site response for "down" instrument repairs is typically 3 business days. Standard business hours are 8am-5pm M-F local time, excluding holidays. Please see service terms and conditions for additional details on our service plans, and to ensure you have an opportunity to review our environmental and safety requirements.	20	208.00		208.00	4,160.00
6	WRTUPGCLF10SC	Comprehensive warranty upgrade includes: Instrument start-up, all parts, labor, and travel for on-site repairs, 2 on-site calibrations per year, factory recommended maintenance (including required parts), unlimited technical support calls, and free firmware updates. On-site response for "down" instrument repairs is typically 3 business days. Standard business hours are 8am-5pm M-F local time, excluding holidays. Please see service terms and conditions for additional details on our service plans, and to ensure you have an opportunity to review our environmental and safety requirements.	20	1,270.00		1,270.00	25,400.00

## TERMS OF SALE

Freight: Ground Prepay and Add

FCA: Hach's facility

All purchases of Hach Company products and/or services are expressly and without limitation subject to Hach Company's Terms & Conditions of Sale ("Hach TCS"), incorporated herein by reference and published on Hach Company's website at [www.hach.com/terms](http://www.hach.com/terms). Hach TCS are contained directly and/or by reference in Hach's offer, order acknowledgment, and invoice documents. The first of the following acts constitutes an acceptance of Hach's offer and not a counteroffer and creates a contract of sale "Contract" in accordance with the Hach TCS: (i) Buyer's issuance of a purchase order document against Hach's offer; (ii) acknowledgement of Buyer's order by Hach; or (iii) commencement of any performance by Hach pursuant to Buyer's order. Provisions contained in Buyer's purchase documents (including electronic commerce interfaces) that materially alter, add to or subtract from the provisions of the Hach TCS are not part of the Contract.

Due to international regulations, a U.S. Department of Commerce Export License may be required. Hach reserves the right to approve specific shipping agents. Wooden boxes suitable for ocean shipment are extra. Specify final destination to ensure proper documentation and packing suitable for international transport. In addition, Hach may require: 1) A statement of intended end-use; 2) Certification that the intended end-use does not relate to proliferation of weapons of mass destruction (prohibited nuclear end use, chemical / biological weapons, missile technology); and 3) Certification that the goods will not be diverted contrary to U.S. law.

**ORDER TERMS:**

Terms are Subject to Credit Review

Please reference the quotation number on your purchase order.

Sales tax is not included. Applicable sales tax will be added to the invoice based on the U.S. destination, if applicable provide a resale/exemption certificate.

Shipments will be prepaid and added to invoices unless otherwise specified.

Equipment quoted operates with standard U.S. supply voltage.

Hach standard terms and conditions apply to all sales.

Additional terms and conditions apply to orders for service partnerships.

Prices do not include delivery of product. Reference attached Freight Charge Schedule and Collect Handling Fees.

Standard lead time is 30 days.

This Quote is good for a one time purchase.

**Sales Contact:**

Name: Pat Lawrence

Title: Regional Sales Manager

Phone: 800-227-4224  
Email: plawrenc@hach.com



**Be Right™**

Quotation Addendum

**HACH COMPANY**

**Headquarters**  
P.O. Box 389  
5600 Lindbergh Drive  
Loveland, CO 80539-0389

**Purchase Orders**  
PO Box 608  
Loveland, CO 80539-0608

**WebSite:** www.hach.com

**U.S.A.**  
Phone: 800-227-4224  
Fax: 970-669-2932  
E-Mail: orders@hach.com  
quotes@hach.com  
techhelp@hach.com

**Export**  
Phone: 970-669-3050  
Fax: 970-461-3939  
Email: intl@hach.com

**Remittance**  
2207 Collections Center Drive  
Chicago, IL 60693

**Wire Transfers**  
Bank of America  
231 S. LaSalle St.  
Chicago, IL 60604  
Account: 8765602385  
Routing (ABA): 071000039

**ADVANTAGES OF WORKING WITH HACH**

<u>Technical Support</u>	<u>SIRR Delivery Program</u>	<u>Hach ServicePlus® Programs</u>
<p><i>Provides post-sale instrumentation and application support</i></p> <ul style="list-style-type: none"> <li>✓ Hach's highly skilled Technical Support staff is dedicated to helping you resolve technical issues before, during and after the sale.</li> <li>✓ Available via phone, e-mail, or live online chat at Hach.com!</li> <li>✓ Toll-free phone: 800-227-4224</li> <li>✓ E-mail: techhelp@hach.com</li> </ul> <p>www.Hach.com</p>	<p><i>The Scheduled Inventory Reagent Replacement (SIRR) Program offers an uninterrupted supply of reagents</i></p> <ul style="list-style-type: none"> <li>✓ Lower inventory costs and fresh supplies</li> <li>✓ Reduced paperwork – one purchase order for the entire year</li> <li>✓ Automatic shipments on your schedule</li> <li>✓ Easier budgeting</li> </ul> <p>www.Hach.com/sirr</p>	<p><i>Instrument Protection and Service</i></p> <ul style="list-style-type: none"> <li>✓ Savings of more than 20% versus a "pay as you go" approach</li> <li>✓ Freedom from maintenance</li> <li>✓ Worry-free compliance with Hach's certification</li> <li>✓ Fixed maintenance budget for the entire year</li> </ul> <p>www.hach.com/service-contracts</p>

**ADVANTAGES OF SIMPLIFIED SHIPPING AND HANDLING**

<u>Safe &amp; Fast Delivery</u>	<u>Save Time – Less Hassle</u>	<u>Save Money</u>
<ul style="list-style-type: none"> <li>✓ Receive tracking numbers on your order acknowledgement</li> <li>✓ Hach will assist with claims if an order is lost or damaged in shipment</li> </ul>	<ul style="list-style-type: none"> <li>✓ No need to set up deliveries for orders or to schedule pickup</li> <li>✓ Hach ships order as product is available, at no additional charge, when simplified shipping and handling is used.</li> </ul>	<ul style="list-style-type: none"> <li>✓ No additional invoice to process – save on time and administrative costs</li> <li>✓ Only pay shipping once, even if multiple shipments are required</li> </ul>

<b>STANDARD SIMPLIFIED SHIPPING AND HANDLING CHARGES <sup>1, 2, 3</sup></b>						<b>Collect <sup>4</sup></b> Handling Fee Effective 1/6/2018
Total Price of Merchandise Ordered	Standard Surface (Mainland USA)	Second Day Delivery (Mainland USA)	Next Day Delivery (Mainland USA)	Second Day Delivery (Alaska & Hawaii)	Next Day Delivery (Alaska & Hawaii)	
\$0.00 - \$49.99	\$11.99	\$29.99	\$54.99	\$47.20	\$89.72	\$8.38
\$50.00 - \$149.99	\$17.79	\$52.45	\$98.97	\$75.22	\$143.00	\$8.62
\$150.00 - \$349.99	\$31.27	\$83.40	\$169.88	\$105.24	\$204.81	\$9.16
\$350.00 - \$649.99	\$43.75	\$114.40	\$227.51	\$143.01	\$276.92	\$9.64
\$650.00 - \$949.99	\$55.41	\$120.12	\$251.36	\$148.73	\$280.35	\$9.98
\$950.00 - \$1,999.99	\$69.71	\$148.22	\$313.40	\$176.38	\$341.29	\$10.89
\$2,000.00 - \$3,999.99	\$80.08	\$158.56	\$321.13	\$182.35	\$346.83	\$12.59
\$4,000.00 - \$5,999.99	\$92.84	\$162.82	\$336.64	\$183.19	\$356.84	\$15.50
\$6,000.00 - \$7,999.99	\$109.70	\$185.39	\$383.30	\$202.07	\$389.57	\$18.08
\$8,000.00 - \$9,999.99	\$125.78	\$211.68	\$413.64	\$226.50	\$429.56	\$20.86
Over \$10,000	2% of Net Order Value	4% of Net Order Value	6% of Net Order Value	4% of Net Order Value	6% of Net Order Value	\$31.95

- 1 Shipping & Handling charges shown are only applicable to orders billing and shipping to U.S. destinations. Shipping & Handling charges will be prepaid and added to invoice. Shipping & Handling for the Reagent Delivery Program is charged on each shipment release and is based on the total price of each shipment release. Shipping & Handling charges are subject to change without notice.
- 2 Additional Shipping & Handling charges will be applied to orders containing bulky and/or especially heavy orders. Refrigerated and all weather Samplers do not qualify for simplified Shipping & Handling charges, and are considered heavy products. Dissolved Oxygen Sensors can be damaged if exposed to temps below freezing, causing sensor failure. Must be shipped over night or 2nd day air during the cold weather months.
- 3 Orders shipping to Alaska or Hawaii: Additional Shipping & Handling charges may be applied at time of order processing. Second Day and Next Day delivery is not available to all destinations.
- 4 Hach Company will assess a collect handling fee on orders with collect shipping terms. This handling fee covers the additional costs that Hach Company incurs from processing and managing collect shipments.

**SALES TAX**

Sales Tax is not included in the attached quotation. Applicable sales and usage taxes will be added to your invoice, at the time of order, based on U.S. destination of goods, unless a valid resale/exemption certificate for destination state is provided to the above address or fax number, attention of the Tax Dept.



11. **SOFTWARE.** All licenses to Hach's separately-provided software products are subject to the separate software license agreement(s) accompanying the software media. In the absence of such terms and for all other software, Hach grants Buyer only a personal, non-exclusive license to access and use the software provided by Hach with Products purchased hereunder solely as necessary for Buyer to enjoy the benefit of the Products. A portion of the software may contain or consist of open source software, which Buyer may use under the terms and conditions of the specific license under which the open source software is distributed. Buyer agrees that it will be bound by any and all such license agreements. Title to software remains with the applicable licensor(s).

12. **PROPRIETARY INFORMATION; PRIVACY:** "Proprietary Information" means any information, technical data or know-how in whatever form, whether documented, contained in machine readable or physical components, mask works or artwork, or otherwise, which Hach considers proprietary, including but not limited to service and maintenance manuals. Buyer and its customers, employees and agents will keep confidential all such Proprietary Information obtained directly or indirectly from Hach and will not transfer or disclose it without Hach's prior written consent, or use it for the manufacture, procurement, servicing or calibration of Products or any similar products, or cause such products to be manufactured, serviced or calibrated by or procured from any other source, or reproduce or otherwise appropriate it. All such Proprietary Information remains Hach's property. No right or license is granted to Buyer or its customers, employees or agents, expressly or by implication, with respect to the Proprietary Information or any patent right or other proprietary right of Hach, except for the limited use licenses implied by law. Hach will manage Customer's Information and personal data in accordance with its Privacy Policy, located at <http://www.hach.com/privacypolicy>.

13. **CHANGES AND ADDITIONAL CHARGES:** Hach reserves the right to make design changes or improvements to any products of the same general class as Products being delivered hereunder without liability or obligation to incorporate such changes or improvements to Products ordered by Buyer unless agreed upon in writing before the Products' delivery date. Services which must be performed as a result of any of the following conditions are subject to additional charges for labor, travel and parts: (a) equipment alterations not authorized in writing by Hach; (b) damage resulting from improper use or handling, accident, neglect, power surge, or operation in an environment or manner in which the instrument is not designed to operate or is not in accordance with Hach's operating manuals; (c) the use of parts or accessories not provided by Hach; (d) damage resulting from acts of war, terrorism or nature; (e) services outside standard business hours; (f) site prework not complete per proposal; or (g) any repairs required to ensure equipment meets manufacturer's specifications upon activation of a service agreement.

14. **SITE ACCESS / PREPARATION / WORKER SAFETY / ENVIRONMENTAL COMPLIANCE:** In connection with services provided by Hach, Buyer agrees to permit prompt access to equipment. Buyer assumes full responsibility to back-up or otherwise protect its data against loss, damage or destruction before services are performed. Buyer is the operator and in full control of its premises, including those areas where Hach employees or contractors are performing service, repair and maintenance activities. Buyer will ensure that all necessary measures are taken for safety and security of working conditions, sites and installations during the performance of services. Buyer is the generator of any resulting wastes, including without limitation hazardous wastes. Buyer is solely responsible to arrange for the disposal of any wastes at its own expense. Buyer will, at its own expense, provide Hach employees and contractors working on Buyer's premises with all information and training required under applicable safety compliance regulations and Buyer's policies. If the instrument to be serviced is in a Confined Space, as that term is defined under OSHA regulations, Buyer is solely responsible to make it available to be serviced in an unconfined space. Hach service technicians will not work in Confined Spaces. In the event that a Buyer requires Hach employees or contractors to attend safety or compliance training programs provided by Buyer, Buyer will pay Hach the standard hourly rate and expense reimbursement for such training attended. The attendance at or completion of such training does not create or expand any warranty or obligation of Hach and does not serve to alter, amend, limit or supersede any part of this Contract.

15. **LIMITATIONS ON USE; RELATIONSHIP OF PARTIES:** Buyer will not use any Products for any purpose other than those identified in Hach's catalogs and literature as intended uses. Unless Hach has advised the Buyer in writing, in no event will Buyer use any Products in drugs, food additives, food or cosmetics, or medical applications for humans or animals. In no event will Buyer use in any application any Product that requires FDA 510(k) clearance unless and only to the extent the Product has such clearance. Any warranty granted by Hach is void if any goods covered by such warranty are used for any purpose not permitted hereunder. Buyer is not an agent or representative of Hach and will not present itself as such under any circumstances unless and to the extent it has been formally screened by Hach's compliance department and received a separate duly-authorized letter from Hach setting forth the scope and limitations of such authorization.

16. **EXPORT AND IMPORT LICENSES AND COMPLIANCE WITH LAWS:** Unless otherwise specified in this Contract, Buyer is responsible for obtaining any required export or import licenses. Hach represents that all Products delivered hereunder will be produced and supplied in compliance with all applicable laws and regulations. Buyer will comply with all laws and regulations applicable to the installation or use of all Products, including applicable import and export control

laws and regulations of the U.S., E.U. and any other country having proper jurisdiction, and will obtain all necessary export licenses in connection with any subsequent export, re-export, transfer and use of all Products and technology delivered hereunder. Buyer will not sell, transfer, export or re-export any Hach Products or technology for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use Hach Products or technology in any facility which engages in activities relating to such weapons. Buyer will comply with all local, national, and other laws of all jurisdictions globally relating to anti-corruption, bribery, extortion, kickbacks, or similar matters which are applicable to Buyer's business activities in connection with this Contract, including but not limited to the U.S. Foreign Corrupt Practices Act of 1977, as amended (the "FCPA"). Buyer agrees that no payment of money or provision of anything of value will be offered, promised, paid or transferred, directly or indirectly, by any person or entity, to any government official, government employee, or employee of any company owned in part by a government, political party, political party official, or candidate for any government office or political party office to induce such organizations or persons to use their authority or influence to obtain or retain an improper business advantage for Buyer or for Hach, or which otherwise constitute or have the purpose or effect of public or commercial bribery, acceptance of or acquiescence in extortion, kickbacks or other unlawful or improper means of obtaining business or any improper advantage, with respect to any of Buyer's activities related to this Contract. Hach asks Buyer to "Speak Up!" if aware of any violation of law, regulation or our Standards of Conduct ("SOC") in relation to this Contract. See <http://danaher.com/integrity-and-compliance> and [www.danaherintegrity.com](http://www.danaherintegrity.com) for a copy of the SOC and for access to our Helpline portal.

17. **FORCE MAJEURE:** Hach is excused from performance of its obligations under this Contract to the extent caused by acts or omissions that are beyond its control of, including but not limited to Government embargoes, blockages, seizures or freeze of assets, delays or refusals to grant an export or import license or the suspension or revocation thereof, or any other acts of any Government; fires, floods, severe weather conditions, or any other acts of God; quarantines; labor strikes or lockouts; riots; strife; insurrections; civil disobedience or acts of criminals or terrorists; war; material shortages or delays in deliveries to Hach by third parties. In the event of the existence of any force majeure circumstances, the period of time for delivery, payment terms and payments under any letters of credit will be extended for a period of time equal to the period of delay. If the force majeure circumstances extend for six months, Hach may, at its option, terminate this Contract without penalty and without being deemed in default or in breach thereof.

18. **NON ASSIGNMENT AND WAIVER:** Buyer will not transfer or assign this Contract or any rights or interests hereunder without Hach's prior written consent. Failure of either party to insist upon strict performance of any provision of this Contract, or to exercise any right or privilege contained herein, or the waiver of any breach of the terms or conditions of this Contract will not be construed as thereafter waiving any such terms, conditions, rights, or privileges, and the same will continue and remain in force and effect as if no waiver had occurred.

19. **LIMITATION OF LIABILITY:** None of the Hach Indemnified Parties will be liable to Buyer under any circumstances for any special, treble, incidental or consequential damages, including without limitation, damage to or loss of property other than for the Products purchased hereunder; damages incurred in installation, repair or replacement; lost profits, revenue or opportunity; loss of use; losses resulting from or related to downtime of the products or inaccurate measurements or reporting; the cost of substitute products; or claims of Buyer's customers for such damages, howsoever caused, and whether based on warranty, contract, and/or tort (including negligence, strict liability or otherwise). The total liability of the Hach Indemnified Parties arising out of the performance or nonperformance hereunder or Hach's obligations in connection with the design, manufacture, sale, delivery, and/or use of Products will in no circumstance exceed in the aggregate a sum equal to twice the amount actually paid to Hach for Products delivered hereunder.

20. **APPLICABLE LAW AND DISPUTE RESOLUTION:** The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of Colorado, without regard to its principles or laws regarding conflicts of laws. If any provision of this Contract violates any Federal, State or local statutes or regulations of any countries having jurisdiction of this transaction, or is illegal for any reason, said provision shall be self-deleting without affecting the validity of the remaining provisions. Unless otherwise specifically agreed upon in writing between Hach and Buyer, any dispute relating to this Contract which is not resolved by the parties shall be adjudicated in order of preference by a court of competent jurisdiction (i) in the State of Colorado, U.S.A. if Buyer has minimum contacts with Colorado and the U.S., (ii) elsewhere in the U.S. if Buyer has minimum contacts with the U.S. but not Colorado, or (iii) in a neutral location if Buyer does not have minimum contacts with the United States.

21. **ENTIRE AGREEMENT & MODIFICATION:** These Terms & Conditions of Sale constitute the entire agreement between the parties and supersede any prior agreements or representations, whether oral or written. No change to or modification of these Terms & Conditions shall be binding upon Hach unless in a written instrument specifically referencing that it is amending these Terms & Conditions of Sale and signed by an authorized representative of Hach. Hach rejects any additional or inconsistent Terms & Conditions of Sale offered by Buyer at any time, whether or not such terms or conditions materially alter the Terms &



**TERMS AND CONDITIONS OF SALE FOR HACH® PRODUCTS**

Conditions herein and irrespective of Hach's acceptance of Buyer's order for the described goods and services.

\* \* \*

**Additional Provisions**

22. **WIRE TRANSFERS:** Buyer and Hach both recognize that there is a risk of wire fraud when individuals impersonating a business demand immediate payment under new wire transfer instructions. To avoid this risk, Buyer must verbally confirm any new or changed wire transfer instructions by calling Hach at +1-970-663-1377 and speaking with Hach's Credit Manager before transferring any monies using the new wire instructions. Both parties agree that they will not institute wire transfer instruction changes and require immediate payment under the new instructions but will instead provide a ten (10) day grace period to verify any wire transfer instruction changes before any outstanding payments are due using the new instructions.

\* \* \*

**Contract Addendum to Contract Forms Hach Company Terms & Conditions of Sale  
Quote Number 100293885v4 DeKalb County (the "Project")**

Parties: Dekalb County ("Customer")  
Hach Company ("Supplier")

Date: \_\_\_\_\_, 2018

**Recitals:** Customer and Supplier are entering into a contract for the Project and, for convenience, are using Hach's standard contract forms ("Hach's Base Contract") for the sale of Supplier's goods and/or services ("Goods" and/or "Services"). This Addendum is intended to provide reasonable revisions to Hach's Base Contract for the purpose of enabling the parties to enter into a contract for the Project without prolonged or complex negotiations over terms and conditions. Accordingly, the parties incorporate this Addendum into the Hach's Base Contract and make it an integral part thereof, taking precedence over any contrary terms or conditions that may be contained therein, in any purchase orders, or in any other writings, addenda or exhibits constituting part of the agreement between the parties (collectively, the "Agreement").

**Revisions:** Notwithstanding anything to the contrary contained in the Agreement, the following provisions and rules of construction apply:

**1. Art. 8. Indemnification.** The following language is removed from Article 8. Indemnification:

"This indemnification is provided on the condition that the Buyer is likewise responsible for and will defend, indemnify and hold harmless the Hach Indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to the negligence or misuse or misapplication of any goods or services by the Buyer or any third party affiliated or in privity with Buyer."

**2. 20. Applicable Law And Dispute Resolution.** Article 20 shall be removed in its entirety and replaced with the following:

"20. APPLICABLE LAW AND DISPUTE RESOLUTION: The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of Georgia, without regard to its principles or laws regarding conflicts of laws. If any provision of this Contract violates any Federal, State or local statutes or regulations of any countries having jurisdiction of this transaction, or is illegal for any reason, said provision shall be self-deleting without affecting the validity of the remaining provisions. Unless otherwise specifically agreed upon in writing between Hach and Buyer, any dispute relating to this Contract which is not resolved by the parties shall be adjudicated in order of preference by a court of competent jurisdiction (i) in the State of Georgia, U.S.A."

**3. Revisions to the Agreement.** Nothing in the Agreement supersedes or nullifies this Addendum. Supplier's obligations under the Agreement will only be modified by written agreement of Supplier through the same duly authorized representative who signed this Addendum, or such person's duly authorized successor.

IN WITNESS WHEREOF, the Parties have caused this Addendum to be executed by their duly authorized representatives, intending thereby to be legally bound.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have set their hands and caused their seals to be affixed hereupon in three (3) counterparts, each to be considered as an original by their authorized representatives, on this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**HACH COMPANY**

**DEKALB COUNTY, GEORGIA**

By: \_\_\_\_\_ (SEAL)  
Signature

by Dir. (SEAL)

MICHAEL L. THURMOND  
Chief Executive Officer  
DeKalb County, Georgia

\_\_\_\_\_  
Name (Typed or Printed)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Federal Tax I.D. Number

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
Signature

BARBARA SANDERS, CCC, CMC  
Clerk of the Chief Executive Officer  
And Board of Commissioners of  
DeKalb County, Georgia

\_\_\_\_\_  
Name (Type or Printed)

\_\_\_\_\_  
Title

**APPROVED AS TO SUBSTANCE:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Department Director

*[Handwritten Signature]*  
Asst County Attorney Signature

*Max Ming Chang*  
Asst County Attorney Name (Typed or Printed)

DeKalb County  
Contract No. \_\_\_\_\_