

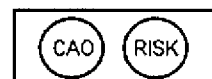
CONTRACT FOR SERVICE

Maintenance Service for Two UV Units Sports Center

THIS AGREEMENT is executed this 27 day of June, 2013, by and between the CITY OF MONTEREY, a municipal corporation, hereinafter called "City", and Knorr Systems, Inc., hereinafter called "Contractor".

IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:

1. **Scope.** Contractor hereby agrees to provide to the City of Monterey, as the scope of services under this Agreement, the following services: On schedule Pool Care - UV Preventative Maintenance. Ultra Violet System, bi-annual rebuild of unit per manufacture recommendation. Annual replacement of UV lamps and remove and clean quartz thimble during each rebuild. Contractor's proposal dated June 11, 2013 is attached as Exhibit A, and ETS UV Technology letter dated 6/11/2013 for Sole Source on Equipment is attached as Exhibit B,. In the event of a conflict, the terms set forth in this Agreement shall supersede any terms set forth in Contractor's proposal.
2. **Timely.** Contractor shall perform all tasks in a timely fashion, as set forth more specifically in paragraph 3 below. Failure to so perform is hereby deemed a material breach of this Agreement, and City may terminate this Agreement with no further liability hereunder, or may agree in writing with Contractor to an extension of time.
3. **Term.** The work under this Agreement shall commence July 22, 2013 and shall be completed by July 21, 2014 unless City grants a written extension of time as set forth in paragraph 2 above. This agreement may be extended by consecutive one (1) year periods to a maximum of four (4) extensions, by written agreement between the City and Contractor.
4. **Payment.** City agrees to pay and Contractor agrees to accept as full and fair consideration for the performance of this Agreement, Five Thousand Three Hundred Sixty Dollars and no cents (\$5,360.00). Contractor has no right of reimbursement for expenses under this Agreement. Compensation shall become due and payable 30 days after City's approval of Contractor's submission of monthly written invoices to the City. The payment of any compensation shall be contingent upon performance of the terms and conditions of this Agreement to the satisfaction of the City. If City determines that the work set forth in the written invoice has not been performed in accordance with the terms of this Agreement, City shall not be responsible for payment until such time as the work has been satisfactorily performed.
5. **Meet & Confer.** Contractor agrees to meet and confer with City or its agents or employees with regard to services as set forth herein as may be required by City to insure timely and adequate performance of this Agreement.
6. **Insurance.** Contractor shall maintain the following insurance in full force and effect.
 - a. Without altering or limiting Contractor's duty to indemnify, Contractor shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:
 - I. Contractor's Commercial General Liability Insurance including but not limited to



personal injuries, bodily injuries, premises/operations, completed operations/products, contractual liability, independent contractors (if any part of the work is to be subcontracted), broad form property damage and cross-liability coverage with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

II. Course of Construction or Builder's Risk Insurance for the completed value of the project with no coinsurance penalty provisions. Contractor may submit evidence of builders risk insurance as evidence of course of construction coverage.

III. Commercial Automobile Liability Insurance covering all automobiles, including owned, leased, non-owned, and hired automobiles, used in providing services under this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence.

IV. Workers' Compensation Insurance. If Contractor employs others in the performance of this Agreement, Contractor shall maintain workers' compensation insurance in accordance with California Labor Code section 3700 and with a minimum of \$100,000 per occurrence for employer's liability. Workers' compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

b. Other Insurance Requirements:

I. All insurance under this Agreement must be written by an insurance company that is either:

* Admitted to do business in California with a current A.M. Best rating of no less than A:VI;

or

* An insurance company with a current A.M. Best rating of no less than A:VII.

Exception may be made for the State Compensation Insurance Fund when not specifically rated.

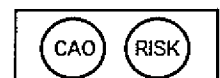
II. Each insurance policy required by this agreement shall be endorsed to state that City of Monterey shall be given notice in writing at least thirty days in advance of any change, cancellation, or non-renewal thereof.

III. The general liability and auto policies shall:

* Provide an endorsement naming the City of Monterey, its officers, officials, and employees as additional insureds under an ISO CG 20 10 11 85 or equivalent.

* Provide that such insurance is primary and non-contributing insurance to any insurance or self-insurance maintained by the City.

* Contain a "Separation of Insureds" provision substantially equivalent to that used in the ISO form CG 00 01 10 01.



IV. Prior to the start of work under this Agreement, Contractor shall file certificates of insurance and endorsements evidencing the coverage required by this agreement with the City of Monterey Risk Management Office. Contractor shall file a new or amended certificate of insurance promptly after any change is made in any insurance policy which would alter the information on the certificate then on file.

V. Neither the insurance requirements hereunder, nor acceptance or approval of Contractor's insurance, nor whether any claims are covered under any insurance, shall in any way modify or change Contractor's obligations under the indemnification clause in this Agreement, which shall continue in full force and effect. Notwithstanding the insurance requirements contained herein, Contractor is financially liable for its indemnification obligations under this Agreement.

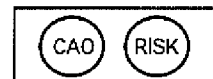
VI. Any deductibles or self-insured retentions must be declared to and approved by the City of Monterey. At the option of the City of Monterey, either: the insured shall reduce or eliminate such deductibles or self-insured retentions as respects the City of Monterey, its officers, officials, employees and volunteers; or Contractor shall provide a financial guarantee satisfactory to the City of Monterey guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

VII. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

VII. Contractor shall either (1) require each of its subcontractors to procure and to maintain during the life of its subcontract, Commercial General Liability Insurance, Vehicle Liability Insurance and Workers' Compensation Insurance of the type and in the amounts specified above, or; (2) insure the activities of its subcontractors in its policies. Prior to commencement of any work by any subcontractor, Contractor shall file certificates of insurance and endorsements evidencing the coverage required by this paragraph with the City of Monterey Risk Management Office. Contractor shall file a new or amended certificates of insurance promptly after any change is made in any insurance policy which would alter the information on the certificate then on file.

7. **Indemnification**. Contractor hereby agrees to the following Indemnification and Hold Harmless Clause:

To the fullest extent permitted by law, Contractor agrees to indemnify, investigate, defend (at Contractor's sole cost and expense and with legal counsel reasonably approved by City), protect and hold harmless, the City of Monterey, its officials, officers, employees, agents, and representatives from and against any and all claims [including, without limitation, claims for bodily injury or death (including but not limited to Contractor, persons employed by Contractor, persons acting on behalf of Contractor, and third parties) or damage to property], demands, obligations, losses, damages, actions, causes of action, suits, judgments, fines, penalties, liabilities, defense costs and expenses (including, without limitation, reasonable attorneys' fees, disbursements and court costs, and all other professional, expert or Contractors' fees and costs) of every kind or nature arising out of or in connection with or relating to any work or activities of Contractor (or Contractor's contractors' or subcontractors', if any) conducted under



this Agreement or arising out of the failure on Contractor's part to perform their obligations under this agreement. Except as provided by law, the indemnification provisions stated above shall apply regardless of the existence or degree of fault of the City, except for those Claims which arise out of the sole negligence or willful misconduct of the City of Monterey.

Notwithstanding the provisions of the above paragraph, Contractor agrees to assume all risk, and to indemnify and hold harmless the City from and against any and all claims, demands, defense costs, liability, expense, or damages or any kind or nature arising out of or in connection with damage to or loss of any property belonging to Contractor or Contractor's employees, contractors, representatives, patrons, guests or invitees.

Contractor further agrees to indemnify City for damage to or loss of City of Monterey property arising out of or in connection with Contractor's work associated with this agreement or arising out of any act or omission of Contractor or any of Contractor's employees, agents, contractors, representatives, patrons, guests or invitees; excepting such damage or loss arising out of the negligence of the City.

8. **Licensing.** Contractor warrants that it is properly licensed to perform the work specified under this Agreement, including but not limited to possession of a current City business license.

9. **Termination.** City may terminate this Agreement upon ten days' written notice. The amount of damages, if any, as a result of such termination may be decided by negotiations between the parties or before a court of competent jurisdiction.

10. **Agency.** In performing the services specified under this Agreement, Contractor is hereby deemed to be an independent contractor and not an agent or employee of City.

11. **Non-Assignability.** The rights and obligations of Contractor hereunder are not assignable and cannot be delegated without written consent of City.

12. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties hereto and supersedes any and all prior agreements, whether oral or written, relating to the subject matter thereof. Any modification of the Agreement will be effective only if it is in writing signed by both parties hereto.

13. **Validity.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force without being impaired or invalidated in any way.

14. **Counterparts.** This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

15. **Laws.** Contractor agrees that in the performance of this Agreement it will comply with all applicable State, Federal and local laws and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the City of Monterey.



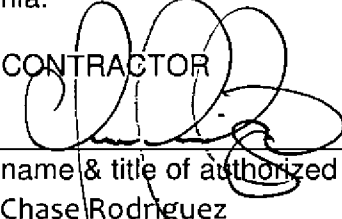
IN WITNESS WHEREOF, this Agreement is entered into by the parties hereto on the day and year first above written in Monterey, California.

CITY OF MONTEREY



Mayor or City Manager

CONTRACTOR



name & title of authorized signatory
Chase Rodriguez
Service Agreement Administrator





KNORR SYSTEMS, INC.

EXHIBIT "A"

www.knorrsystems.com

June 11, 2013

Ms. PJ Kinzie-Garcia
CITY OF MONTEREY
301 East Franklin
Monterey, CA 93940

Re: Monterey Sports Center Swimming Pool UV System Planned Preventative Maintenance

Ms. Kinzie-Garcia,

Below is our proposal for the twice annual preventative maintenance for your ETS SP-25-6 and SP-50-12 Swimming Pool UV Systems at the Monterey Sports Center. These services will assist your facility in maintaining system operations and proper water chemistry. Preventing aggressive water, which can deteriorate equipment, will help preserve equipment warranties and life expectancy.

ETS SP-25-6 (S/N: A20101-A) and SP-50-12 (S/N: A16665-B) UV Systems

Twice-annual maintenance of two (2) systems:

- Monitor and log system influent & effluent pressures
- Monitor and log system flow-rates
- Monitor and log heater inlet, outlet and delta temperature
- Clean and inspect sight glasses and wiper systems
- Inspect strainer baskets, if accessible
- Replace UV lamps at July 2013 service
 - o Inspect and clean UV lamps at January 2014 service
- Replace Quartz thimbles at July 2013 service
 - o Inspect and clean quartz thimbles at January 2014 service
- Replace wipers, rings and chamber seals at each service
- Inspect anodes and replace if necessary
- Complete chemical evaluation to confirm proper water balance
- Provide recommendations for chemical corrections based on chemical evaluation results

Proposed Twice-Annual Maintenance Payment: \$2,680.00

- KSI Technicians are nationally certified AFO/CPO's
- KSI Technicians are manufacturer trained and carry current and legacy equipment certifications
- KSI utilizes OEM parts for required repairs / maintenance
- The following manufacturer's equipment is featured in this proposal:



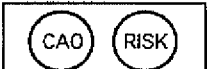
The facility is to provide all chemicals on an as needed basis including ancillary chemicals to maintain proper water balance, such as sodium bicarbonate and calcium chloride. Knorr Systems can provide all chemicals required to maintain proper water chemistry. Chemicals will be provided on a separate quote at your request.

Corporate Office:
2221 Standard Avenue
Santa Ana, CA 92707
Phone: (714) 754-4044
Fax: (714) 754-1405

Northern California:
2021 Las Positas Court, #143
Livermore, CA 94551
Phone: (925) 273-0722
Fax: (925) 273-0726

South Central:
P.O. Box 703567
Dallas, TX 75370-3567
Phone: (972) 732-0306
Fax: (972) 732-0305

Oregon:
#225/4233 SE 182nd Ave.
Gresham, OR 90730
Phone: (503) 781-7069
Fax: (503) 465-9947

Washington:
303 91st Ave., # ES02 PM8104
Lak
Ph: 
Fax

Ms. PJ Kinzie-Garcia
CITY OF MONTEREY
June 11, 2013
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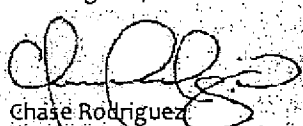
This proposal includes labor, materials, testing equipment, travel and standard parts necessary to perform the stated scope of work. It does not include any additional parts or labor if other repairs or equipment replacement is required. Any additional materials or work will be quoted as applicable.

Terms and Conditions

- *Payment Terms: Net 30 days from date of invoice, subject to approval of credit*
- *Payments based on fulfillment of two (2) service visits over a 12-month period totaling: \$5,360.00*
- *Interest: 18% APR is charged on all past due invoices*
- *All points of quotation (pricing, scope of work, etc) are valid until July 12, 2013*

If you have any questions or concerns, please feel free to contact me by phone at (714) 754-4044 extension 114 or by email at chaser@knorrsystems.com.

Best regards,



Chase Rodriguez
Contracts and Services Administrator
KNORR SYSTEMS, INC.



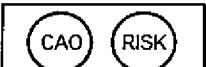
Confidentiality Notice: This proposal and the information contained within is the private confidential property of KSI. It is intended solely for the use, benefit, and information of the recipient noted above. Any copy, dissemination, or distribution is strictly prohibited.

Corporate Office:
2221 Standard Avenue
Santa Ana, CA 92707
Phone: (714) 754-4044
Fax: (714) 754-1405

Northern California:
2021 Las Positas Court, #143
Livermore, CA 94551
Phone: (925) 273-0723
Fax: (925) 273-0726

South Central:
P.O. Box 703567
Dallas, TX 75370-3567
Phone: (972) 732-0306
Fax: (972) 732-0305

Oregon:
#225/4233 SE 182nd Ave.
Gresham, OR 90730
Phone: (503) 781-7069
Fax: (503) 465-9947

Washington:
303 91st Ave., # E502 PMB104
Lak
Phc
Fax: 



Engineered Treatment Systems LLC
W9654 Beaverland Parkway
P.O. Box 392
Beaver Dam, WI 53916 USA
Phone 877.885.4628
Fax 920.885.4386

June 11, 2013

PJ Kinzie-Garcia
City of Monterey

Re: ETS UltraViolet Systems

Dear Ms. Garcia:

This letter is to confirm that Engineered Treatment Systems LLC (ETS) has established Knorr Systems Inc. (KSI) as their exclusive distributor of UV systems for the recreational water market in the Western States of California, Nevada, Oregon, Washington and Alaska.

Knorr Systems Inc. has a full staff of factory trained and certified technicians that are the only personnel other than ETS staff that are authorized to provide service and support on all ETS UV systems in order to maintain the ETS warranty on its UV products in their region.

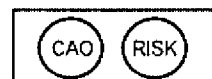
If you should have any questions, please feel free to contact me directly.

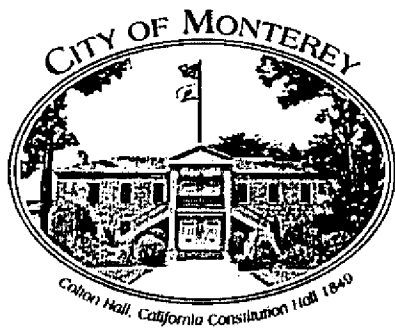
Regards,

Ron George

Ron George
Pool & Leisure Manager
Engineered Treatment Systems LLC

RG:md





Exception to Competitive Bidding Requirements – Sole Source Justification Form

Instructions: Submit completed form to Finance Administration for review when not obtaining quotes because only one source exists. Requesting department is Department of Record for completed form; after requisition review, original should be maintained in UFFS 405-05 section of records.

The purpose of this sole source justification is to comply with the City’s purchasing code by showing that a competitive procurement is not possible or is impractical because only one specific product or service can meet the specified need. You are not trying to justify or select the best source; that is done competitively. You must justify that there is only **one** source.

Staff Member Responsible: Pj Kinzie-Garcia Extension: 3926
Requesting Department/Division: B.Maint. /General Service Date: 6-14-2013
Description of goods/services: Maint. Service for Two UV Units at Sports Center
Proposed manufacturer or supplier: Knorr Systems, Inc.
Dollar amount (attach any written quotes): 5,360.00

Please check the justification category (or categories) that best describe your sole source requirement. Answer all questions pertaining to that category.

INTENDED USE

This is the only product/equipment/service that will meet the requirements of the intended use although other similar products/services exist.

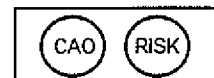
1. List the names of other vendors or products you evaluated. Please identify the factors that led to the determination that those vendors and/or products would not meet the City’s needs:

2. State the reason why this product or vendor is the only one that will fit the specific need. Give specific characteristics, capabilities and properties: Engineered Treatment Systems LLC (ETS) has established Knorr Systems Inc. as their exclusive distributor of UV systems for Wester States of California (See Attached Exhibit B), maintain Warranty.

UNIQUENESS AND AVAILABILITY

This item or service is only available through one known manufacturer or service producer

1. List sources researched to support this claim (internet searches, professional journals, colleagues, etc.):



Knorr Systems, INC. is the sole distributor for ETS UV Technology in the State of California. (See Exhibit B)

2. Does this manufacturer sell directly to the City of Monterey, or through distributors?
Thorough Knorr Systems, Inc.

COMPATIBILITY

This is the only product or service provider compatible with existing equipment, research protocol, methodology or training

1. Identify existing material with which this item is compatible: ETS SP-25-6 and SP-50-12
Swimming Pool UV Systems.

2. Explain the unique properties that make this the only item compatible with existing material: Knorr
Systems is sole distributor for ETS and warranty on equipment.

ADDITIONAL JUSTIFICATION

Provide additional information that supports the need for a sole source purchase:

Quick Reference to City Law:

Monterey City Code Sec. 28-15 Bidding. Subsection (c) lists certain limited exceptions to the rules requiring a competitive process for purchase of goods or services and states that formal bidding shall be dispensed with if the contract and/or purchase contemplated is capable of being performed as follows:

- By a sole provider such as a public utility or the holder of an exclusive patent or franchise;
- By another governmental agency; through purchasing contracts negotiated by another governmental agency utilizing acceptable bidding procedures; or
- When purchasing used equipment.

This code section also states that such purchases are subject to fair, just and equitable contract conditions and requires that the award of all such contracts valued at thirty-five-thousand dollars (\$35,000) or more is subject to City Council approval.

