

## "SOLE SOURCE" PROCUREMENT JUSTIFICATION

Sole source purchases are goods and services available from only one vendor. There may be just one vendor because of patents or copyrights or simply because the vendor is the only one which supplies the good or service. Using Department must provide a written explanation as to why only this particular product/service is acceptable and why no other will be suitable or acceptable to meet the need. A quote must accompany this form.

Department name: Camino Real Regional Utility Authority

1. Name of product or service: Differential pH sensor
2. Name of product manufacturer: Hach Company
3. Name of "sole" product supplier or service provider: Hach Company
4. Describe in general terms the product/service you are requesting and the intended application.

There are 2 differential pH sensors installed at each of the arsenic treatment facilities (2 treatment plants). These sensors are located in-line and continually test the water being treated so the chemical dosing can be adjusted accordingly to effectively remove arsenic from drinking water.

5. Describe the unique features/capabilities/characteristics that distinguish it from other products/services.

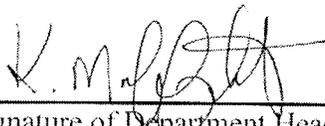
The Hach differential pH sensors are configured to work with the pH controllers. These are the instruments that accept an electrical signal from the sensor and convert it into a pH reading that can then be implemented to regulate chemical dosing.

6. How did you determine there was only one source for the product or service? Provide information on the research that was performed to locate suppliers for this product(s) or service(s). (Please furnish names, addresses and other documentation).

The pH controllers are also a Hach brand, and require that a compatible sensor be installed. Upon looking at Hach Company's website, it became clear they are the only ones who sell this product.

7. What product supplier or service provider has your Department used until now to satisfy similar requirements?

There were a few extra sensors on the shelf that were provided by the instrumentation and controls contractor when the arsenic treatment plants were built. These stocks are depleted and need to be replenished in order to stay within compliance.

  
Signature of Department Head

12/2/13  
Date

(Attach Quote and Use Additional Sheets As Necessary)

\*\*This form is used by Purchasing Department to determine if a "Sole Source" procurement criterion is met.  
Completing this form does not guarantee approval of this type of procurement.

**HACH COMPANY**  
PO Box 389 • Loveland, Colorado 80539-0389  
Phone 800-227-4224 or 970-669-3050  
Fax 970-669-2932  
<http://www.hach.com>



CAMINO REAL REGIONAL UTILITY  
AUTHORITY  
845 N MOTEL BLVD  
LAS CRUCES, NM, 88007

Hach Customer Acct#: 40130050

November 25, 2013

This letter is to confirm that Hach Company is the sole manufacturer and distributor within the United States of the following Hach equipment:  
PHD, PEEK, pH-Wide Range Sensor

Associated catalog numbers are: PD2P1

Thank you for your interest in Hach Company Products. If we can help in any way, please call us at 1-800-227-4224.

Sincerely,

A handwritten signature in cursive script that reads "Virginia Fruehling".

Customer Service Representative

*Facility location: 5600 Lindbergh Drive • Loveland, Colorado USA 80537-8998*

Quotation/ProForma Invoice

Page 2 of 3  
Date 11/25/2013

Merchandise Total: ~~\$3,096.49~~ \$ 3288.76  
Shipping & Handling: \$76.25  
Total: ~~\$3,172.44~~

AF/

=  
\$3365.01

NOTES :

Additional charges may be added for certain heavy/large items shipping to US Destinations.

THANK YOU FOR YOUR QUOTE REQUEST. PLEASE NOTE:

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TO ENSURE YOU RECEIVE QUOTED PRICING, PLEASE FAX YOUR ORDER TO 970-461-3919 AND INCLUDE YOUR QUOTE NUMBER. MOST ITEMS ARE AVAILABLE WITHIN 30 DAYS AFTER RECEIPT OF PURCHASE ORDER. ITEMS IN STOCK WILL SHIP WITHIN 48 HOURS.

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PRICES QUOTED ARE VALID ONLY FOR ORDERS BILLING-SHIPPING WITHIN THE USA, NOT ULTIMATE EXPORT.

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THIS QUOTATION DOES NOT INCLUDE FREIGHT CHARGES. PLEASE REFER TO THE ENCLOSED FREIGHT SCHEDULE, WHICH IS BASED ON THE TOTAL DOLLAR AMOUNT PER SHIPMENT.

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SHIPPING TERMS ARE FOB SHIPPING POINT. CUSTOMERS ARE RESPONSIBLE FOR PAYING FREIGHT CHARGES ON ORDERS. NORMALLY FREIGHT IS PREPAID AND ADDED TO YOUR INVOICE. IF YOU CHOOSE NOT TO HAVE YOUR SHIPMENT SENT PREPAID, PLEASE CONTACT CUSTOMER SERVICE AT 1-800-227-4224 SO ARRANGEMENTS CAN BE MADE TO SEND FUTURE ORDERS FREIGHT COLLECT.

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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.

IN LIEU OF PAYMENT TERMS, HACH RESERVES THE RIGHT TO REQUIRE CASH OR CREDIT CARD PAYMENT IN ADVANCE OF DELIVERY.

Taxes will be added at time of order for orders shipping and used in US Destinations, unless valid resale/exemption certificate is provided. Exemption certificate can be sent to the above address or fax number.

**TERMS & CONDITIONS OF SALE FOR HACH COMPANY PRODUCTS AND SERVICES**

This document sets forth the Terms & Conditions of Sale for goods manufactured and/or supplied, and services provided, by Hach Company of Loveland, Colorado ("Hach") and sold to the original purchaser thereof ("Buyer"). Unless otherwise specifically stated herein, the term "Hach" includes only Hach Company and none of its affiliates. Unless otherwise specifically stated in a previously-executed written purchase agreement signed by authorized representatives of Hach and Buyer, these Terms & Conditions of Sale establish the rights, obligations and remedies of Hach and Buyer which apply to this offer and any resulting order or contract for the sale of Hach's goods and/or services ("Products").

1. **APPLICABLE TERMS & CONDITIONS:** These Terms & Conditions of Sale 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 these Terms & Conditions: (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 these Terms & Conditions of Sale are not a part of the Contract.

2. **CANCELLATION:** Buyer may cancel goods orders subject to fair charges for Hach's expenses including handling, inspection, restocking, freight and invoicing charges as applicable, provided that Buyer returns such goods to Hach at Buyer's expense within 30 days of delivery and in the same condition as received. Buyer may cancel service orders on ninety (90) day's prior written notice, and refunds will be prorated based on the duration of the service plan. Inspections and re-instatement fees may apply upon cancellation or expiration of service programs.

3. **DELIVERY:** Delivery will be accomplished FCA Hach's facility located in Ames, Iowa or Loveland, Colorado, United States (Incoterms 2010). For orders having a final destination within the U.S., legal title and risk of loss or damage pass to Buyer upon transfer to the first carrier. For orders having a final destination outside the U.S., legal title and risk of loss or damage pass to Buyer when the Products enter international waters or airspace or cross an international frontier. Hach will use commercially reasonable efforts to deliver the Products ordered herein within the time specified on the face of this Contract or, if no time is specified, within Hach's normal lead-time necessary for Hach to deliver the Products sold hereunder. Upon prior agreement with Buyer and for an additional charge, Hach will deliver the Products on an expedited basis. Standard service delivery hours are 8 am - 5 pm Monday through Friday, excluding holidays.

4. **INSPECTION:** Buyer will promptly inspect and accept any Products delivered pursuant to this Contract after receipt of such Products. In the event the Products do not conform to any applicable specifications, Buyer will promptly notify Hach of such nonconformance in writing. Hach will have a reasonable opportunity to repair or replace the nonconforming product at its option. Buyer will be deemed to have accepted any Products delivered hereunder and to have waived any such nonconformance in the event such a written notification is not received by Hach within thirty (30) days of delivery.

5. **PRICES & ORDER SIZES:** All prices are in U.S. dollars and are based on delivery as stated above. Prices do not include any charges for services such as insurance; brokerage fees; sales, use, inventory or excise taxes; import or export duties, special financing fees; value added taxes; income or royalty taxes imposed outside the U.S.; consular fees; special permits or licenses; or similar charges imposed upon the production, sale, distribution, or delivery of Products hereunder. Buyer will either pay any and all such taxes and charges or provide Hach with acceptable exemption certificates, which obligation survives performance under this Contract. Hach reserves the right to establish minimum order sizes and will advise Buyer accordingly.

6. **PAYMENTS:** All payments must be made in U.S. dollars. For Internet orders, the purchase price is due at the time and in the manner set forth at [www.hach.com](http://www.hach.com). Invoices for all other orders are due and payable (1) NET 30 DAYS from date of the invoice without regard to delays for inspection or transportation, with payments to be made by check to Hach at the above address or by wire transfer to the account stated on the front of Hach's invoice. In the event payments are not made or not made in a timely manner, or (2) for customers with no established credit, Hach may require cash or credit card payment in advance of delivery. Hach may, in addition to all other remedies provided at law, either: (1) declare Buyer's performance in breach and terminate this Contract for default; (2) withhold future shipments until delinquent payments are made; (3) deliver future shipments on a cash-with-order or cash-in-advance basis even after the delinquency is cured; (4) charge interest on the delinquency at a rate of 1-1/2% per month or the maximum rate permitted by law, if lower, for each month or part thereof of delinquency in payment plus applicable storage charges and/or inventory carrying charges; (5) repossess the Products for which payment has not been made; (6) recover all costs of collection including reasonable attorney's fees; or (7) combine any of the above rights and remedies as is practicable and permitted by law. Buyer is prohibited from setting off any and all monies owed under this from any other sums, whether liquidated or not, that

are or may be due Buyer, which arise out of a different transaction with Hach or any of its affiliates. Should Buyer's financial responsibility become unsatisfactory to Hach in its reasonable discretion, Hach may require cash payment or other security. If Buyer fails to meet these requirements, Hach may treat such failure as reasonable grounds for repudiation of this Contract, in which case reasonable cancellation charges shall be due Hach. Buyer grants Hach a security interest in the Products to secure payment in full, which payment releases the security interest but only if such payments could not be considered an avoidable transfer under the U.S. Bankruptcy Code or other applicable laws. Buyer's insolvency, bankruptcy, assignment for the benefit of creditors, or dissolution or termination of the existence of Buyer, constitutes a default under this Contract and affords Hach all the remedies of a secured party under the U.C.C., as well as the remedies stated above for late payment or non-payment.

7. **LIMITED WARRANTY:** Hach warrants that Products sold hereunder will be free from defects in material and workmanship and will conform to any express written warranty pertaining to the specific goods purchased, which for most Hach instruments is for a period of twelve (12) months from delivery. Hach warrants that services furnished hereunder will be free from defects in workmanship for a period of ninety (90) days from the completion of the services. Parts provided by Hach in the performance of services may be new or refurbished parts functioning equivalent to new parts. Any non-functioning parts that are repaired by Hach shall become the property of Hach. No warranties are extended to consumable items such as, without limitation, reagents, batteries, mercury cells, and light bulbs. **All other guarantees, warranties, conditions and representations, either express or implied, whether arising under any statute, law, commercial usage or otherwise, including implied warranties of merchantability and fitness for a particular purpose, are hereby excluded.** The sole remedy for Products not meeting this Limited Warranty is replacement, credit or refund of the purchase price. This remedy will not be deemed to have failed of its essential purpose so long as Hach is willing to provide such replacement, credit or refund.

8. **INDEMNIFICATION:** Indemnification applies to a party and to such party's successors-in-interest, assignees, affiliates, directors, officers, and employees ("Indemnified Parties"). Hach is responsible for and will defend, indemnify and hold harmless the Buyer indemnified Parties against all losses, claims, expenses or damages which may result from accident, injury, damage, or death due to Hach's breach of the Limited Warranty. 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.

9. **PATENT PROTECTION:** Subject to all limitations of liability provided herein, Hach will, with respect to any Products of Hach's design or manufacture, indemnify Buyer from any and all damages and costs as finally determined by a court of competent jurisdiction in any suit for infringement of any U.S. patent (or European patent for Products that Hach sells to Buyer for end use in a member state of the E.U.) that has issued as of the delivery date, solely by reason of the sale or normal use of any Products sold to Buyer hereunder and from reasonable expenses incurred by Buyer in defense of such suit if Hach does not undertake the defense thereof, provided that Buyer promptly notifies Hach of such suit and offers Hach either (i) full and exclusive control of the defense of such suit when Products of Hach only are involved, or (ii) the right to participate in the defense of such suit when products other than those of Hach are also involved. Hach's warranty as to use patents only applies to infringement arising solely out of the inherent operation of the Products according to their applications as envisioned by Hach's specifications. In case the Products are in such suit held to constitute infringement and the use of the Products is enjoined, Hach will, at its own expense and at its option, either procure for Buyer the right to continue using such Products or replace them with non-infringing products, or modify them so they become non-infringing, or remove the Products and refund the purchase price (prorated for depreciation) and the transportation costs thereof. The foregoing states the entire liability of Hach for patent infringement by the Products. Further, to the same extent as set forth in Hach's above obligation to Buyer, Buyer agrees to defend, indemnify and hold harmless Hach for patent infringement related to (x) any goods manufactured to the Buyer's design, (y) services provided in accordance with the Buyer's instructions, or (z) Hach's Products when used in combination with any other devices, parts or software not provided by Hach hereunder.

10. **TRADEMARKS AND OTHER LABELS:** Buyer agrees not to remove or alter any indicia of manufacturing origin or patent numbers contained on or within the Products, including without limitation the serial numbers or trademarks on nameplates or cast, molded or machined components.

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

