

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DENTON, A TEXAS HOME-RULE MUNICIPAL CORPORATION, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TRILLIUM PUMPS USA, INC., FOR THE REPLACEMENT OF FIVE WEMCO RECESSED IMPELLER PUMPS FOR THE WATER RECLAMATION DEPARTMENT, WHICH IS THE SOLE PROVIDER OF THESE COMMODITIES, IN ACCORDANCE WITH TEXAS LOCAL GOVERNMENT CODE 252.022, WHICH PROVIDES THAT PROCUREMENT OF COMMODITIES AND SERVICES THAT ARE AVAILABLE FROM ONE SOURCE ARE EXEMPT FROM COMPETITIVE BIDDING, AND IF OVER \$50,000, SHALL BE AWARDED BY THE GOVERNING BODY; PROVIDING FOR THE EXPENDITURE OF FUNDS THEREFOR; AND PROVIDING AN EFFECTIVE DATE (FILE 8751 – AWARDED TO TRILLIUM PUMPS USA, INC., IN THE NOT-TO-EXCEED AMOUNT OF \$175,000.00).

WHEREAS, Section 252.022 of the Local Government Code provides that procurement of items that are only available from one source, including items that are only available from one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electricity, gas, water, and other utility purchases; captive replacement parts or components for equipment; and library materials for a public library that are available only from the persons holding exclusive distribution rights to the materials; need not be submitted to competitive bids; and

WHEREAS, this procurement was undertaken as part of the City’s governmental function; and

WHEREAS, the City Council wishes to procure one or more of the items mentioned in the above paragraph; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY ORDAINS:

SECTION 1. The following purchase of materials, equipment or supplies, as described in the “File” listed hereon, and on file in the office of the Purchasing Agent, and the license terms attached are hereby approved:

<u>FILE NUMBER</u>	<u>VENDOR</u>	<u>AMOUNT</u>
8751	Trillium Pumps USA, Inc.	\$175,000.00

SECTION 2. The City Council hereby finds that this bid, and the award thereof, constitutes a procurement of items that are available from only one source, including items that are only available from one source because of patents, copyrights, secret processes, or natural monopolies; films, manuscripts, or books; electricity, gas, water, and other utility purchases; captive replacement parts or components for equipment; and library materials for a public library

that are available only from the persons holding exclusive distribution rights to the materials; need not be submitted to competitive bids.

SECTION 3. The acceptance and approval of the above items shall not constitute a contract between the City and the person submitting the quotation for such items until such person shall comply with all requirements specified by the Purchasing Department.

SECTION 4. The City Manager, or their designee, is hereby authorized to execute the contract relating to the items specified in Section 1, attached hereto, and the expenditure of funds pursuant to said contract is hereby authorized.

SECTION 5. The City Council of the City of Denton hereby expressly delegates the authority to take any actions that may be required or permitted to be performed by the City of Denton under this ordinance to the City Manager of the City of Denton, or their designee.

SECTION 6. This ordinance shall become effective immediately upon its passage and approval.

The motion to approve this ordinance was made by _____ and seconded by _____. The ordinance was passed and approved by the following vote [___ - ___]:

	Aye	Nay	Abstain	Absent
Mayor Gerard Hudspeth:	_____	_____	_____	_____
Vicki Byrd, District 1:	_____	_____	_____	_____
Brian Beck, District 2:	_____	_____	_____	_____
Suzi Rumohr, District 3:	_____	_____	_____	_____
Joe Holland, District 4:	_____	_____	_____	_____
Brandon Chase McGee, At Large Place 5:	_____	_____	_____	_____
Jill Jester, At Large Place 6:	_____	_____	_____	_____

PASSED AND APPROVED this the _____ day of _____, 2025.

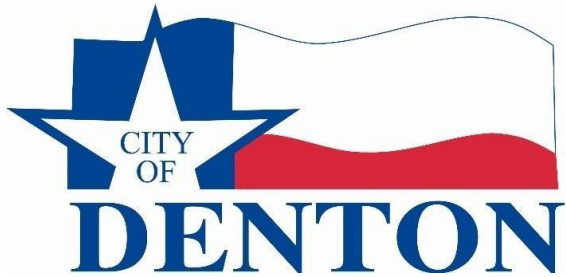
GERARD HUDSPETH, MAYOR

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

BY: Marcella Lunn



Docusign City Council Transmittal Coversheet

FILE	8751
File Name	WEMCO Pump Replacement
Purchasing Contact	Gabby Leeper
City Council Target Date	
Piggy Back Option	Not Applicable
Contract Expiration	
Ordinance	

**CONTRACT BY AND BETWEEN
CITY OF DENTON, TEXAS AND TRILLIUM PUMPS USA, INC.
(Contract #8751)**

THIS CONTRACT is made and entered into this date _____, by and between Trillium Pumps USA, Inc. a Delaware corporation, whose address 2495 S Golden State Blvd Fresno California 93706, hereinafter referred to as “Contractor,” and the **CITY OF DENTON, TEXAS**, a home rule municipal corporation, hereinafter referred to as “City,” to be effective upon approval of the Denton City Council and subsequent execution of this Contract by the Denton City Manager or their duly authorized designee.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties agree as follows:

SCOPE OF SERVICES

Contractor shall provide products in accordance with the City’s document Contract # 8751 WEMCO Pump Replacements a copy of which is on file at the office of Purchasing Agent and incorporated herein for all purposes. The Contract consists of this written agreement and the following items which are attached hereto, or on file, and incorporated herein by reference:

- (a) Special Terms and Conditions (**Exhibit “A”**);
- (b) Contractor's Proposal("Contractor's Offer") (**Exhibit “B”**);
- (c) City of Denton Standard Terms and Conditions (**Exhibit “C”**);
- (d) Certificate of Interested Parties Electronic Filing (**Exhibit “D”**);
- (e) Form CIQ – Conflict of Interest Questionnaire (**Exhibit “E”**)

These documents make up the Contract documents and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency or conflict in any of the provisions of the Contract documents, the inconsistency or conflict shall be resolved by giving precedence first to the written agreement then to the contract documents in the order in which they are listed above. These documents shall be referred to collectively as “Contract Documents.”

Prohibition on Contracts with Companies Boycotting Israel

Contractor acknowledges that in accordance with Chapter 2271 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms “boycott Israel” and “company” shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this Contract, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Contract.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Contractor acknowledges that in accordance with Chapter 2276 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms “boycott energy company” and “company” shall have the meanings ascribed to those terms in Section 809.001 of the Texas Government Code. ***By signing this agreement, Contractor certifies that Contractor’s signature provides written verification to Contract 8751***

the City that Contractor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the Contract. Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition on Contracts with Companies Boycotting Certain Firearm Entities and Firearm Trade Associations

Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code, City is prohibited from entering into a contract with a company for goods or services unless the contract contains written verification from the company that it (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate against a firearm entity or firearm trade association,” “firearm entity” and “firearm trade association” shall have the meanings ascribed to those terms in Chapter 2274 of the Texas Government Code. ***By signing this Contract, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of this Contract against a firearm entity or firearm trade association.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Prohibition On Contracts with Companies Doing Business with Iran, Sudan, or a Foreign Terrorist Organization

Section 2252 of the Texas Government Code restricts City from contracting with companies that do business with Iran, Sudan, or a foreign terrorist organization. ***By signing this Contract, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor, pursuant to Chapter 2252, is not ineligible to enter into this Contract and will not become ineligible to receive payments under this Contract by doing business with Iran, Sudan, or a foreign terrorist organization.*** Failure to meet or maintain the requirements under this provision will be considered a material breach.

Termination Right for Contracts with Companies Doing Business with Certain Foreign-Owned Companies

The City of Denton may terminate this Contract immediately without any further liability if the City of Denton determines, in its sole judgment, that this Contract meets the requirements under Chapter 2275, and Contractor is, or will be in the future, (i) owned by or the majority of stock or other ownership interest of the company is held or controlled by individuals who are citizens of China, Iran, North Korea, Russia, or other designated country (ii) directly controlled by the Government of China, Iran, North Korea, Russia, or other designated country, or (iii) is headquartered in China, Iran, North Korea, Russia, or other designated country.

The parties agree to transact business electronically. Any statutory requirements that certain terms be in writing will be satisfied using electronic documents and signing. Electronic signing of this document will be deemed an original for all legal purposes.

IN WITNESS WHEREOF, the parties of these presents have executed this Contract in the year and day first above written.

THIS CONTRACT HAS BEEN
BOTH REVIEWED AND APPROVED
as to financial and operational obligations
and business terms.

Signed by:
Stephen D Gay
SIGNATURE

Stephen D Gay
PRINTED NAME

General Manager
TITLE

Water Utilities and Street Operations
DEPARTMENT

ATTEST:
LAUREN THODEN, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
MACK REINWAND, CITY ATTORNEY

DocuSigned by:
BY: Marcella Lunn
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CONTRACTOR

DocuSigned by:
BY: Shelley Phebus
AUTHORIZED SIGNATURE

Printed Name: Shelley Phebus

Title: Technical Sales Scheduler

559-443-6467
PHONE NUMBER

Shelley.Phebus@trilliumflow.com
EMAIL ADDRESS

shelley.phebus@trilliumflow.com
TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

CITY OF DENTON, TEXAS

BY: _____
SARA HENSLEY
CITY MANAGER

Exhibit A

Special Terms and Conditions

1. Product Changes During Contract Term

The Contractor shall not change specifications during the contract term without prior approval. Any deviation in the specifications or change in the product must be approved in advance by the City of Denton. Notice of a change shall be submitted in writing to purchasing@cityofdenton.com, with the above file number in the subject line, for review. Products found to have changed specifications without notification, and acceptance, will be returned at the contractor's expense. Products that have been installed will be replaced at the contractor's expense.

2. Authorized Distributor

The Contractor shall be the manufacturer or authorized distributor of the proposed products. The distributor shall be authorized to sell to the City of Denton, and make available the manufacturer's representative as needed by the City.

3. Contract Terms

The contract will be effective from date of award or notice to proceed with a purchase order as determined by the City of Denton Purchasing Department. At the sole option of the City of Denton, the Contract may be further extended as needed, not to exceed a total of six (6) months.

4. Total Contract Amount

The contract total shall not exceed \$175,000. Pricing shall be per Exhibit D attached.

5. Performance Liquidated Damages

The Contractor shall incur contractual payment losses, as initiated by the City for performance that falls short of specified performance standards as outlined below:

- Delivery beyond contracted lead times
- Performance below contracted levels (services only)

The Contractor shall be assessed a one (1%) percent fee each month when any one of the performance standards outlined above are not met in full. The Contractor shall be assessed a two (2%) percent profit fee each month when any two (2) or more performance standards outlined above are not met in full. At the end of each month, the City will review the monthly reports and determine the percentage of penalty to be assessed to the Contractor's monthly profit margin. The cumulative fees charged by this section shall not exceed five (5%) percent in total.

Exhibit B- Contractor's Proposal

Trillium Pumps USA Inc



Quotation

05 Dec 2024

HRM Environmental - Bedford, TX
3825 Hillwood Way
Bedford, Texas 76021

Attn: Deana Martin

E-mail: Deana@HRMH2O.onmicrosoft.com

Quotation number: 2405843
Revision: 000

Project: Replacement To Torque flow Pump SN 9291178-2 & 8095097-3-4-5 Your
reference:

We thank you for your above referenced inquiry, and are pleased to submit our quotation for your consideration.

Please see the next page for a summary of our offer. Full details can be found in subsequent pages.

Note:

001: S/N 9291178-1 Base plate is not included in this quote

002: S/N 9291178-2 Base plate is not included in this quote

003: S/N 8095097-3-4-5 Base plate is not included in this quote

We hope you find our quotation in line with your requirements. However, if you have any questions, please do not hesitate to contact us.

Sincerely,

Shaik Rasheed
Trillium Pumps USA Inc

Trillium Pumps USA Inc · 2495 S Golden State Blvd · Fresno, California 93706
phone: 801 359 8731 · www.trilliumflow.com

Trillium Pumps USA Inc



Quotation Summary

05 Dec 2024

HRM Environmental - Bedford, TX
3825 Hillwood Way
Bedford, Texas 76021

Attn: Deana Martin

E-mail: Deana@HRMH2O.onmicrosoft.com

Quotation number: 2405843

Revision: 000

Project: Replacement To Torque flow Pump SN 9291178-2 & 8095097-3-4-5 Your
reference:

The following is a price summary for this quotation. Please see item specific pages for more details.

Item number	Service	Size	Unit Price	Unit Freight	Qty	Extended Price
001	S/N 9291178-1, CW Rotation	4" Model C	\$ 33,364	\$ 788	1	\$ 34,152
002	S/N 9291178-2, CCW Rotation	4" Model C	\$ 34,224	\$ 788	1	\$ 35,012
003	S/N 8095097-3-4-5, CCW Rotation	4" Model C	\$ 32,750	\$ 710	3	\$100,380
Grand Total						\$ 169,544.

PUMP FEATURES: All Trillium Pumps USA INC are designed to reduce maintenance costs through greater pump reliability and improved mean time between failure.

SCOPE OF SUPPLY: Only that material detailed in this quotation is being offered. No assumptions should be made that anything not specifically specified is included.

QUALITY STANDARDS: Trillium Pumps USA INC is an ISO 9001:2015 certified plant.

PRICE BASIS: This offer is valid for 30 days from date issued. Quoted prices are based on current material and commodity rates. Due to the volatility of both, market prices may change and must be confirmed at the time of order placement.

PRICE: Price quoted is for all items purchased at one time. In the event of a partial order, we will review and adjust accordingly.

SHIPMENT: Approximately 21-23 weeks after receipt of approved purchase order and/or final approval of submittal and drawings.

START-UP: Not included.

TERMS AND CONDITIONS: The Terms and Conditions of Sale attached hereto as Trillium Global Terms and Conditions of Sale (July 2022) ("these Terms") except as expressly modified and negotiated by the parties as attached hereto, apply to the sale of goods and ancillary services (collectively, "Goods") by Seller to its customer (the "Buyer"). These Terms are the only terms and conditions, oral or written, applying to the sale of Goods to Buyer except for additional terms consistent with these Terms regarding prices, quantities, and the description of the Goods as set forth in an order form accepted by Seller ("Order"). Seller expressly rejects any additions to or modifications of these Terms, or terms and conditions in Buyer's purchase Order(s). Buyer's assent to these Terms is conclusively established by Buyer's: (i) issuance or placement of a purchase Order or (ii) acceptance of any of the Goods covered by these Terms.

PAYMENT TERMS: 100% Net 30 days (subject to credit approval). Purchase orders must be made out to Trillium Pumps USA INC.

Trillium Pumps USA Inc · 2495 S Golden State Blvd · Fresno, California 93706
phone: 801 359 8731 · www.trilliumflow.com



Trillium Pumps USA Inc. 24.3.4

Customer Price Sheet

Customer	HRM Environmental - Bedford, TX	Size / Stages	4" Model C / 1
Item number	001	Pump speed	710 rpm
Customer reference		Quote number	2405843

Totals

Grand Total	\$ 34,152	Lead Time Total	N/A
Pump	\$ 34,152	Total unit weight	1,170.0 lb

Pump

Qty	Description	Unit Price	Extended Price
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1	<p>4" Model C</p> <p>General Pump Options</p> <p>Pump Options</p> <p>Clockwise rotation (CW)</p> <p>Steel pump hardware</p> <p>Bearing lubrication</p> <p>Oil lubricated bearings</p> <p>Nitrile elastomers</p> <p>Case Assembly</p> <p>4x4 Case</p> <p>Vertical Top</p> <p>Ni-Hard case (650+ BHN hardness)</p> <p>No case vent & drain</p> <p>Standard suction connection</p> <p>Rotating Assembly</p> <p>Rotating Assembly</p> <p>Ni-Hard impeller (650+ BHN hardness)</p> <p>Static balance</p> <p>Steel shaft</p> <p>Steel impeller bolt</p> <p>Pump Sealing</p> <p>Pump sealing</p> <p>Seal Type: Packing</p> <p>Acrylic/graphite packing</p> <p>416 SST shaft sleeve</p> <p>Cast iron gland housing/backplate</p> <p>Bronze gland</p> <p>Driver</p> <p>Motors</p> <p>Trillium Supplied Motor: Trillium Supplied Motor</p> <p>7.5HP 254T 1200RPM Premium Efficiency TEFC Horizontal Motor</p> <p>All motors are sized and selected in accordance with Hydraulic Institute Grade 2 - 2B performance test acceptance grades and tolerances which adds 8% to the rated horsepower requirement of the pump. This calculation has not changed the rated horsepower or efficiency shown on the Performance Data Sheet. View the link for more information from Hydraulic Institute.</p> <p>Motor manufacturer - Trillium Standard</p> <p>Motor options</p> <p>Inverter-Rated per NEMA MG 1 Part 31.4.4.2.</p> <p>Baseplate and Drive</p> <p>No Baseplate</p> <p>Protective Coatings</p> <p>Paint type</p> <p>Epoxy 2 Coat Paint - Blue (Prime and Top Coat) - Option #8A</p>	\$ 34,152	\$ 34,152
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Trillium Pumps USA Inc · 2495 S Golden State Blvd · Fresno, California 93706
phone: 801 359 8731 · www.trilliumflow.com



Trillium Pumps USA Inc. 24.3.4

Pump

Qty	Description	Unit Price	Extended Price
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<div>Unless otherwise noted all motors will be supplied with manufacturer's standard coating only</div> <div>Packing & Shipping</div> <div>Shipping</div> <div>No Boxing</div> <div>Trillium Decision Carrier</div> <div>Freight Rates</div> <div>Freight Rates - Texas: Texas</div> <div>Material Testing</div> <div>Material Testing</div> <div>No Hardness Testing</div> <div>No Non-Destructive Testing</div> <div>Testing</div> <div>Testing</div> <div>No Testing</div> <div>Spare Parts / Accessories</div> <div>Spare Parts and Accessories Group</div> <div>Price Adjust</div> <div>Estimated Weights</div> <div>Bareshaft Pump: 890.0 lb</div> <div>Baseplate: 0.00 lb</div> <div>Driver: 280.0 lb</div> <div>Misc. Weight: 0.00 lb</div> <div>Misc. Weight: 0.00 lb</div> <div>Misc. Weight: 0.00 lb</div> <div>Total Per Unit Weight: 1,170.0 lb</div>		
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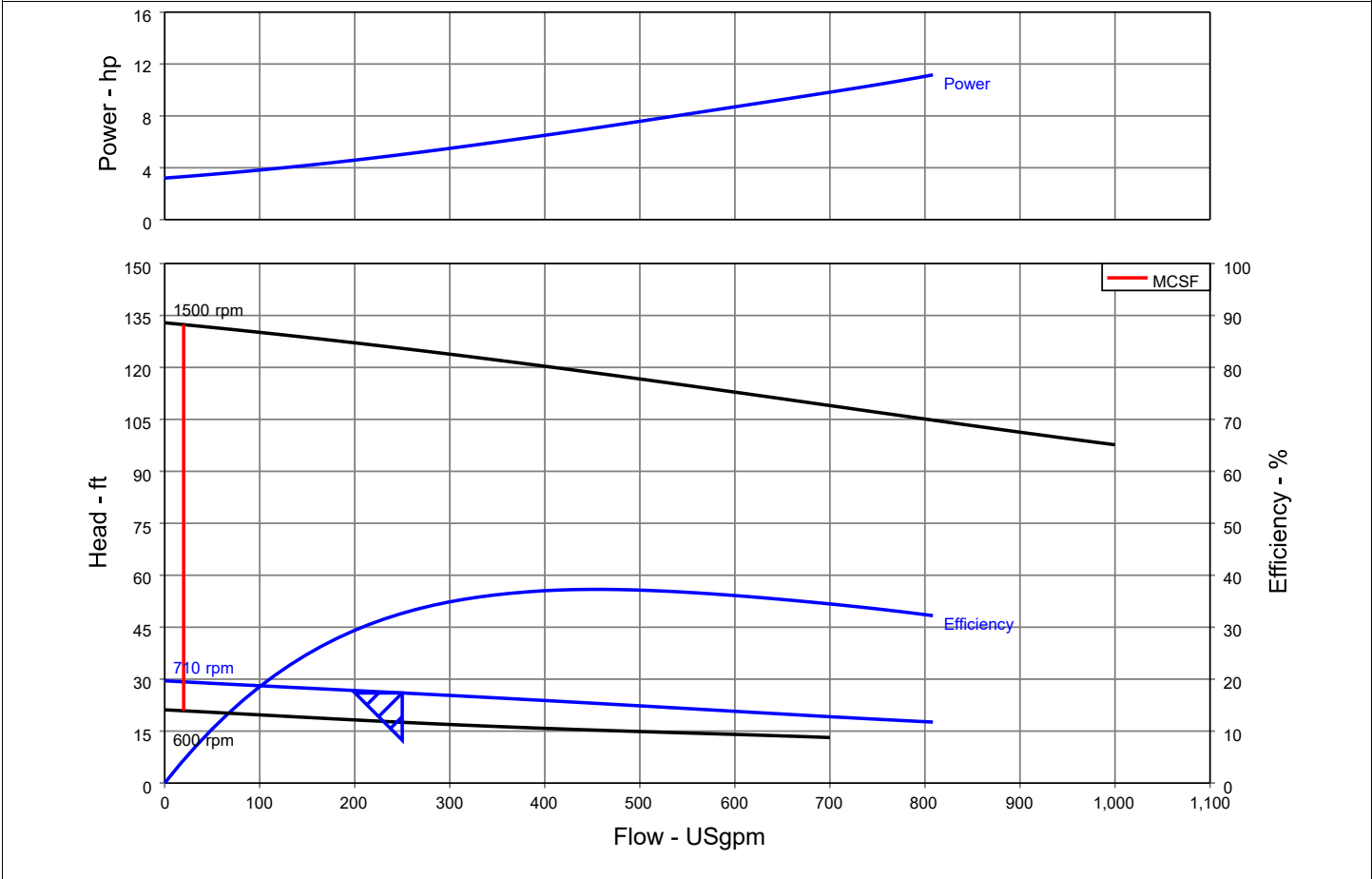
Trillium Pumps USA Inc

www.trilliumflow.com



Pump Performance Datasheet

Customer : HRM Environmental - Bedford, TX Customer		Quote number : 2405843	
reference:		Size : 4" Model C	
Item number : 001		Stages : 1	
Service : S/N 9291178-1, CW Rotation		Based on curve number : 4C_P10C-D56	
Quantity : 1		Date last saved : 04 Dec 2024 5:00 AM	
Operating Conditions		Liquid	
Flow, rated : 250 USgpm		Liquid type : User defined	
Differential head / pressure, rated (requested) : 26.0 ft		Additional liquid description :	
Differential head / pressure, rated (actual) : 26.1 ft		Solids diameter, max : 0.00 in	
Suction pressure, rated / max : 0.00 / 0.00 psi.g		Solids concentration, by volume : 0.00 %	
NPSH available, rated : Ample		Temperature, max : 68.00 deg F	
Site Supply Frequency : 60 Hz		Fluid density, rated / max : 1.000 / 1.000 SG	
Performance		Viscosity, rated : 1.00 cP	
Speed criteria : Synchronous		Vapor pressure, rated : 0.00 psi.a	
Speed, rated : 710 rpm		Material	
Speed, maximum : 1500 rpm		Material selected : Standard	
Speed, minimum : 600 rpm		Pressure Data	
Efficiency : 32.68 %		Maximum working pressure : 12.78 psi.g	
NPSH required / margin required : - / 0.00 ft		Maximum allowable working pressure : 85.00 psi.g	
Ns (imp. eye flow) / Nss (imp. eye flow) : 1,830 / - US Units		Maximum allowable suction pressure : N/A	
MCSF : 20.0 USgpm		Hydrostatic test pressure : N/A	
Head maximum, rated speed : 29.5 ft		Driver & Power Data (@Max density)	
Head rise to shutoff : 13.45 %		Driver sizing specification : Rated power	
Flow, best eff. point : 454 USgpm		Margin over specification : 0.08 %	
Flow ratio, rated / BEP : 55.03 %		Service factor : 1.00	
Speed ratio (rated / max) : 47.33 %		Power, hydraulic : 1.64 hp	
Head ratio (rated speed / max speed) : 20.73 %		Power, rated : 5.03 hp	
Cq/Ch/Ce/Cn [ANSI/HI 9.6.7-2010] : 1.00 / 1.00 / 1.00 / 1.00		Power, maximum, rated diameter : 11.16 hp	
Selection status : Acceptable		Minimum recommended motor rating : 7.50 hp / 5.59 kW	



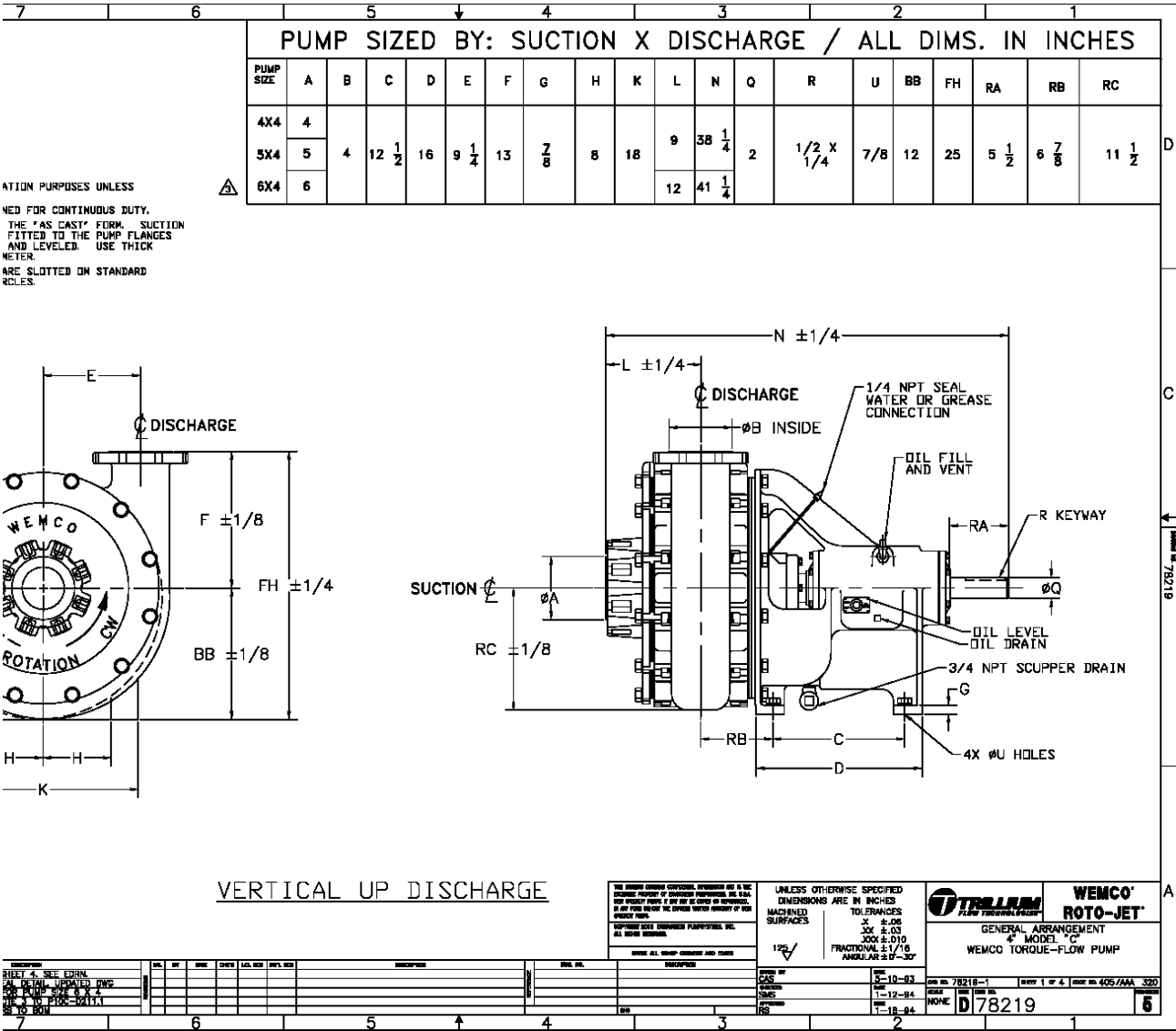
Construction Datasheet									
Customer : HRM Environmental - Bedford, TX					Quote Number : 2405843				
Project :					Model / Size : 4" Model C				
Item number : 001					Stages : 1				
Service : S/N 9291178-1, CW Rotation					Pump speed : 710 rpm				
Quantity of pumps : 1					Date last saved : 04 Dec 2024 5:00 AM				
Construction					Driver Information				
Nozzle	Size	Rating (ANSI)	Face	Pos'n	Manufacturer : Trillium Pumps USA Choice				
Suction	4 in	125 lbs	FF	End	Power : 7.50 hp				
Discharge	4 in	125 lbs	FF	Right	Service factor : 1.15				
Impeller Type : Recessed					Speed : 1200 rpm				
Impeller Design : Cup Type					Orientation / Mounting : Horizontal/Foot				
Pump Orientation : Horizontal					Driver type : Horizontal				
Bearing Type (Rad/Thr) : Ball/Ball					Frame-size : 254T				
Bearing Lubrication : Oil					Enclosure : TEFC				
Rotation (view from shaft-end) : CW					Hazardous area class : -				
Materials					Explosion rating : -				
					Volts / Phase / Hz : 230/460 / 3 / 60				
					Insulation				

Casing	: Ni-Hard	Temperature Rise	: Class
Impeller	: Ni-Hard	Motor mounted by	: -
Wearplate/Backplate	: Ni-Hard		: Trillium Pumps USA
Elastomer	: Nitrile		
Shaft	: Steel		
Sleeve	: 416 SST		
Baseplate, Connection and Guard		Seal, Gland and Piping	
Baseplate Type	: No Baseplate	Seal Arrangement	: Packing
Baseplate Material	: N/A	Seal Size	: N/A
Orientation	: N/A	Manufacturer	: N/A
Connection Type	: N/A	Gland Material	: Bronze
Guard	: N/A	Seal Face Mat'l	: N/A
Weights (Approx.)		Throat Bushing	: N/A
Bareshaft pump	: 890.0 lb	Seal Flush Plan	: -
Baseplate	: 0.00 lb	Seal Flush Construction	: -
Driver	: 280.0 lb		
Total weight	: 1,170.0 lb		



General Arrangement Drawing

Customer	: HRM Environmental - Bedford, TX	Quote number	: 2405843
Customer reference	:	Size	: 4" Model C
Item number	: 001	Stages	: 1
Service	: S/N 9291178-1, CW Rotation	Pump speed	: 710 rpm
Quantity of pumps	: 1.0	Date last saved	: 04 Dec 2024 5:00 AM





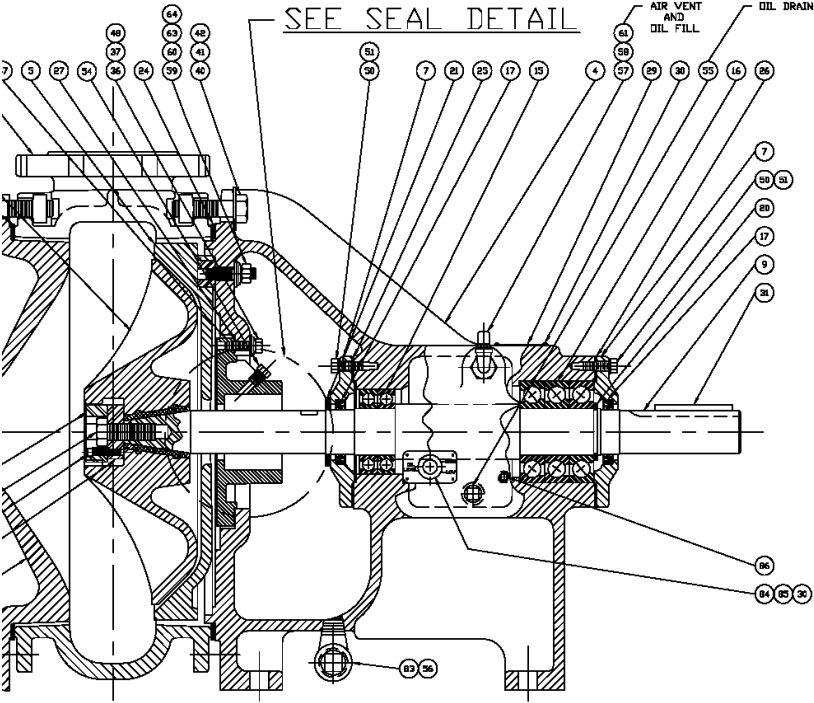
General Arrangement Drawing			
Customer	: HRM Environmental - Bedford, TX	Quote number	: 2405843
Customer reference	:	Size	: 4" Model C
Item number	: 001	Stages	: 1
Service	: S/N 9291178-1, CW Rotation	Pump speed	: 710 rpm
Quantity of pumps	: 1.0	Date last saved	: 04 Dec 2024 5:00 AM



FOR SHIPPING PROTECTION ONLY
REPLICATION 02122 FOR IMPELLER
ALLES
TA SHEET P10C-D211.1 FOR BEARINGS
MNING .003/.008 ENDPLAY REQUIRED.
PACKING OR SEAL SEE
SEAL ARRANGEMENTS.
INT THESE PARTS PER PRODUCT
TAL, OR DEFINITION SHEETS.

QTY	ITEM NO.	PART NO.	DESCRIPTION
1	1		CASE
1	2		IMPELLER
1	3		FLANGE, SUCTION
1	4		HOUSING, BEARING
1	5		WEARPLATE
2	7		CAP, BEARING
1	9		SHAFT
1	10		BOLT, HEX HD
2	13		BEARING, INBOARD
3	16		BEARING, OUTBOARD
2	17		SEAL, OIL

QTY	ITEM NO.	PART NO.	DESCRIPTION
2	20		RING, RETAINING
1	21		SLINGER
2	24		GASKET, CASE
1	25		SHIM, BEARING CAP 1/16" THK
4	26		SHIM, BEARING CAP .002 THK
1	27		GASKET, GLAND HOUSING
1	29		PLATE, SERIAL
8	30		SCREW, DRIVE
1	31		KEY, SQUARE SHAFT
6	36		WASHER, RUBBER
6	37		WASHER, CUPPED
24	40		BOLT, HEX HD 3/4-10 X 2 1/2
24	41		WASHER, PLAIN 3/4
24	42		NUT, SQ HD 3/4-10
6	48		BOLT, HEX HD 3/8-16 X 1 1/2
12	50		SCREW, HEX HD 3/8-16 X 1 1/4
12	51		WASHER, LOCK 3/8
2	54		PLUG, PIPE NPTM
1	55		PLUG, PIPE NPTM
1	56		PLUG CAPLUG NPTM
1	57		BUSHING, NPTM
1	58		VENT, AIR
4	59		STUD, TAP END 1/2-13 X 2 1/4
4	60		NUT, HEX 1/2-13
1	61		ELBOW ST. 90° NPT
4	63		WASHER, CUPPED 1/2
4	64		WASHER, RUBBER 1/2
1	67		SEAL ASSEMBLY
1	83		ELBOW, 90° STREET NPT F X M
1	84		SIGHT WINDOW, LOW PRSR NPT
1	85		NAMEPLATE, OIL LEVEL
1	86		PLUG, PP NPT
1	87		WASHER, THRUST
1	98		COLLAR, LOCKING
2	99		SCREW, SQC HD CAP 1/4-20



4" MODEL 'C' PUMP ASSEMBLY

WEMCO
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OWN NO. 78219-5 SHEET 4 OF 4

SCALE: NONE

REV: **D** 78219

FIGURE: **6**



Customer Price Sheet

Customer	HRM Environmental - Bedford, TX	Size / Stages	4" Model C / 1
Item number	002	Pump speed	710 rpm
Customer reference		Quote number	2405843

Totals

Grand Total	\$ 35,012	Lead Time Total	N/A
Pump	\$ 35,012	Total unit weight	1,170.0 lb

Pump

Qty	Description	Unit Price	Extended Price
-----	-------------	------------	----------------

1	<p>4" Model C</p> <p>General Pump Options</p> <p>Pump Options</p> <p>Counterclockwise rotation (CCW)</p> <p>Steel pump hardware</p> <p>Bearing lubrication</p> <p>Oil lubricated bearings</p> <p>Nitrile elastomers</p> <p>Case Assembly</p> <p>4x4 Case</p> <p>Vertical Top</p> <p>Ni-Hard case (650+ BHN hardness)</p> <p>No case vent & drain</p> <p>Standard suction connection</p> <p>Rotating Assembly</p> <p>Rotating Assembly</p> <p>Ni-Hard impeller (650+ BHN hardness)</p> <p>Static balance</p> <p>Steel shaft</p> <p>Steel impeller bolt</p> <p>Pump Sealing</p> <p>Pump sealing</p> <p>Seal Type: Packing</p> <p>Acrylic/graphite packing</p> <p>416 SST shaft sleeve</p> <p>Cast iron gland housing/backplate</p> <p>Bronze gland</p> <p>Driver</p> <p>Motors</p> <p>Trillium Supplied Motor: Trillium Supplied Motor</p> <p>7.5HP 254T 1200RPM Premium Efficiency TEFC Horizontal Motor</p> <p>All motors are sized and selected in accordance with Hydraulic Institute Grade 2 - 2B performance test acceptance grades and tolerances which adds 8% to the rated horsepower requirement of the pump. This calculation has not changed the rated horsepower or efficiency shown on the Performance Data Sheet. View the link for more information from Hydraulic Institute.</p> <p>Motor manufacturer - Trillium Standard</p> <p>Motor options</p> <p>Inverter-Rated per NEMA MG 1 Part 31.4.4.2.</p> <p>Baseplate and Drive</p> <p>No Baseplate</p> <p>Protective Coatings</p> <p>Paint type</p> <p>Epoxy 2 Coat Paint - Blue (Prime and Top Coat) - Option #8A</p>	\$ 35,012	\$ 35,012
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Trillium Pumps USA Inc. 24.3.4

Pump

Qty	Description	Unit Price	Extended Price
-----	-------------	------------	----------------

<div>Unless otherwise noted all motors will be supplied with manufacturer's standard coating only</div> <div>Packing & Shipping</div> <div>Shipping</div> <div>No Boxing</div> <div>Trillium Decision Carrier</div> <div>Freight Rates</div> <div>Freight Rates - Texas: Texas</div> <div>Material Testing</div> <div>Material Testing</div> <div>No Hardness Testing</div> <div>No Non-Destructive Testing</div> <div>Testing</div> <div>Testing</div> <div>No Testing</div> <div>Estimated Weights</div> <div>Bareshaft Pump: 890.0 lb</div> <div>Baseplate: 0.00 lb</div> <div>Driver: 280.0 lb</div> <div>Misc. Weight: 0.00 lb</div> <div>Misc. Weight: 0.00 lb</div> <div>Misc. Weight: 0.00 lb</div> <div>Total Per Unit Weight: 1,170.0 lb</div>		
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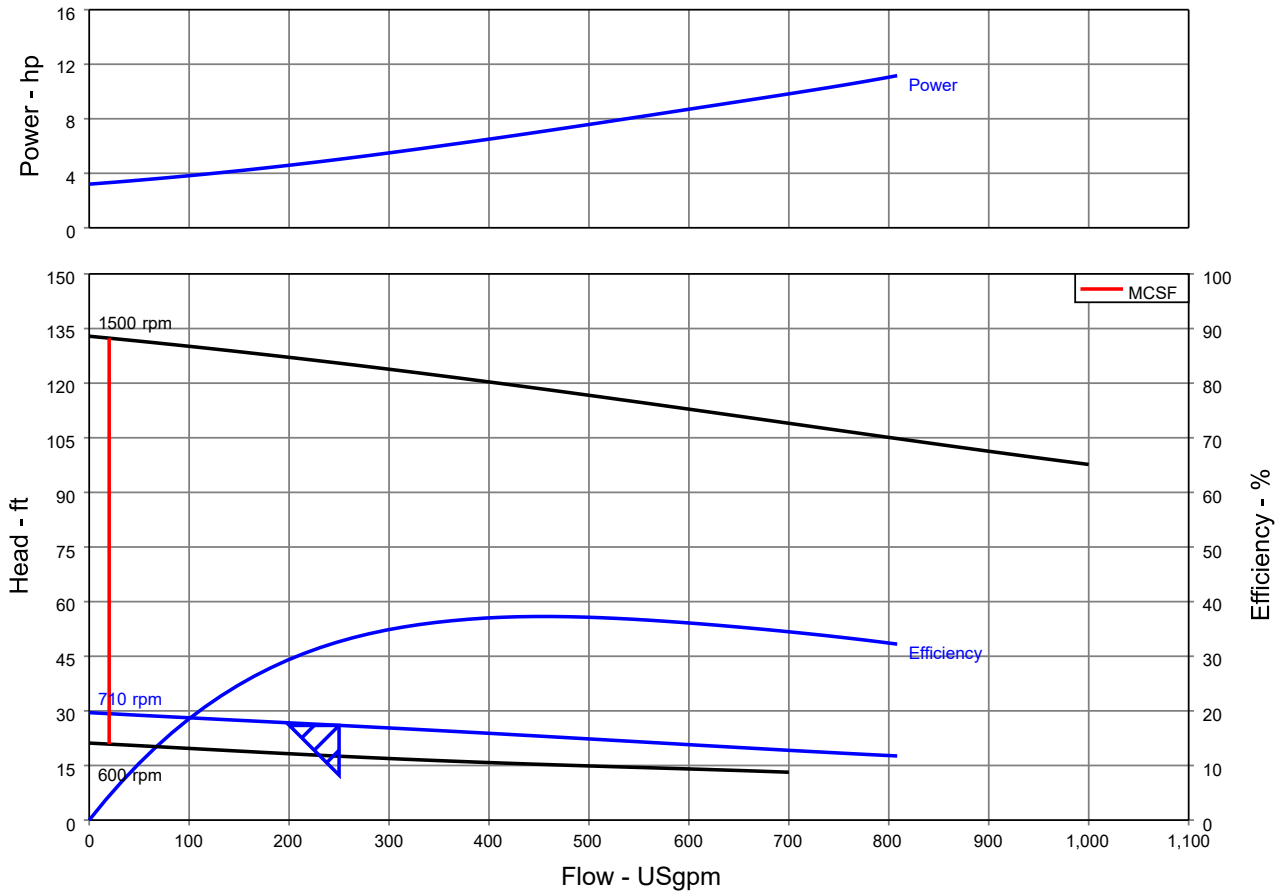
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Trillium Pumps USA Inc
www.trilliumflow.com



Pump Performance Datasheet			
Customer reference:	: HRM Environmental - Bedford, TX Customer	Quote number	: 2405843
Item number	: 002	Size	: 4" Model C
Service	: S/N 9291178-2, CCW Rotation	Stages	: 1
Quantity	: 1	Based on curve number	: 4C_P10C-D56
		Date last saved	: 04 Dec 2024 4:25 AM
Operating Conditions		Liquid	
Flow, rated	: 250 USgpm	Liquid type	: User defined
Differential head / pressure, rated (requested)	: 26.0 ft	Additional liquid description	:
Differential head / pressure, rated (actual)	: 26.1 ft	Solids diameter, max	: 0.00 in
Suction pressure, rated / max	: 0.00 / 0.00 psi.g	Solids concentration, by volume	: 0.00 %
NPSH available, rated	: Ample	Temperature, max	: 68.00 deg F
Site Supply Frequency	: 60 Hz	Fluid density, rated / max	: 1.000 / 1.000 SG
Performance		Viscosity, rated	: 1.00 cP
Speed criteria	: Synchronous	Vapor pressure, rated	: 0.00 psi.a
Speed, rated	: 710 rpm	Material	
Speed, maximum	: 1500 rpm	Material selected	: Standard
Speed, minimum	: 600 rpm	Pressure Data	
Efficiency	: 32.68 %	Maximum working pressure	: 12.78 psi.g
NPSH required / margin required	: - / 0.00 ft	Maximum allowable working pressure	: 85.00 psi.g
Ns (imp. eye flow) / Nss (imp. eye flow)	: 1,830 / - US Units	Maximum allowable suction pressure	: N/A
MCSF	: 20.0 USgpm	Hydrostatic test pressure	: N/A
Head maximum, rated speed	: 29.5 ft	Driver & Power Data (@Max density)	
Head rise to shutoff	: 13.45 %		

Flow, best eff. point	: 454 USgpm	Driver sizing specification	: Rated power
Flow ratio, rated / BEP	: 55.03 %	Margin over specification	: 0.08 %
Speed ratio (rated / max)	: 47.33 %	Service factor	: 1.00
Head ratio (rated speed / max speed)	: 20.73 %	Power, hydraulic	: 1.64 hp
Cq/Ch/Ce/Cn [ANSI/HI 9.6.7-2010]	: 1.00 / 1.00 / 1.00 / 1.00	Power, rated	: 5.03 hp
Selection status	: Acceptable	Power, maximum, rated diameter	: 11.16 hp
		Minimum recommended motor rating	: 7.50 hp / 5.59 kW



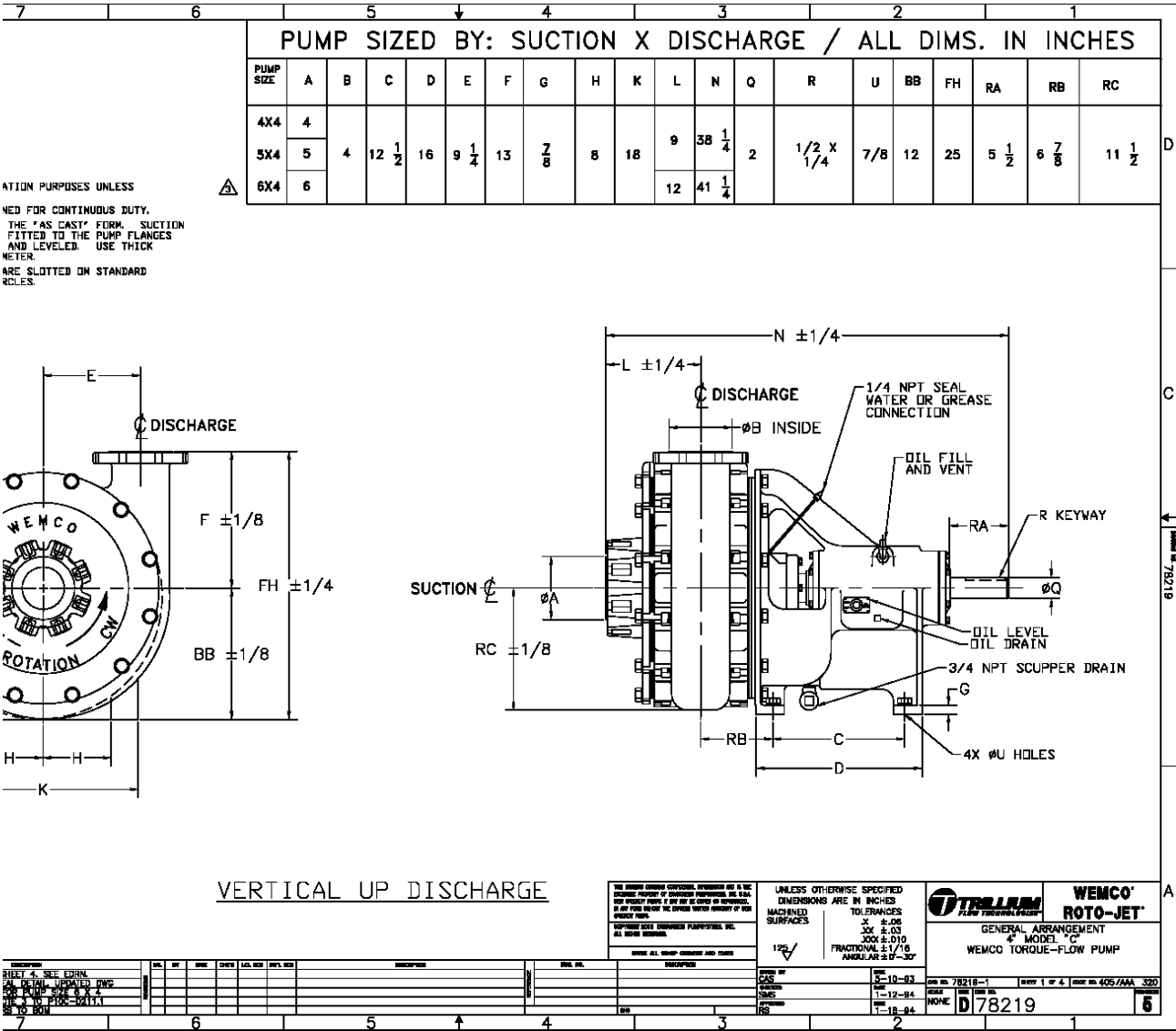
Construction Datasheet

Customer : HRM Environmental - Bedford, TX					Quote Number : 2405843				
Project :					Model / Size : 4" Model C				
Item number : 002					Stages : 1				
Service : S/N 9291178-2, CCW Rotation					Pump speed : 710 rpm				
Quantity of pumps : 1					Date last saved : 04 Dec 2024 4:25 AM				
Construction					Driver Information				
Nozzle	Size	Rating (ANSI)	Face	Pos'n	Manufacturer : Trillium Pumps USA Choice				
Suction	4 in	125 lbs	FF	End	Power : 7.50 hp				
Discharge	4 in	125 lbs	FF	Right	Service factor : 1.15				
Impeller Type : Recessed					Speed : 1200 rpm				
Impeller Design : Cup Type					Orientation / Mounting : Horizontal/Foot				
Pump Orientation : Horizontal					Driver type : Horizontal				
Bearing Type (Rad/Thr) : Ball/Ball					Frame-size : 254T				
Bearing Lubrication : Oil					Enclosure : TEFC				
Rotation (view from shaft-end) : CCW					Hazardous area class : -				
Materials					Explosion rating : -				
Casing : Ni-Hard					Volts / Phase / Hz : 230/460 / 3 / 60				
Impeller : Ni-Hard					Insulation : Class				
Wearplate/Backplate : Ni-Hard					Temperature Rise : -				
Elastomer : Nitrile					Motor mounted by : Trillium Pumps USA				
Shaft : Steel					Seal, Gland and Piping				
Sleeve : 416 SST					Seal Arrangement : Packing				
Baseplate, Connection and Guard					Seal Size : N/A				
Baseplate Type : No Baseplate					Manufacturer : N/A				
Baseplate Material : N/A					Gland Material : Bronze				
Orientation : N/A					Seal Face Mat'l : N/A				
Connection Type : N/A					Throat Bushing : N/A				
Guard : N/A					Seal Flush Plan : -				
Weights (Approx.)					Seal Flush Construction : -				
Bareshaft pump : 890.0 lb									
Baseplate : 0.00 lb									
Driver : 280.0 lb									
Total weight : 1,170.0 lb									



General Arrangement Drawing

Customer	: HRM Environmental - Bedford, TX	Quote number	: 2405843
Customer reference	:	Size	: 4" Model C
Item number	: 002	Stages	: 1
Service	: S/N 9291178-2, CCW Rotation	Pump speed	: 710 rpm
Quantity of pumps	: 1.0	Date last saved	: 04 Dec 2024 4:25 AM





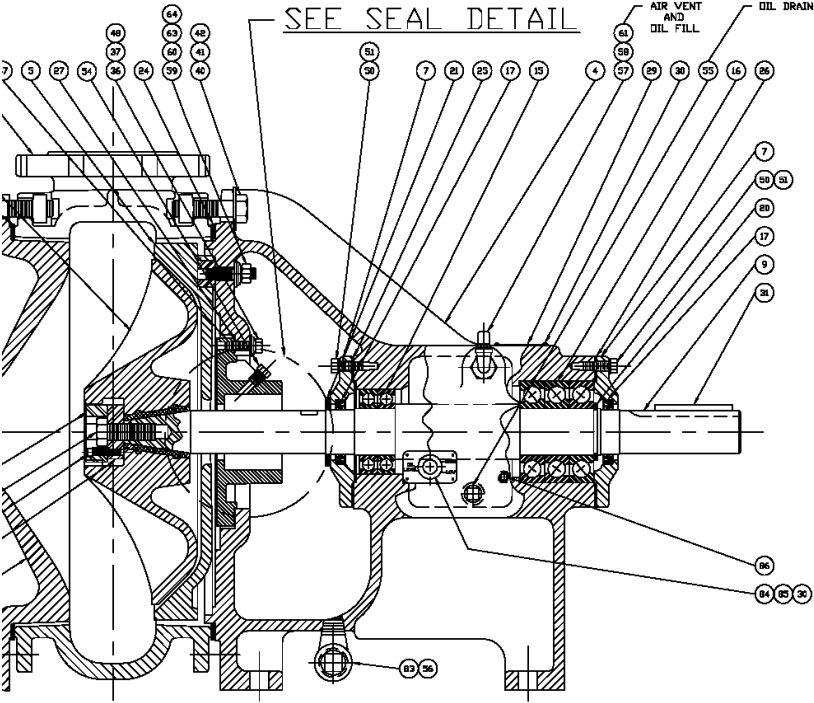
General Arrangement Drawing			
Customer	: HRM Environmental - Bedford, TX	Quote number	: 2405843
Customer reference	:	Size	: 4" Model C
Item number	: 002	Stages	: 1
Service	: S/N 9291178-2, CCW Rotation	Pump speed	: 710 rpm
Quantity of pumps	: 1.0	Date last saved	: 04 Dec 2024 4:25 AM



FOR SHIPPING PROTECTION ONLY
REPLICATION 02122 FOR IMPELLER
ALLES
TA SHEET P10C-D211.1 FOR BEARINGS
MINDING 003/008 ENDPLOY REQUIRED.
PACKING OR SEAL SEE
SEAL ARRANGEMENTS.
INT THESE PARTS PER PRODUCT
TAL, OR DEFINITION SHEETS.

QTY	ITEM NO.	PART NO.	DESCRIPTION
1	1		CASE
1	2		IMPELLER
1	3		FLANGE, SUCTION
1	4		HOUSING, BEARING
1	5		WEARPLATE
2	7		CAP, BEARING
1	9		SHAFT
1	10		BOLT, HEX HD
2	13		BEARING, INBOARD
3	16		BEARING, OUTBOARD
2	17		SEAL, OIL

QTY	ITEM NO.	PART NO.	DESCRIPTION
2	20		RING, RETAINING
1	21		SLINGER
2	24		GASKET, CASE
1	25		SHIM, BEARING CAP 1/16" THK
4	26		SHIM, BEARING CAP .002 THK
1	27		GASKET, GLAND HOUSING
1	29		PLATE, SERIAL
8	30		SCREW, DRIVE
1	31		KEY, SQUARE SHAFT
6	36		WASHER, RUBBER
6	37		WASHER, CUPPED
24	40		BOLT, HEX HD 3/4-10 X 2 1/2
24	41		WASHER, PLAIN 3/4
24	42		NUT, SQ HD 3/4-10
6	48		BOLT, HEX HD 3/8-16 X 1 1/2
12	50		SCREW, HEX HD 3/8-16 X 1 1/4
12	51		WASHER, LOCK 3/8
2	54		PLUG, PIPE NPTM
1	55		PLUG, PIPE NPTM
1	56		PLUG CAPLUG NPTM
1	57		BUSHING, NPTM
1	58		VENT, AIR
4	59		STUD, TAP END 1/2-13 X 2 1/4
4	60		NUT, HEX 1/2-13
1	61		ELBOW ST. 90° NPT
4	63		WASHER, CUPPED 1/2
4	64		WASHER, RUBBER 1/2
1	67		SEAL ASSEMBLY
1	83		ELBOW, 90° STREET NPT F X M
1	84		SIGHT WINDOW, LOW PRSR NPT
1	85		NAMEPLATE, OIL LEVEL
1	86		PLUG, PP NPT
1	87		WASHER, THRUST
1	98		COLLAR, LOCKING
2	99		SCREW, SQC HD CAP 1/4-20



4" MODEL 'C' PUMP ASSEMBLY

WEMCO
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OWN NO. 78219-5 SHEET 4 OF 4

SCALE: NONE

REV: **D** 78219

REVISED: **6**



Customer Price Sheet

Customer	HRM Environmental - Bedford, TX	Size / Stages	4" Model C / 1
Item number	003	Pump speed	780 rpm
Customer reference		Quote number	2405843

Totals

Grand Total	\$100,380	Lead Time Total	N/A
Pump	\$100,380	Total unit weight	1,055.0 lb

Pump

Qty	Description	Unit Price	Extended Price
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3	<p>4" Model C</p> <p>General Pump Options</p> <p>Pump Options</p> <p>Counterclockwise rotation (CCW)</p> <p>Steel pump hardware</p> <p>Bearing lubrication</p> <p>Oil lubricated bearings</p> <p>Nitrile elastomers</p> <p>Case Assembly</p> <p>4x4 Case</p> <p>Vertical Top</p> <p>Ni-Hard case (650+ BHN hardness)</p> <p>No case vent & drain</p> <p>Standard suction connection</p> <p>Rotating Assembly</p> <p>Rotating Assembly</p> <p>Ni-Hard impeller (650+ BHN hardness)</p> <p>Static balance</p> <p>Steel shaft</p> <p>Steel impeller bolt</p> <p>Pump Sealing</p> <p>Pump sealing</p> <p>Seal Type: Packing</p> <p>Acrylic/graphite packing</p> <p>416 SST shaft sleeve</p> <p>Cast iron gland housing/backplate</p> <p>Bronze gland</p> <p>Driver</p> <p>Motors</p> <p>Trillium Supplied Motor: Trillium Supplied Motor</p> <p>7.5HP 213T 1800RPM Premium Efficiency TEFC Horizontal motor</p> <p>All motors are sized and selected in accordance with Hydraulic Institute Grade 2 - 2B performance test acceptance grades and tolerances which adds 8% to the rated horsepower requirement of the pump. This calculation has not changed the rated horsepower or efficiency shown on the Performance Data Sheet. View the link for more information from Hydraulic Institute.</p> <p>Motor manufacturer - Trillium Standard</p> <p>Motor options</p> <p>Inverter-Rated per NEMA MG 1 Part 31.4.4.2.</p> <p>Baseplate and Drive</p> <p>No Baseplate</p> <p>Protective Coatings</p> <p>Paint type</p> <p>Epoxy 2 Coat Paint - Blue (Prime and Top Coat) - Option #8A</p>	\$ 33,460	\$100,380
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Pump			
Qty	Description	Unit Price	Extended Price

Unless otherwise noted all motors will be supplied with manufacturer's standard coating only		
Packing & Shipping		
Shipping		
No Boxing		
Trillium Decision Carrier		
Freight Rates		
Freight Rates - Texas: Texas		
Material Testing		
Material Testing		
No Hardness Testing		
No Non-Destructive Testing		
Testing		
Testing		
No Testing		
Estimated Weights		
Bareshaft Pump: 890.0 lb		
Baseplate: 0.00 lb		
Driver: 165.0 lb		
Misc. Weight: 0.00 lb		
Misc. Weight: 0.00 lb		
Misc. Weight: 0.00 lb		
Total Per Unit Weight: 1,055.0 lb		

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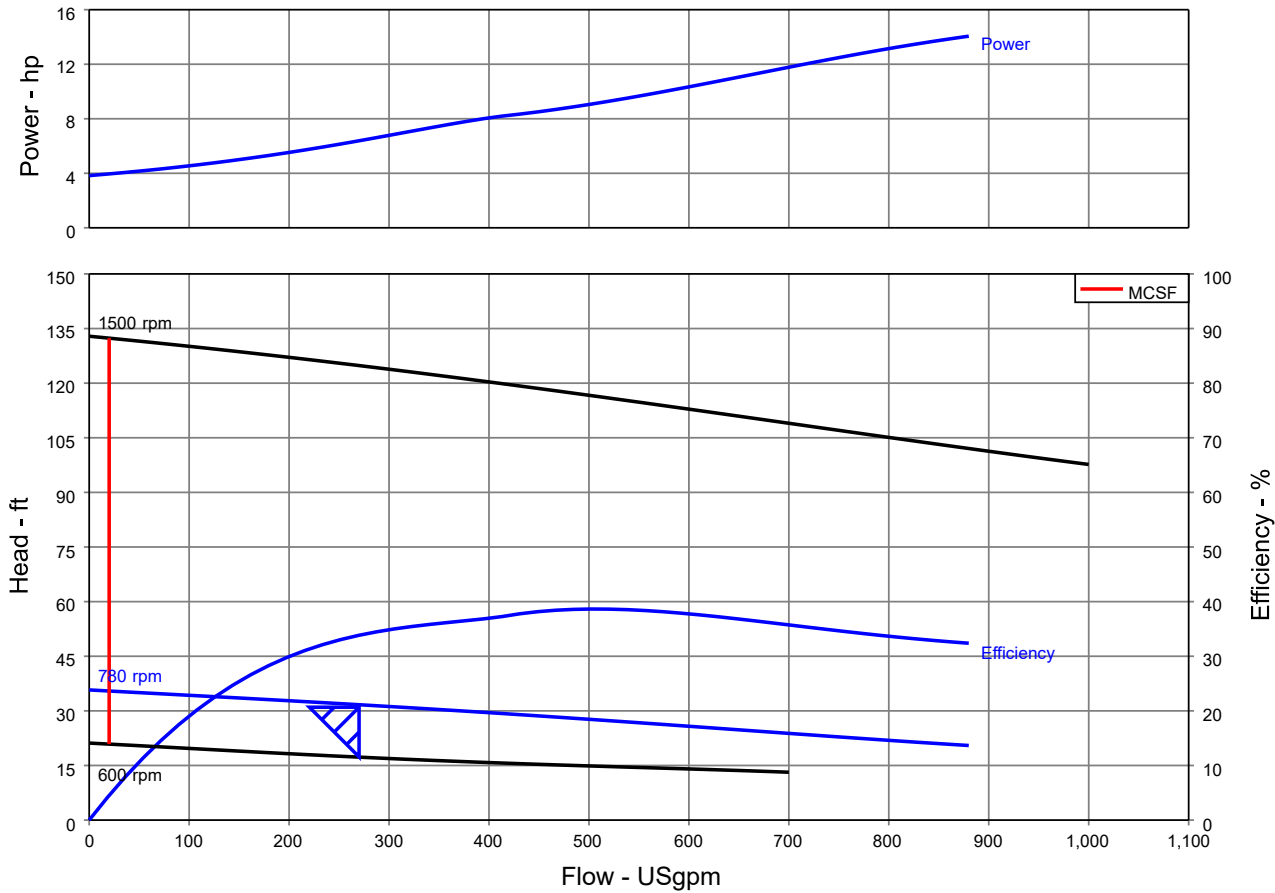
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Pump Performance Datasheet			
Customer	: HRM Environmental - Bedford, TX Customer	Quote number	: 2405843
reference:		Size	: 4" Model C
Item number	: 003	Stages	: 1
Service	: S/N 8095097-3-4-5, CCW Rotation	Based on curve number	: 4C_P10C-D56
Quantity	: 3	Date last saved	: 04 Dec 2024 11:59 PM
Operating Conditions		Liquid	
Flow, rated	: 270 USgpm	Liquid type	: User defined
Differential head / pressure, rated (requested)	: 31.0 ft	Additional liquid description	:
Differential head / pressure, rated (actual)	: 31.7 ft	Solids diameter, max	: 0.00 in
Suction pressure, rated / max	: 0.00 / 0.00 psi.g	Solids concentration, by volume	: 0.00 %
NPSH available, rated	: Ample	Temperature, max	: 68.00 deg F
Site Supply Frequency	: 60 Hz	Fluid density, rated / max	: 1.000 / 1.000 SG
Performance		Viscosity, rated	: 1.00 cP
Speed criteria	: Synchronous	Vapor pressure, rated	: 0.00 psi.a
Speed, rated	: 780 rpm	Material	
Speed, maximum	: 1500 rpm	Material selected	: Standard
Speed, minimum	: 600 rpm	Pressure Data	
Efficiency	: 33.84 %	Maximum working pressure	: 15.48 psi.g
NPSH required / margin required	: - / 0.00 ft	Maximum allowable working pressure	: 85.00 psi.g
Ns (imp. eye flow) / Nss (imp. eye flow)	: 1,830 / - US Units	Maximum allowable suction pressure	: N/A
MCSF	: 20.0 USgpm	Hydrostatic test pressure	: N/A
Head maximum, rated speed	: 35.7 ft	Driver & Power Data (@Max density)	
Head rise to shutoff	: 12.82 %		

Flow, best eff. point	: 507 USgpm	Driver sizing specification	: Rated power
Flow ratio, rated / BEP	: 53.29 %	Margin over specification	: 0.08 %
Speed ratio (rated / max)	: 52.00 %	Service factor	: 1.00
Head ratio (rated speed / max speed)	: 25.38 %	Power, hydraulic	: 2.16 hp
Cq/Ch/Ce/Cn [ANSI/HI 9.6.7-2010]	: 1.00 / 1.00 / 1.00 / 1.00	Power, rated	: 6.38 hp
Selection status	: Acceptable	Power, maximum, rated diameter	: 14.06 hp
		Minimum recommended motor rating	: 7.50 hp / 5.59 kW





Construction Datasheet

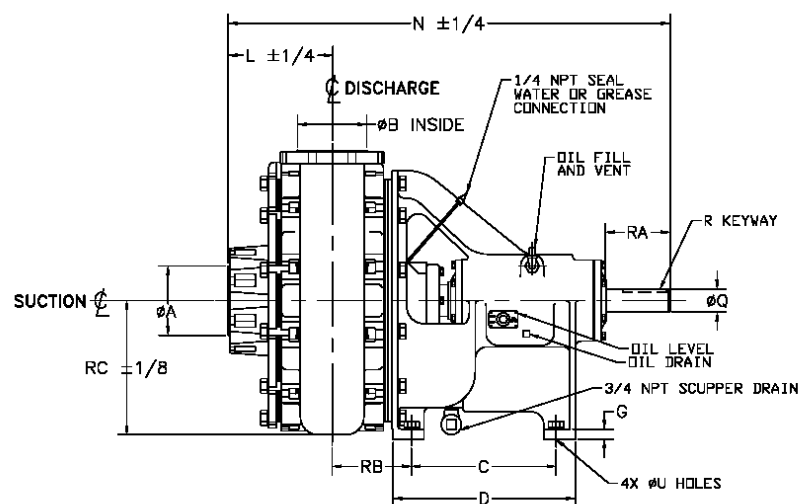
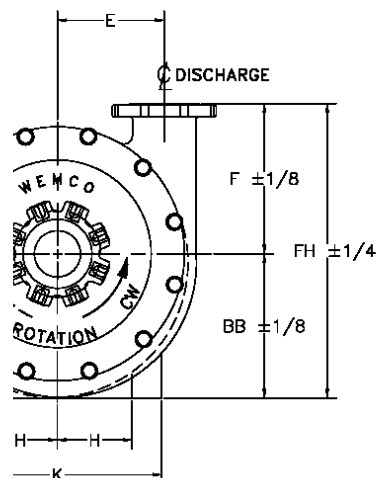
Customer : HRM Environmental - Bedford, TX					Quote Number : 2405843				
Project :					Model / Size : 4" Model C				
Item number : 003					Stages : 1				
Service : S/N 8095097-3-4-5, CCW Rotation					Pump speed : 780 rpm				
Quantity of pumps : 3					Date last saved : 04 Dec 2024 11:59 PM				
Construction					Driver Information				
Nozzle	Size	Rating (ANSI)	Face	Pos'n	Manufacturer : Trillium Pumps USA Choice				
Suction	4 in	125 lbs	FF	End	Power : 7.50 hp				
Discharge	4 in	125 lbs	FF	Right	Service factor : 1.15				
Impeller Type : Recessed					Speed : 1800 rpm				
Impeller Design : Cup Type					Orientation / Mounting : Horizontal/Foot				
Pump Orientation : Horizontal					Driver type : Horizontal				
Bearing Type (Rad/Thr) : Ball/Ball					Frame-size : 213T				
Bearing Lubrication : Oil					Enclosure : TEFC				
Rotation (view from shaft-end) : CCW					Hazardous area class : -				
Materials					Explosion rating : -				
Casing : Ni-Hard					Volts / Phase / Hz : 230/460 / 3 / 60				
Impeller : Ni-Hard					Insulation : Class F				
Wearplate/Backplate : Ni-Hard					Temperature Rise : -				
Elastomer : Nitrile					Motor mounted by : Trillium Pumps USA				
Shaft : Steel					Seal, Gland and Piping				
Sleeve : 416 SST					Seal Arrangement : Packing				
Baseplate, Connection and Guard					Seal Size : N/A				
Baseplate Type : No Baseplate					Manufacturer : N/A				
Baseplate Material : N/A					Gland Material : Bronze				
Orientation : N/A					Seal Face Mat'l : N/A				
Connection Type : N/A					Throat Bushing : N/A				
Guard : N/A					Seal Flush Plan : -				
Weights (Approx.)					Seal Flush Construction : -				
Bareshaft pump : 890.0 lb									
Baseplate : 0.00 lb									
Driver : 165.0 lb									
Total weight : 1,055.0 lb									



Trillium Pumps USA Inc. 24.3.4

General Arrangement Drawing			
Customer	: HRM Environmental - Bedford, TX	Quote number	: 2405843
Customer reference	:	Size	: 4" Model C
Item number	: 003	Stages	: 1
Service	: S/N 8095097-3-4-5, CCW Rotation	Pump speed	: 780 rpm
Quantity of pumps	: 3.0	Date last saved	: 04 Dec 2024 11:59 PM

ATION PURPOSES UNLESS
 NED FOR CONTINUOUS DUTY.
 THE "AS CAST" FORM. SECTION
 FITTED TO THE PUMP FLANGES
 AND LEVELED. USE THICK
 METER.
 ARE SLOTTED ON STANDARD
 RILES.



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DIMENSIONS ARE IN INCHES

MACHINED SURFACES	TOLERANCES
	X ±.08
	.XX ±.03
	.XXX ±.010
	FRACTIONAL ±1/16
	ANGULAR ±7°-30°

125



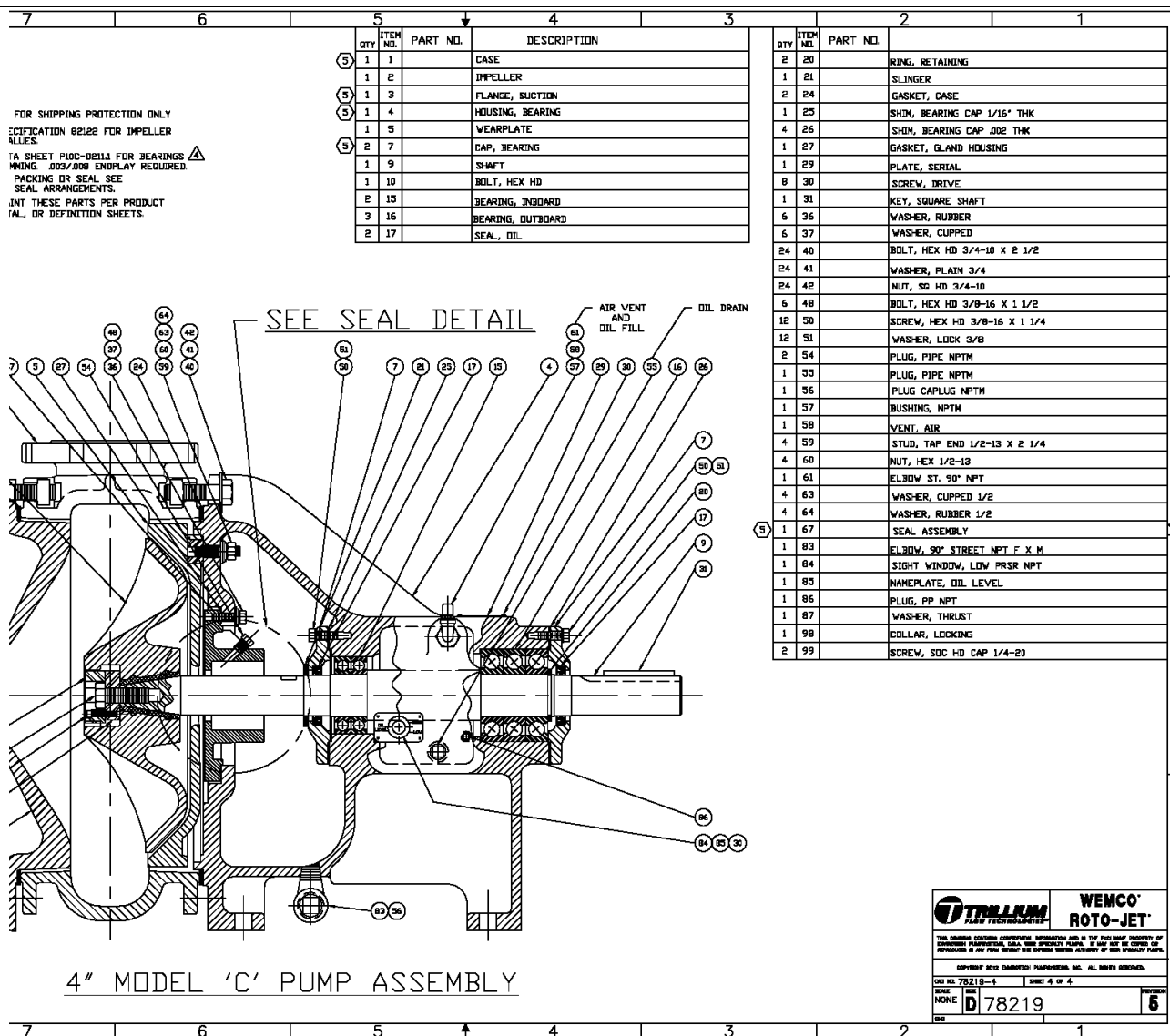
**WEMCO®
ROTO-JET®**

GENERAL ARRANGEMENT
4" MODEL "C"
WEMCO TORQUE-FLOW PUMP

[illegible]



General Arrangement Drawing			
Customer	: HRM Environmental - Bedford, TX	Quote number	: 2405843
Customer reference	:	Size	: 4" Model C
Item number	: 003	Stages	: 1
Service	: S/N 8095097-3-4-5, CCW Rotation	Pump speed	: 780 rpm
Quantity of pumps	: 3.0	Date last saved	: 04 Dec 2024 11:59 PM





TERMS AND CONDITIONS OF SALE

1. DEFINITIONS AND INTERPRETATION

- 1.1 In the Contract the following definitions apply as well as any definitions defined locally within these Terms and Conditions or the applicable Purchase Order:

"Affiliate" means any entity that directly or indirectly controls, is controlled by or is under common control with, another entity;

"Applicable Law" means all applicable laws, legislation, regulations and governmental guidance having binding force, whether local or national, and having jurisdiction over the parties in relation to the Contract;

"Contract" means these Terms and Conditions and the applicable Purchase Order;

"Customer" means the person specified in the Purchase Order who purchases Goods and/or Services from Trillium, and such person's successors;

"Customer Plant" means Customer's plant, machinery, goods and/or equipment which is to be serviced by Trillium as part of the Services;

"Defect" has the meaning given in clause 8.2, and **"Defective"** shall be construed accordingly;

"Force Majeure" means an event or sequence of events beyond a party's reasonable control, preventing or delaying that party from performing its obligations under the Contract, including: (a) an act of God, fire, flood, lightning, earthquake or other natural disaster, epidemic or pandemic; (b) any action taken by a governmental or public authority, including imposing an export or import restriction, quota, or other restriction or prohibition or any complete or partial government shutdown; (c) war, riot or civil unrest; (d) interruption or failure of supplies of power, fuel, water, transport, equipment, telecommunications service, or material required for performance of the Contract; or (e) strike, lockout or boycott or other industrial action including those involving Trillium or its workforce;

"Goods" means all goods, products and ancillary equipment and spare parts specified in the applicable Purchase Order;

"Intellectual Property Rights" means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, rights in Confidential Information, database rights, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, any rights and all similar or equivalent rights or forms of protection that subsist or will subsist now or in the future in any part of the world;

"Price" means the price payable by the Customer to Trillium for the applicable Goods and/or Services (as applicable);

"Purchase Order" means the document agreed by the parties that sets out details of the Goods and/or Services that are to be provided by Trillium to the Customer in accordance with these Terms and Conditions and any terms mutually agreed in the Purchase Order;

"Site" means the address of the place where the Services are to be performed, as specified in the Purchase Order;

"Services" means the services set out in the Purchase Order that are to be performed by Trillium or by the Sub-Suppliers, as the case may be;

"Sub-Supplier" means any agent, sub-contractor or other third party engaged by Trillium in relation to the provision of the Goods and/or Services;

"Sub-Supplier Personnel" means all employees, officers, staff, other workers, agents and consultants of a Sub-Supplier;

"Terms and Conditions" means these terms and conditions of sale in relation to the applicable Contract;

"Trillium" means the Trillium entity specified in the Purchase Order that provides the Goods and/or Services to the Customer, and such Trillium entity's successors;

"Trillium Indemnitees" means Trillium, its Affiliates and Sub-Suppliers, and its and their respective personnel; and

"Trillium Personnel" means all employees, officers, staff, other workers, agents and consultants of Trillium and its Affiliates who are engaged in the performance of Trillium's obligations under the Contract from time to time.

- 1.2 The parties agree that: (a) the headings to the clauses in these Terms and Conditions are inserted for convenience of reference and shall not affect their interpretation; (b) in case of any conflict or inconsistency between these Terms and Conditions and the terms of the Purchase Order, the terms of the Purchase Order shall prevail; and (c) English shall be the language of the Contract, and all communications, written or oral, and documents under the Contract shall be in the English language unless otherwise stated elsewhere in the Contract.

2. APPLICABILITY, CONTRACT FORMATION AND CHANGES

- 2.1 **Applicability.** These Terms and Conditions apply to all orders for Goods and/or Services made by the Customer pursuant to a Purchase Order. Unless expressly agreed in writing by Trillium, any terms or conditions in the Customer's request or other documents provided by the Customer shall not apply to any Goods or Services provided by Trillium and shall not bind Trillium, and Trillium explicitly rejects any such terms or conditions. Trillium acknowledges that all exhibits and documents set forth in the City Contract 8751 are applicable to Trillium and made a part hereof.
- 2.2 **Contract Formation.** Where the Customer wishes to purchase Goods and/or Services from Trillium it will communicate its requirements to Trillium. Upon receipt of such request, Trillium may produce a draft document setting out the details of the Goods and/or Services that Trillium proposes to provide and shall provide this draft document to the Customer. If applicable, the terms of the draft document shall be valid for the time period stated in that draft document and thereafter are subject to change until contract execution. The Contract between Trillium and the Customer is formed upon the parties formally executing or otherwise acknowledging in writing a Purchase Order and shall continue until each party's obligations are completed in accordance with the terms of the Contract, unless terminated earlier in accordance with the terms of the Contract (the **"Term"**). Trillium has no obligation to agree to any Purchase Orders.
- 2.3 **Changes.** The Customer may request modifications as to the amount, scope and/or nature of the Goods and/or Services via a written change request. If, in Trillium's sole opinion, any such modification will affect the agreed Price and/or time of delivery, Trillium will notify the Customer in writing and will not be obligated to perform any modification unless the Customer agrees in writing to such Price and/or time of delivery amendment. The Customer shall not tamper with, or make changes or additions to, the Goods, including any labels, plates, markings and any other feature carried by the Goods.

3. PRICE AND PAYMENT

- 3.1 **Price and Payment Terms.** The Price and payment terms shall be as set out in the Purchase Order. Where no Price for Services is set out in the Purchase Order, it shall be calculated on a time and materials basis in accordance with Trillium's price schedule then in force. Where no payment terms are set out in the Purchase Order, payment of each invoice shall be due and payable thirty (30) days after the date of the invoice.

- 3.2 **Additional Charges.** Any technical documents, inspection reports, evaluation or opinion requested by the Customer in connection with the Contract shall be chargeable, such charges to be agreed by the parties. Any time that Trillium Personnel or Sub-Supplier Personnel are required at the Site(s) outside of the agreed working hours shall be chargeable as overtime. If Trillium incurs any costs due to the Customer's failure to comply with any of its obligations under the Contract, the Customer shall be responsible for such costs subject to the laws of the State of Texas and any applicable immunity.

- 3.3 **Excluded Charges and Tax.** Unless expressly provided otherwise in the Purchase Order: (a) transportation charges, delivery charges, customs duties, insurance charges, packaging costs, consular fees, and any other similar charges are not included in the Price.

- 3.4 **Interest on Overdue Amounts.** If the Customer fails to pay any invoice by the due date for payment, Trillium shall be entitled, without prejudice to any other right or remedy, to suspend (without notice) any or all further performance of its obligations under the Contract and charge interest on any amount outstanding at a rate of the lesser of: (a) eighteen per cent (18%) per annum (one and a half per cent (1.5%) per month); or (b) the maximum rate allowed by Applicable Law, such interest being charged from the due date until paid as a separate, continuing obligation not merging with any judgment, together with any statutory debt recovery costs.

- 3.5 **Escalation.** In the event of a delay of two weeks or more or the increase of actual costs of Goods and/or Services of 5% or more, occurring between the effective date of the Contract and the date of shipment of the Goods or performance of the Services from causes beyond the reasonable control of Trillium or any entity it has control over, including but not limited to any foreign exchange fluctuation, import or export duties, costs of labor, transportation, materials and other costs of manufacture, any change in delivery dates, quantities or specifications for the Goods or Services, or any delay caused by any instructions or omissions by Customer, the Price or Contract requirements will be equitably adjusted via written notice to Customer at any time prior to shipment of the Goods and/or performance of the Services. Customer has the right to review this price increase and consent to it.

4. DELIVERY, TESTING AND ACCEPTANCE OF GOODS

- 4.1 **Delivery.** Delivery terms for Goods shall be as per the INCOTERM 2010 stated in the Purchase Order. Where no INCOTERM 2010 is stated in the Purchase Order, delivery shall be EXW INCOTERM 2010 Trillium's specified premises. The Customer must collect the Goods, or arrange for the Goods to be collected, within seven (7) days of notice from Trillium that the Goods are ready to be collected. If the Goods are not collected within such time period, Trillium may, at its discretion: (a) where title has not passed to the Customer, sell the Goods at the best price readily obtainable and recover from the Customer any shortfall between the Price for the Goods and the price obtained by Trillium; or (b) arrange for the storage of the Goods, which, unless otherwise agreed, shall be at the Customer's exclusive cost and expense. Where storage is not at Trillium's premises, risk in the Goods will pass to the Customer upon the Goods leaving Trillium's premises. The time of delivery shall not be of the essence and if Trillium is unable for any reason to fulfil any delivery of the Goods on the specified date, Trillium shall not be treated as being in breach of the Contract and the Customer shall not be entitled to reject delivery, terminate the Contract, nor to any compensation in respect of such delay. This clause shall not affect any agreed Liquidated Damages payable for late delivery of the Goods in accordance with clause 4.4.

- 4.2 **Testing.** Goods manufactured by Trillium will be subject to Trillium's standard tests. Any additional testing requested by the Customer will be subject to the payment by the Customer of additional charges.

- 4.3 **Acceptance.** Following delivery of the Goods in accordance with the Contract, and unless expressly excluded by the Customer to Trillium in writing, the Customer shall accept the Goods.

- 4.4 **Liquidated Damages.** Where the parties have agreed in the Purchase Order that any sum will be payable for late delivery of the Goods, if delivery of the Goods is delayed beyond the agreed delivery date due to an act or omission of Trillium then Trillium shall pay to the Customer a sum calculated at the percentage rate (stated in the Purchase Order) of the price of the delayed Goods for each week between the agreed delivery date and the actual date of delivery, up to the maximum amount specified in the Purchase Order. Such sum shall be the Customer's sole and exclusive remedy and paid as liquidated and ascertained damages by Trillium to the Customer in full and final settlement and satisfaction of Trillium's entire liability for any loss, damages, costs or expenses suffered or incurred by the Customer arising from such delay (**"Liquidated Damages"**). Liquidated Damages are not applicable to the delivery of spare parts or Services.

- 4.5 **Provision of Documents.** Where the Purchase Order requires Trillium to provide documents for approval by the Customer, Trillium shall provide such documents within the time period agreed, or if no time period is agreed, within a reasonable time from receipt of the Purchase Order.

5. TITLE AND RISK

- 5.1 **Title and Risk.** Title and property in all Goods shall remain vested in Trillium until receipt by Trillium of payment in full of the Price (including any storage costs and expenses and default interest) for such Goods from the Customer. Risk in the Goods shall pass to the Customer in accordance with the agreed INCOTERM 2010. Customer shall provide access to the Customer's premises in order for Trillium to recover Goods in respect of which title and property has not passed to the Customer.

- 5.2 **Trillium Property.** Any Goods delivered by Trillium to the Customer where title and property remains vested in Trillium: (a) shall be stored by the Customer separately from any other goods or materials; (b) shall not be incorporated in or mixed with any other goods or materials; and (c) may be sold or used by the Customer in the ordinary course of the Customer's business at the full market value and to the account of Trillium. The entire proceeds from such sale or use shall be held by the Customer in trust in a separate account for the benefit of Trillium.

- 5.3 **Customer Plant. Intentionally Omitted.**

6. PERFORMANCE OF THE SERVICES. Intentionally Omitted.

7. OBLIGATIONS OF THE CUSTOMER

- 7.1 **Provision of Data.** The Customer shall promptly provide to Trillium all applicable data that is relevant to the provision of the applicable Goods and/or Services, including full operations conditions, information,



- instructions, procedures, technical documents and drawings. Trillium shall provide the Customer with the general arrangement or outline drawings for the Goods (or part thereof), only as is strictly necessary and in accordance with the Purchase Order's requirements. Where required, the Customer shall promptly return one (1) set of applicable drawings marked with its approval. Approval delays can result in delayed fabrication, extended shipping dates, and increased costs to the Customer.
- 7.2 **Site(s).** The Customer shall provide Trillium, Trillium Personnel, Sub-Suppliers and Sub-Supplier Personnel all access to the Site(s) as is necessary in order for Trillium to comply with its obligations under the Contract and shall ensure that it has in place all necessary licenses, permits and authorization to allow such access. The Customer shall ensure, and it shall cause any applicable third party to ensure, that the Site(s) is/are in a condition allowing the performance of the Services to commence in accordance with the Contract and without any health and safety risks to those attending the Site(s) and it shall carry out all the preparatory work in accordance with any documents and instructions supplied by Trillium with all due care and in accordance with good industry practices. The Customer shall take all measures required by Applicable Law in respect of the provision of the Services and the presence of the Trillium Personnel and of the Sub-Supplier Personnel at the Site(s) or elsewhere where the Services are to be supplied. If the Customer fails to take such measures and if the safety of Trillium Personnel or Sub-Supplier Personnel is not guaranteed, Trillium may at any time refuse or interrupt the provision of Services as well as remove the applicable personnel from the Site(s), until the issues have been fully rectified by the Customer, and shall have no liability to the Customer for such actions or any consequences (including any damage or loss) of such actions.
- 7.3 **Decontamination.** Any Defective Goods returned to Trillium and any Customer Plant made available to Trillium in respect of the Services shall, prior to being returned or made available, be cleaned by the Customer of all process related materials ("Decontamination"). The Customer shall provide Trillium with a certificate of Decontamination in respect thereof. Goods and Customer Plant delivered to Trillium (for whatever reason) without having been so cleaned or without a certificate of Decontamination may be returned at any time and otherwise shall be quarantined and subjected to an independent Decontamination at the Customer's expense and Trillium shall have no obligations in respect of such Goods or Customer Plant. The provision of Goods and/or Services (as applicable) shall be withheld pending settlement of any outstanding charges.
- 7.4 **Erection/Commissioning.** Where the Services include the erection and/or commissioning, or supervision of erection and/or commissioning, of Goods and/or Customer Plant, the Customer will provide, at its expense, all other labor, all amenities, suitable access to and occupation of the Site(s), proper foundations ready to receive the Goods and/or Customer Plant (as applicable), adequate cranes, lifting gear and machines, scaffolding, mason's, joiner's and builder's work, suitable protection for the Goods and/or Customer Plant (as applicable), and all other facilities and assistance reasonably required by Trillium or any Sub-Supplier.
8. **WARRANTIES**
- 8.1 **Warranty Period.** Trillium's warranty obligations under the Contract shall not commence until the full contract Price has been received by Trillium for the applicable Goods and/or Services. Unless otherwise agreed in writing by the parties, the "Warranty Period" for: (a) agreed deliverables provided as part of the Services ("Deliverables") shall be twelve (12) months from the date of completion of the Deliverables in accordance with the specification set out in the Purchase Order; (b) all Goods (excluding spare parts) provided by Trillium shall be the period of: (i) twelve (12) months from the date that the Goods are installed; or (ii) eighteen (18) months from the actual delivery date, whichever is the earlier; and (c) for any spare parts provided by Trillium, shall be the period of twelve (12) months from the date of the delivery of the applicable spare part.
- 8.2 **Warranty.** During the applicable Warranty Period, Trillium warrants that any Deliverables shall substantially conform to their description and specification specified in the Purchase Order and that any Goods shall be free from material defects in the design, materials and workmanship (the "Trillium Warranty"). If the Deliverables or Goods (as applicable) do not conform to the Trillium Warranty during the Warranty Period (a "Defect"), as the Customer's sole and exclusive remedy, Trillium shall, at its sole option, remedy the Defect (by reperforming the Services relating to the Defective Deliverable or repairing or replacing the Defective Goods (as applicable)) or refund the Price for the applicable Defective Deliverable or Defective Goods, provided that, within the Warranty Period, the Customer serves a written notice to Trillium with a detailed description and reasonable evidence of the Defect within seven (7) days of the date on which the Customer discovered the Defect or should have reasonably discovered the Defect. The Customer shall give Trillium a reasonable opportunity to examine the Customer's claim of a Defect (including inspecting the Goods or Deliverables (as applicable)) and shall promptly cooperate to any extent necessary to grant Trillium sufficient time to do so. Any reperformance of the Services relating to the Defective Deliverable or repair or replacement of Defective Goods shall not extend the Warranty Period for those Goods or Deliverables and the Warranty Period for the repaired or replaced Goods or Deliverables shall expire on the same date as the Warranty Period for the original Goods or Deliverables. The Customer shall only be entitled to request a refund of the Price in respect of Defective Goods or Defective Deliverables in the event that Trillium fails to replace or repair the applicable Defective Goods or Defective Deliverables.
- 8.3 **Warranty Exclusions.** The Trillium Warranty and remedies provided under clause 8.2 shall not apply in respect of, and Trillium shall not be liable for: (a) the effects of erosion or corrosion; (b) fair wear and tear; (c) any consumables (including lubricants, seals, gaskets, O-rings etc.); nor (d) Defects that arise due to, or as a result of the Customer, or any third party (not acting on behalf of Trillium): (i) failing to install or maintain, or incorrectly installing or maintaining, the Goods or Deliverables; (ii) incorrectly using the Goods or Deliverables; (iii) repairing or altering the Goods or Deliverables without Trillium's written consent; (iv) improperly storing the Goods or Deliverables; or (v) tampering with the Goods or Deliverables.
- 8.4 **Location of Repair.** If the parties agree that Defective Goods shall be repaired at a location specified by Trillium, the Customer shall deliver such Defective Goods to such location at the Customer's expense, subject to the Decontamination requirements at clause 7.3. Repaired or replaced Goods shall be redelivered by Trillium free of charge to the original point of delivery but otherwise in accordance with and subject to these Terms and Conditions. Where it is agreed that Trillium is to repair or replace Defective Goods at the Customer's premises, Trillium shall not be responsible for any on-site costs, including removal and reinstallation of any Goods.
- 8.5 **Customer Warranty.** The Customer warrants and represents that to its knowledge: (a) it has provided Trillium with all relevant, full and accurate information as to the Customer's business and needs, as well as all the information required in order for Trillium to perform its obligations under the Contract; and (b) it is properly financed and organized, it is solvent and has not made a general assignment for the benefit of creditors nor has it been adjudicated bankrupt or insolvent and it is not aware of any fact or event based upon which, in its reasonable opinion, it may face any such situation of financial distress described in this clause before the completion of all its obligations under the Contract.
9. **INDEMNITY AND INSURANCE**
- 9.1 **Indemnity.** Intentionally Omitted.
- 9.2 **Insurance.** The Customer shall have in place contracts of insurance with reputable insurers be issued by a company authorized to do business in the State of Texas. On request, the Customer shall supply evidence of the maintenance of the insurance and all of its terms from time to time applicable
10. **LIMITATION OF LIABILITY**
- 10.1 **UNLIMITED LIABILITY.** NOTHING IN THE CONTRACT LIMITS ANY LIABILITY OF THE PARTIES FOR: (i) ANY INDEMNITY PROVIDED UNDER THESE TERMS AND CONDITIONS; (ii) DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE; (iii) FRAUD OR FRAUDULENT MISREPRESENTATION; OR (iv) ANY LIABILITY WHICH CANNOT LEGALLY BE LIMITED.
- 10.2 **EXCLUSIONS.** SUBJECT TO CLAUSE 10.1 ABOVE AND NOTWITHSTANDING ANYTHING IN THE CONTRACT TO THE CONTRARY, TRILLIUM SHALL NOT BE RESPONSIBLE OR HELD LIABLE TO THE CUSTOMER OR ANY THIRD-PARTY FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, DELAY, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF PROFIT, PRODUCTS, BUSINESS, REVENUE, GOODWILL, SAVINGS, USE, CONTRACTS OR POWER, OR ECONOMIC LOSSES, OR BUSINESS INTERRUPTIONS, OR OTHER SIMILAR DAMAGES (WHETHER SUCH DAMAGES ARE CHARACTERIZED AS DIRECT OR INDIRECT), REGARDLESS OF WHETHER TRILLIUM WAS INFORMED OF THE POSSIBILITY OF SUCH, AND HOWEVER THE SAME MAY BE CAUSED, INCLUDING BREACH OF CONTRACT OR WARRANTY, TORT (INCLUDING NEGLIGENCE), OR STRICT LIABILITY OF TRILLIUM.
- 10.3 **LIMITATION OF LIABILITY.** SUBJECT TO CLAUSES 10.1 AND 10.2 ABOVE AND NOTWITHSTANDING ANYTHING IN THE CONTRACT TO THE CONTRARY, THE MAXIMUM AGGREGATE LIABILITY, IF ANY, OF TRILLIUM (WHETHER ARISING IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTY, BREACH OF CONTRACT OR OTHERWISE) UNDER OR IN CONNECTION WITH THE CONTRACT SHALL BE LIMITED TO AN AMOUNT NOT TO EXCEED \$100,000 OR THE EQUIVALENT TO ONE HUNDRED PERCENT (100%) OF THE TOTAL PAYMENTS RECEIVED BY TRILLIUM FROM THE CUSTOMER IN RESPECT OF THE PARTICULAR GOODS OR SERVICES (OR PART THEREOF) GIVING RISE TO THE CLAIM, WHICHEVER IS GREATER.
- 10.4 **WARRANTY DISCLAIMER.** EXCEPT FOR THOSE EXPRESS WARRANTIES SET OUT IN THE CONTRACT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CUSTOMER EXPRESSLY WAIVES, AND TRILLIUM EXPRESSLY DISCLAIMS, ANY AND ALL REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING THOSE OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY STATUTORY WARRANTIES THAT ARE INCONSISTENT WITH THE WARRANTIES PROVIDED IN THE CONTRACT ARE EXPRESSLY DISCLAIMED BY TRILLIUM AND WAIVED BY THE CUSTOMER. TRILLIUM'S OBLIGATIONS CONTAINED IN ANY WARRANTY PROVIDED BY TRILLIUM TO THE CUSTOMER UNDER THE CONTRACT SHALL CONSTITUTE TRILLIUM'S SOLE LIABILITY AND THE CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO THE ISSUE(S) GIVING RISE TO THE WARRANTY CLAIM, IRRESPECTIVE OF TRILLIUM'S FAULT, NEGLIGENCE OR LIABILITY WITHOUT FAULT.
11. **INTELLECTUAL PROPERTY**
- 11.1 **Trillium IP.** The Customer acknowledges that, unless otherwise agreed in the Purchase Order, all Intellectual Property Rights in any Goods, Deliverables, designs, drawings, documents and/or software or any items related thereto, or any other items provided to the Customer during the performance of the Contract (collectively referred to as "Trillium IP"), belong solely and exclusively to Trillium or to Trillium's licensor(s) (as applicable). Subject to the terms of the Contract, Trillium grants the Customer a revocable, non-exclusive, non-transferrable, non-sublicensable license to use the Trillium IP, to the extent such Trillium IP is embedded in Goods or Services provided by Trillium to the Customer under the Contract, solely for the purpose and to the extent necessary to enable the Customer to exercise its rights under the Contract (including to operate and maintain the Goods or to receive the Services) in accordance with its terms (the "Permitted Purpose"). The Customer undertakes that it will not use, except for the Permitted Purpose, nor make available to any third party (in any form) any Trillium IP without the prior written consent of Trillium. Subject to clause 5.2, this clause shall not prohibit the Customer's right to sell Goods in the ordinary course of the Customer's business. For the avoidance of doubt and notwithstanding any other provisions in the Contract, Trillium shall not be required to provide to the Customer, and no license is granted under the Contract to use, shop or manufacturing drawings nor any of Trillium's confidential manufacturing drawings, designs, in-house standards or know-how, nor the confidential details of manufacturing practices, processes or operations belonging to Trillium or its licensors (as applicable).
- 11.2 **Customer Materials.** Intentionally Omitted.
12. **CONFIDENTIALITY.** Any document, data, drawings, plans, designs, images, specifications, technical data and any other material that is clearly marked as Confidential as part of the Contract or any other written documentation during the performance of the Contract ("Confidential Information"), shall be treated as strictly confidential and shall not be divulged by the Recipient to any person, except as required by law or to the Recipient's personnel, subcontractors or professional advisors, who need to know such Confidential Information in order for the Recipient to comply with its obligations under, or receive the benefit of, the Contract and provided that such recipients are subject to obligations of confidentiality in respect of such Confidential Information. As between the Recipient and the Discloser, the Discloser retains title to all of its Confidential Information. Trillium acknowledges that the City of Denton must strictly comply with the Public Information Act, Chapter 552, Texas Government Code in responding to any request for public information related to this Agreement. This obligation supersedes any conflicting provisions of this Agreement. Any portions of such material claimed by Trillium to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, chapter 552, and Texas Government Code.
13. **PROCESSING OF PERSONAL DATA.** Intentionally Omitted.
14. **COMPLIANCE WITH LAW AND REGULATIONS**
- 14.1 **Applicable Law.** The Customer represents and warrants that it is, and will remain, fully compliant with all Applicable Law, instructions and policies, including, but not limited to all statutory licenses or permits required for the receipt of the Goods and/or Services and the performance of its obligations under the Contract. Each party shall comply with all Applicable Law in connection with bribery or anti-corruption. If required by Trillium, the Customer shall complete and sign an end user certificate before the Customer receives the Goods or Services. Unless otherwise agreed in writing, Trillium accepts no responsibility or liability for failure to comply with statutory or local regulations or by-laws that affect the siting, construction or operation of the Goods supplied under the Contract. Any relevant consents or approvals required shall be the responsibility of, and obtained by, the Customer.
- 14.2 **Export and Dual Use Law.** The Customer acknowledges that Trillium is required to comply with all applicable export laws, controls and regulations relating to the sale, exportation, transfer, assignment, disposal, and



usage of Goods to be supplied under the Contract, as well as any laws or regulation relating to "dual use" goods, including, but not limited to, U.S., United Kingdom and European Union export rules and any export license requirements (collectively, the "Export and Dual Use Law"). The Customer agrees it shall not at any time directly or indirectly use, export, sell, transfer, assign or otherwise dispose of the Goods in a manner which will result in non-compliance with applicable Export and Dual Use Law. If any of the Goods fall under the definition of "dual use" item, the Customer shall cooperate with Trillium for the purpose of obtaining any required licenses and approvals and shall provide any and all information necessary. The Contract may also involve information or items that are subject to military defense or nuclear export controls, and the Customer agrees that it will comply with said controls and shall not export or re-export, directly or indirectly, any hardware, software, defense service, information or technical data provided by, through, or with the cooperation of Trillium, to any party, including persons employed by or associated with, or under contract with, the Customer or the Customer's lower-tier suppliers without the prior written consent of Trillium and without first obtaining any required export license or other approval.

14.3 **Restricted Party Lists.** The Customer represents that neither the Customer nor any of its Affiliates are included on any of the restricted, denied, or sanctioned party lists maintained by the government of the country(ies) in which Trillium or its Affiliates are based. The Customer shall promptly notify Trillium in writing if the Customer is, or becomes, listed in any such lists or if the Customer's export privileges are otherwise denied, suspended, or revoked in whole or in part by any governmental authority.

14.4 **Article 12g - Council Regulation (EU) No. 833/2014.** Customer shall not sell, export or re-export, directly or indirectly through third parties, to the Russian Federation or for use in the Russian Federation any Goods supplied by Trillium under or in connection with the Contract that fall under the scope of Article 12g of Council Regulation (EU) No. 833/2014. Any violation of this clause 14.4 shall constitute a material breach of the Contract and Trillium shall be entitled to seek appropriate remedies, including but not limited to termination of the Contract and/or payment of any penalties. Customer shall immediately inform Trillium about any violation or problems enforcing clause 14.4, including any relevant activities by third parties that could frustrate the purpose of this clause 14.4, and Trillium shall have the right, upon written request, to seek information from Customer regarding compliance with clause 14.4.

15. TERMINATION

15.1 **Termination.** The Customer may terminate the Contract or any part thereof for any reason by written notice to Trillium, provided that (other than where such termination is due to a material default of the Contract by Trillium) the Customer shall pay to Trillium the total costs which have been incurred by Trillium as of the date such termination is effective plus a reasonable profit margin, less any payments previously received. In addition, the Customer shall reimburse Trillium all reasonable documented direct and indirect costs incurred by Trillium as a result of the termination and, if any, costs Trillium may incur from its vendors as a result of the Customer's termination. Without affecting any other right or remedy available to it, Trillium may terminate the Contract (in whole or in part) immediately by written notice to the Customer, if the Customer: (a) is in material or continuing breach of any provision of the Contract, which cannot be remedied or is not remedied within fourteen (14) days of notice of breach from Trillium; or (b) becomes bankrupt or insolvent, has a receiving order made against it, makes agreement with its creditors, commences to be wound up (except for a voluntary winding up for the purpose of solvent reconstruction or amalgamation), or carries on its business under a receiver for the benefit of its creditors or any of them.

15.2 **Consequences of Termination.** Upon the Contract ending for any reason, the Customer shall return all of Trillium's documents, drawings and any other items or information (including all Confidential Information) in the Customer's possession subject to Customer's record retention requirements.

16. GENERAL

16.1 **Notices.** Any notice given by a party under the Contract shall be: (a) in writing and in English; (b) signed by, or on behalf of, the party giving it (except for notices sent by email); (c) sent to the relevant party at the address set out in the Contract; and (d) served by: (i) email (in a form that identifies the sender and clearly indicates the subject matter of the notice in the subject heading of the email) to the email address set out in the Contract or as otherwise notified from time to time, and it will be deemed to have been duly given or made (and duly received by the addressee) at the time of transmission by the sender (as recorded on the device of the sender); or (ii) hand (which will include by courier, whether local or international) to the address set out in the Contract or as otherwise notified from time to time, and it will be deemed to have been duly given or made (and duly received by the addressee) at the time of delivery. The parties may not serve documents relating to formal legal proceedings by email.

16.2 **Force Majeure.** If, by reason of an event of Force Majeure, either of the parties shall be delayed in, or prevented from, performing any of the provisions of the Contract (other than the Customer's obligation to make payments in accordance with the Contract) then, provided that the affected party promptly notifies the other in writing, within five (5) calendar days, of the nature and extent of such event as soon as practicable, such delay or non-performance shall not be deemed to be a breach of that party's obligations under the Contract and no loss or damage shall be claimed by either of the parties hereto from the other by reason thereof. If Trillium suffers delay and/or incurs any costs by reason of an event of Force Majeure, Trillium shall be entitled to an extension of time under the Contract (including time for demobilization and redeployment of Trillium Personnel or any Sub-Supplier Personnel). If the Force Majeure event continues to delay or prevent either party's performance of the provisions of the Contract for a continuous period of more than sixty (60) days, either party may terminate the Contract by written notice to the other party.

16.3 **COVID-19.** Intentionally Omitted.

16.4 **No Employment.** Trillium and each of its Sub-Suppliers shall act as an independent contractor with respect to the Services and neither Trillium Personnel nor any Sub-Supplier Personnel shall be deemed to be employees, personnel or a representative of the Customer.

16.5 **Cumulative and Equitable Remedies.** Trillium's and Customer's rights and remedies provided in the Contract are cumulative and not exclusive of any rights and remedies provided by Applicable Law and shall not be affected by termination of the Contract. The Customer and Trillium recognize that any breach or threatened breach of the Contract may cause Trillium or the Customer irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to Trillium or the Customer, the Customer and Trillium acknowledge and agrees that Trillium and the Customer are entitled to the remedies of specific performance, injunction and other equitable relief without proof of special damages.

16.6 **Assignment and Subcontracting.** Trillium may at any time assign, transfer, subcontract or otherwise deal in any other manner with any or all of its rights or obligations under the Contract without the Customer's prior consent. The Customer shall execute any documents reasonably required by Trillium to give effect to Trillium's rights under this clause. The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights or obligations under the Contract without the prior written approval of Trillium.

16.7 **No Partnership.** The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. Neither party shall have, nor shall represent that it has, any authority to make any commitments on the other party's behalf.

16.8 **Variation.** No variation of the Contract shall be binding unless expressly agreed in writing and executed by a duly authorized signatory on behalf of each of Trillium and the Customer, respectively. Changes to the Contract are subject to clause 2.3.

16.9 **Severability and Survival.** All terms of the Contract are severable, and any provision of the Contract held to be invalid, illegal, or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality, or unenforceability without affecting the validity, legality, and enforceability of the remaining provisions hereof or thereof. The invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. Those provisions that are expressed, or by their nature are required, to survive expiry or termination of the Contract, shall survive expiry or termination of the Contract.

16.10 **Entire Agreement.** The Contract, including Customer contract 8751, constitutes the entire agreement between Trillium and the Customer and supersedes any prior oral or written understandings and representations between Trillium and the Customer relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract. The United Nations Convention on Contracts for the International Sale of Goods does not apply to the sale of any Goods by Trillium to the Customer under the Contract.

17. GOVERNING LAW AND JURISDICTION

17.1 The Contract will be governed by and construed in accordance with the laws of the State of Texas, without giving effect to any choice of law or conflict provision or rule that would cause the laws of any other jurisdiction to be applied. Where this clause 17.1 applies, all disputes arising out of or in connection with the Contract must be brought in a state or federal court sitting in Denton County, Texas, and each party hereby irrevocably submits itself to the exclusive jurisdiction of each such court in any such action or proceeding and waives any objection it may now or hereafter have to venue or convenience of forum. THE PARTIES HEREBY IRREVOCABLY WAIVE THEIR RIGHT TO TRIAL BY JURY.

17.2 **Outside of the Americas.** Intentionally Omitted.

Exhibit C
City of Denton
Standard Purchase Terms and Conditions

These standard Terms and Conditions and the Terms and Conditions, Specifications, Drawings and other requirements included in the City of Denton's contract are applicable to contracts/purchase orders issued by the City of Denton hereinafter referred to as the City or Buyer and the Seller or respondent herein after referred to as Contractor. Any deviations must be in writing and signed by a representative of the City's Procurement Department and the Contractor. No Terms and Conditions contained in the seller's proposal response, invoice, or statement shall serve to modify the terms set forth herein. If there is a conflict between the provisions on the face of the contract/purchase order these written provisions will take precedence.

The Contractor agrees that the Contract shall be governed by the following terms and conditions, unless exceptions are duly noted and fully negotiated. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, and 21 shall apply only to a solicitation to purchase goods, and sections 9, 10, 11, and 22 shall apply only to a solicitation to purchase services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS.** The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable federal, State, and local laws, rules, and regulations.

2. **EFFECTIVE DATE/TERM.** Unless otherwise specified in the Solicitation or Exhibit A, this Contract shall be effective as of the date this Contract is signed by the City and shall continue in effect until all obligations are performed in accordance with the Contract.

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

4. **SHIPMENT UNDER RESERVATION PROHIBITED:** The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.

5. **TITLE & RISK OF LOSS:** Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.

6. DELIVERY TERMS AND TRANSPORTATION CHARGES: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Solicitation or Contractor's Offer. Unless otherwise stated in the Contractor's Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the purchase order.

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

8. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract to perform but not afterward. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

9. PLACE AND CONDITION OF WORK: This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the Contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

The Contractor shall, at all times, exercise reasonable precautions for the safety of their employees, City Staff, participants and others on or near the City's facilities.

10. WORKFORCE This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way.

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

B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not (1) while engaged in, participating, or responding to a solicitation; or (2) while in the course and scope of delivering goods or services under a City of Denton contract; or (3) on the City's property.

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

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

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

IMMIGRATION: THE CONTRACTOR REPRESENTS AND WARRANTS THAT IT SHALL COMPLY WITH THE REQUIREMENTS OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 AND 1990 REGARDING EMPLOYMENT VERIFICATION AND RETENTION OF VERIFICATION FORMS FOR ANY INDIVIDUALS HIRED ON OR AFTER NOVEMBER 6, 1986, WHO WILL PERFORM ANY LABOR OR SERVICES UNDER THE CONTRACT AND THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996 ("IIRIRA") ENACTED ON SEPTEMBER 30, 1996, AND SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY ACTION ARISING RELATED THERETO.

11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS: This paragraph only applies to the purchase of services to be primarily performed at the City's premises or on City property/right-of-way. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. **THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, ACTIONS, JUDGMENTS, FINES, PENALTIES AND LIABILITY OF EVERY KIND ARISING FROM THE BREACH OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS PARAGRAPH.**

Environmental Protection: The Contractor shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq.*) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq.*).

12. INVOICES:

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

B. Proper Invoices must include a unique invoice number, invoice date, the purchase order number, and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name, remittance address and, if

applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.

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

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

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

13. PAYMENT:

A. All proper invoices need to be sent to Accounts Payable – accountspayable@cityofdenton.com. Approved invoices will be paid within thirty (30) calendar days of the invoice being received in Accounts Payable.

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

C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches such shipment or delivery.

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

- i. delivery of defective or non-conforming deliverables by the Contractor;
- ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
- iii. failure of the Contractor to pay Subcontractors, or for labor, materials, or equipment;
- iv. damage to the property of the City or the City's agents, employees, or contractors, which is not covered by insurance required to be provided by the Contractor;
- v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- vi. failure of the Contractor to submit proper invoices with purchase order number, all required attachments, and supporting documentation; or
- vii. failure of the Contractor to comply with any material provision of the Contract Documents.

E. Notice is hereby given to any awarded firm who is in arrears to the City for delinquent taxes of any kind or otherwise indebted to the City that the City shall be entitled to counterclaim and/or offset against any such debt, claim, demand, or account owed to the City through payment withholding until the debt is paid in full, and no assignment of such debt, claim, demand, or account after the said taxes or debt are due shall affect the right of the City to offset the said taxes or debt against same.

F. Payment will be made by check unless the parties mutually agree to payment by credit card or
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electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer. G. The Contractor acknowledges and agrees that the awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City will not incur a debt or obligation to pay Contractor any amounts the City does not have the current funds available to pay. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of none or inadequate appropriation of funds, there will be no penalty or liability to the City, nor removal fees, cancellation fees, or the like charged to the City.

14. TRAVEL EXPENSES: All travel, lodging, and per diem expenses in connection with the Contract shall be paid by the Contractor, unless otherwise stated in the Contract Documents. During the term of this Contract, the Contractor shall bill and the City shall reimburse Contractor for all reasonable and approved out of pocket expenses which are incurred in the connection with the performance of duties hereunder. Notwithstanding the foregoing, expenses for the time spent by the Contractor in traveling to and from City facilities shall not be reimbursed, unless otherwise negotiated.

15. FINAL PAYMENT AND CLOSE-OUT:

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

B. The making and acceptance of final payment will constitute:

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

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

16. SPECIAL TOOLS & TEST EQUIPMENT: If the price stated on the Contractor's Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

17. RIGHT TO AUDIT:

A. The Contractor agrees that the City shall, until the expiration of five (5) years after final payment under this Contract unless required to be retained for longer under applicable law, have

electronic access to and the right to examine all books, records, and computations pertaining to this Contract. If necessary, the City shall have the right to audit and make copies of the books, records, and computations pertaining to the Contract. The Contractor shall retain such books, records, documents, and other evidence pertaining to the Contract period and five (5) years thereafter, except if an audit is in progress or audit findings are yet unresolved, in which case records shall be kept until all audit tasks are completed and resolved. These books, records, documents, and other evidence shall be available, within ten (10) business days of written request. All books and records will be made available within a fifty (50) mile radius of the City of Denton if the vendor is not able to provide electronic access. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

B. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the Subcontractor, material supplier, or other payee agrees that the City shall, until the expiration of five (5) years after final payment under the subcontract unless required to be retained for longer under applicable law, have electronic access to and the right to examine all books, records, documents, and other evidence of the Subcontractor, material supplier, or other payee involving transactions relating to the subcontract. If necessary, the City maintains the right to photocopy any physical books, documents, papers, and records of the subconsultant involving transactions relating to the subcontract. All books and records will be made available within a fifty (50) mile radius of the City of Denton. The cost of the audit will be borne by the City unless the audit reveals an overpayment of 1% or greater. If an overpayment of 1% or greater occurs, the reasonable cost of the audit, including any travel costs, must be borne by the Contractor which must be payable within five (5) business days of receipt of an invoice.

C. Failure to comply with the provisions of this section shall be a material breach of the Contract and shall constitute, in the City's sole discretion, grounds for termination thereof. Each of the terms "books", "records", "documents", and "other evidence", as used above, shall be construed to include drafts and electronic files, even if such drafts or electronic files are subsequently used to generate or prepare a final printed document.

18. SUBCONTRACTORS:

A. If the Contractor-identified subcontractors ("Subcontractor") in a DBE/MBE/WBE agreed-to plan (the "Plan"), the Contractor shall comply with all requirements approved by the City. The Contractor shall not initially employ any subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing. No acceptance by the City of any subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Procurement Manager, no later than the tenth calendar day of each month.

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

- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
- ii. prohibit the Subcontractor from further subcontracting any portion of the Contract

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

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

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

V. REQUIRE THAT THE SUBCONTRACTOR INDEMNIFY AND HOLD THE CITY HARMLESS TO THE SAME EXTENT AS THE CONTRACTOR IS REQUIRED TO INDEMNIFY THE CITY.

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

D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

19. WARRANTY-PRICE:

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

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

C. In the event Contractor breaches this warranty, in addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase, or in the alternative, the City may cancel this Contract without liability to Contractor for breach.

20. WARRANTY – TITLE: THE CONTRACTOR WARRANTS THAT IT HAS GOOD AND INDEFEASIBLE TITLE TO ALL DELIVERABLES FURNISHED UNDER THE CONTRACT, AND THAT THE DELIVERABLES ARE FREE AND CLEAR OF ALL LIENS, CLAIMS, SECURITY INTERESTS, AND ENCUMBRANCES. THE CONTRACTOR SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL ADVERSE TITLE CLAIMS TO THE DELIVERABLES.

21. WARRANTY – DELIVERABLES: The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship, or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Contract Documents, to any samples furnished by the Contractor, to the terms, covenants, and conditions of the Contract, and to all applicable State, federal, or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned. In addition, Contractor warrants that the goods sold to City shall conform to the standards promulgated by the Contract 8751

U.S. Department of Labor under the Occupational Safety and Health Act (OSHA). In the event the product does not conform to OSHA standards, City may return the product for correction or replacement at the Contractor's expense. In the event Contractor fails to make the appropriate correction within a reasonable time, correction made by City will be at Contractor's expense.

A. Recycled deliverables shall be clearly identified as such.

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

C. Unless otherwise specified in the Contract or required by the Solicitation, the warranty period shall be at least one (1) year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.

E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

F. Contractor shall not limit, exclude, or disclaim any implied warranties, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

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

A. The Contractor may not limit, exclude, or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect, or alternatively, at the City's option, render this Contract voidable.

B. Unless otherwise specified in the Contract, the warranty period shall be at least one (1) year from the date of acceptance of the work. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.

C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

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

24. RIGHT TO ASSURANCE: Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified (being a minimum of 5 days) after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

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

26. DEFAULT:

A. The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely, and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 25, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.

B. In the event the City terminates the awarded contract for default or any other reason, the Contractor shall not be relieved of liability to the City for damages sustained by the City by reason of any default of the contract by the Contractor or otherwise, and the City may withhold any payments to the Contractor for the purpose of an offset until such time as the amount of damages due the City from the Contractor can be determined.

27. TERMINATION FOR CAUSE: In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs,

losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. Additionally, in the event of a default by the Contractor, the City may remove the Contractor from the City's vendor list for three (3) years and/or any offer submitted by the Contractor may be disqualified for up to three (3) years. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

28. TERMINATION WITHOUT CAUSE: The City shall have the right to terminate the Contract, in whole or in part, without cause and/or for convenience any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof, provided such payment amount is not disputed by City. The City reserves all rights, causes of action, and remedies available under law or in equity with respect to any dispute under this Contract and a termination under this provision does not waive such rights, causes of action, and remedies.

29. FRAUD: Fraudulent statements by the Contractor in any offer, Contract Document, or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

30. DELAYS:

A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in Paragraph 53. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

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

31. TIME OF COMPLETION AND LIQUIDATED DAMAGES: Contractor agrees and acknowledges that completing the services and/or delivering the goods described in this Contract in a timely manner is very important to the City. Contractor agrees to perform all obligations within the timeframes required. As it is impracticable and extremely difficult to fix the actual damages, if any, that may proximately result from a failure by Contractor to provide the goods or

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perform the service, should Contractor fail to timely perform its obligations, Contractor agrees to pay to City, or have withheld and offset from monies due it, the amount stated in the Contract Documents as liquidated damages for each calendar day of delay or nonperformance. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at the time of executing this Contract. Execution of the Contract shall constitute agreement by the City and Contractor that said amount is the minimum value of the costs and actual damage caused by the Contractor's failure to timely perform. Adjustments to the contract times can only be made as provided in the Contract Documents and any conditions or specifications referenced therein.

32. INDEMNITY:

A. Definitions:

i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments, and liability of every character, type, or description, including all reasonable costs and expenses of litigation, mediation, or other alternate dispute resolution mechanism, including attorney and other professional fees for: (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and Subcontractors; the officers, agents, and employees of such Subcontractors; and third parties); and/or (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's Subcontractors, and third parties), ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct or a breach of any legally imposed strict liability standard.

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

33. LIMITATION OF LIABILITY: This Contract does not, and shall not be interpreted to, contain an artificial limitation of liability (e.g. liability limited to contract price or liability capped at an amount actually paid in previous 3 months, etc.) or an artificial statute of limitations (e.g. any lawsuit must be commenced within one year of the event).

34. INSURANCE: The Contractor shall procure and maintain insurance of the types and in the minimum amounts acceptable to the City of Denton outlined in the Insurance Exhibit attached hereto, if applicable. The insurance shall be written by a company licensed to do business in the State of Texas and satisfactory to the City of Denton. The City of Denton reserves the right to add insurance during the contract term.

B. Specific Coverage Requirements: Specific insurance requirements are contained in the Contract 8751

Solicitation and the Insurance Exhibit.

35. CLAIMS: If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse effect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Denton City Attorney. Personal delivery to the City Attorney shall be to City Hall, 215 East McKinney Street, Denton, Texas 76201.

36. NOTICES: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at 901B Texas Street, Denton, Texas 76209 and marked to the attention of the Purchasing Manager.

37. RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, and Texas Government Code. The requirements of Subchapter J, Chapter 552 of the Texas Government Code, may apply to this Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

38. INDEMNIFICATION AGAINST INFRINGEMENTS: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. Moreover, Contractor does not know of any valid basis for any such claims. **THE CONTRACTOR SHALL, AT ITS SOLE EXPENSE, DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS FROM AND AGAINST ALL LIABILITY, DAMAGES, AND COSTS (INCLUDING COURT COSTS AND REASONABLE FEES OF ATTORNEYS AND OTHER PROFESSIONALS) ARISING OUT OF OR RESULTING FROM: (I) ANY CLAIM THAT THE CITY'S EXERCISE ANYWHERE IN THE WORLD OF THE RIGHTS ASSOCIATED WITH THE CITY'S OWNERSHIP, AND IF APPLICABLE, LICENSE RIGHTS, AND ITS USE OF THE DELIVERABLES INFRINGES THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; OR (II) THE CONTRACTOR'S BREACH OF ANY OF CONTRACTOR'S REPRESENTATIONS OR WARRANTIES STATED IN THIS CONTRACT. IN THE EVENT OF ANY SUCH CLAIM, THE CITY SHALL HAVE THE**

RIGHT TO MONITOR SUCH CLAIM OR AT ITS OPTION ENGAGE ITS OWN SEPARATE COUNSEL TO ACT AS CO-COUNSEL ON THE CITY'S BEHALF. FURTHER, CONTRACTOR AGREES THAT THE CITY'S SPECIFICATIONS REGARDING THE DELIVERABLES SHALL IN NO WAY DIMINISH CONTRACTOR'S WARRANTIES OR OBLIGATIONS UNDER THIS PARAGRAPH AND THE CITY MAKES NO WARRANTY THAT THE PRODUCTION, DEVELOPMENT, OR DELIVERY OF SUCH DELIVERABLES WILL NOT IMPACT SUCH WARRANTIES OF CONTRACTOR. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

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

40. OWNERSHIP AND USE OF DELIVERABLES: The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.

B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 41 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon

delivery of such deliverables to the City or at such other time as the City may request.

C. **Additional Assignments.** The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligations to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 41 A., B., and C. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 40 above.

41. **PUBLICATIONS:** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

42. **ADVERTISING:** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, State, or local government.

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

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

45. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** The Contractor agrees to comply with the conflict of interest provisions of the City of Denon Code of Ordinances and/or State law. No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that Contract 8751

solicitation as defined in the City's Ethic Ordinance codified at Chapter 2, Article XI and in the City Charter Section 14.04, as amended. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City. The Contractor shall complete and submit the City's Conflict of Interest Questionnaire. The Contractor agrees to maintain current, updated disclosure of information on file with the Procurement Department throughout the term of this Contract.

46. NO SUBCONTRACTING BID AFTER AWARD: Following the award of the Contract, no subcontracting except that specifically identified in the response to the Solicitation will be permitted without the express prior written consent of the City.

47. NO GIFT OF PUBLIC PROPERTY: The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected Contractor.

48. INDEPENDENT CONTRACTOR: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City of Denton, Texas for the purposes of income tax, withholding, social security taxes, vacation or sick leave benefits, worker's compensation, or any other City employee benefit. The City shall not have supervision and control of the Contractor or any employee of the Contractor, and it is expressly understood that Contractor shall perform the services hereunder according to the attached specifications at the general direction of the City Manager of the City of Denton, Texas, or their designee under this Contract. The Contractor is expressly free to advertise and perform services for other parties while performing services for the City.

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

The Vendor shall notify the City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of the company or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to do so may adversely impact future invoice payments.

50. WAIVER: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either

the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character. No delay, failure, or waiver of either party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy.

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

52. INTERPRETATION: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

53. DISPUTE RESOLUTION:

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

B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option; the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Denton County Alternative Dispute Resolution Program (DCAP). The parties agree to participate in mediation in good faith

for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

C. The parties shall not be required to submit to binding arbitration.

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

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

56. HOLIDAYS: The following holidays are observed by the City:

New Year's Day (observed)
Martin Luther King, Jr. Day
Memorial Day
Juneteenth
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Friday After Thanksgiving
Christmas Eve (observed)
Christmas Day (observed)

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday. Normal hours of operation shall be between 8:00 am and 4:00 pm, Monday through Friday, excluding City of Denton Holidays. Any scheduled deliveries or work performance not within the normal hours of operation **must be approved** by the City Manager of Denton, Texas or their authorized designee.

57. SURVIVABILITY OF OBLIGATIONS: All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract for fifteen (15) years.

58. NON-SUSPENSION OR DEBARMENT CERTIFICATION:

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

59. EQUAL OPPORTUNITY Contractor agrees that during the performance of its contract it will:

A. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.

B. Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Contractor shall be advised of any complaints filed with the City alleging that Contractor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Contractor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted.

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

60. BUY AMERICAN ACT-SUPPLIES (Applicable to certain federally funded requirements)

The following federally funded requirements are applicable. A. Definitions. As used in this paragraph –

i. "Component" means an article, material, or supply incorporated directly into an end product.

ii. "Cost of components" means -

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

iii. "Domestic end product" means-

(1) An unmanufactured end product mined or produced in the United States; or

(2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.

v. "Foreign end product" means an end product other than a domestic end product.

vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.

C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Contractor shall submit documentation with their offer demonstrating that the article is on an approved Governmental list.

D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".

61. RIGHT TO INFORMATION: The City of Denton reserves the right to use any and all information presented in any response to this Contract, whether amended or not, except as prohibited by law. Selection of rejection of the submittal does not affect this right.

62. LICENSE FEES OR TAXES: Provided the solicitation requires an awarded contractor or supplier to be licensed by the State of Texas, any and all fees and taxes are the responsibility of the respondent.

63. PREVAILING WAGE RATES: The Contractor shall comply with prevailing wage rates as defined by the United States Department of Labor Davis-Bacon Wage Determination at <http://www.dol.gov/whd/contracts/dbra.htm> and at the Wage Determinations website www.wdol.gov for Denton County, Texas (WD-2509).

64. COMPLIANCE WITH ALL STATE, FEDERAL, AND LOCAL LAWS: The Contractor or supplier shall comply with all State, federal, and local laws and requirements. The Contractor must comply with all applicable laws at all times, including, without limitation, the following: (i) §36.02 of the Texas Penal Code, which prohibits bribery; (ii) §36.09 of the Texas Penal Code, which prohibits the offering or conferring of benefits to public servants; and (iii) Chapter 552 of the Texas Government Code, which outlines policy for public information. The Contractor shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract.

65. FEDERAL, STATE, AND LOCAL REQUIREMENTS: Contractor shall demonstrate on-site compliance with the provisions of federal law dealing with issuance of Form W-2's to common law employees. Contractor is responsible for both federal and State unemployment insurance coverage and standard Workers' Compensation insurance coverage. Contractor shall ensure compliance with all federal and State tax laws and withholding requirements. The City of Denton shall not be liable to Contractor or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Contractor shall indemnify the City of Denton and shall pay all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

66. ATTORNEY'S FEES; LEGAL COSTS: Contractor and City agree that the City will not be required to pay Contractor's attorney's fees or legal costs under any circumstances, unless expressly required by law.

67. DRUG FREE WORKPLACE: The Contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

68. CONTRACTOR LIABILITY FOR DAMAGE TO GOVERNMENT PROPERTY: The Contractor shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Contractor and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Contractor shall notify the City of Denton Procurement Manager in writing of any such damage within one (1) calendar day.

69. FORCE MAJEURE: The City of Denton, any Customer, and the Contractor shall not be responsible for performance under the Contract should it be prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the City of Denton. In the event of an occurrence under this Section, the Contractor will be excused from any further performance or observance of the requirements so affected for as long as such circumstances prevail and the Contractor continues to use commercially reasonable efforts to recommence performance or observance whenever and to whatever extent possible without delay. The Contractor shall immediately notify the City of Denton Procurement Manager by telephone (to be confirmed in writing within five (5) calendar days of the inception of such occurrence) and describe at a reasonable level of detail the circumstances causing the non-performance or delay in performance.

70. NON-WAIVER OF RIGHTS: Failure of a Party to require performance by another Party under the Contract will not affect the right of such Party to require performance in the future. No delay, failure, or waiver of either Party's exercise or partial exercise of any right or remedy under the Contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. A waiver by a Party of any breach of any term of the Contract will not be construed as a waiver of any continuing or succeeding breach.

71. NO WAIVER OF SOVEREIGN IMMUNITY: The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by the City of Denton of any immunities from suit or from liability that the City of Denton may have by operation of law.

72. RECORDS RETENTION: The Contractor shall retain all financial records, supporting documents, statistical records, and any other records or books relating to the performances called for in the Contract. The Contractor shall retain all such records for a period of four (4) years after the expiration of the Contract, or until the CPA or State Auditor's Office is satisfied that all audit and litigation matters are resolved, whichever period is longer. The Contractor shall grant access

Contract 8751

to all books, records and documents pertinent to the Contract to the CPA, the State Auditor of Texas, and any federal governmental entity that has authority to review records due to federal funds being spent under the Contract. In the event the value of this Contract is One Million (\$1,000,000) Dollars or greater: (i) all contracting information related to this contract will be preserved for the duration of the Contract; (ii) the Contractor shall provide any contracting information in its possession promptly upon request by the City; and (iii) at the expiration of this Contract, the Contractor will either provide all contracting information in its possession to the City or preserve same as required by the record retention requirements of the State of Texas.

73. PROCUREMENT LAWS: The City will not agree to any terms or conditions that cause the City to violate any federal, State, or local procurement laws, including its own Charter or Procurement Policy and any such laws included in boilerplate terms, online terms or other terms provided by the Contractor are considered null and void.

74. AUTHORITY: Contractor represents and warrants to the other that (a) it has company authority to execute and perform this Contract; (b) executing this Contract does not constitute a material conflict with, breach, or default under any applicable law, its respective organizational documents, or any documents, agreements, contracts or instruments which are binding upon it; and (c) this Contract creates valid, legal, and binding obligation enforceable against it, subject to applicable insolvency and bankruptcy laws. Contractor recognizes and agrees that a violation of this provision constitutes a material breach under this Contract.

Exhibit D
Certificate of Interested Parties Electronic Filing

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that the City may not enter into this contract unless the Contractor submits a disclosure of interested parties (Form 1295) to the City at the time the Contractor submits the signed contract. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Contractor will be required to furnish a Certificate of Interest Parties before the Contract is awarded, in accordance with Government Code 2252.908.

The Contractor shall:

1. Log onto the State Ethics Commission Website at :
https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
2. Register utilizing the tutorial provided by the State
3. Print a copy of the completed Form 1295
4. Enter the Certificate Number on page 2 of this contract.
5. Complete and sign the Form 1295
6. Email the form to purchasing@cityofdenton.com with the contract number in the subject line.
(EX: Contract 1234 – Form 1295)

The City must acknowledge the receipt of the filed Form 1295 not later than the 30th day after Council award. Once a Form 1295 is acknowledged, it will be posted to the Texas Ethics Commission's website within seven business days.

CONFLICT OF INTEREST QUESTIONNAIRE -**FORM CIQ****For vendor or other person doing business with local governmental entity****This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a) and by City of Denton Ethics Code, Ordinance 18-757.

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 Name of vendor who has a business relationship with local governmental entity.

Trillium Pumps USA, Inc.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed._____
Name of Officer

Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐

Yes

☒

No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐

Yes

☒

No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐

Yes

☒

No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☒ I have no Conflict of Interest to disclose.**5** DocuSigned by:

Shelley Phibus

5/23/2025

Signature of Vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at [http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm](http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm). For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (A) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:
 - (2) the vendor:
 - (A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor;
 - (B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
 - (i) a contract between the local governmental entity and vendor has been executed; or
 - (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:
 - (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
 - (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
 - (3) has a family relationship with a local government officer of that local governmental entity.
- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:
 - (1) the date that the vendor:
 - (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
 - (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or
 - (2) the date the vendor becomes aware:
 - (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
 - (B) that the vendor has given one or more gifts described by Subsection (a); or
 - (C) of a family relationship with a local government officer.

City of Denton Ethics Code Ordinance Number 18-757

Definitions:

Relative: a family member related to a City Official within the third 3rd degree of affinity (marriage) or consanguinity (blood or adoption)

City Official: for purpose of this article, the term consists of the Council Members, Department Heads, or member of the Board of Ethics, Planning and zoning Commission Members, Board of Adjustment, Historic Landmark Commission, or Public Utilities Board

Vendor: a person who provides or seeks to provide goods, services, and/or real property to the City in exchange for compensation. This definition does not include those property owners from whom the City acquires public right-of-way or other real property interests for public use.

Per the City of Denton Ethics Code, Section 2-273. – Prohibitions

- (3) It shall be a violation of this Article for a Vendor to offer or give a Gift to City Official exceeding fifty dollars (\$50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars (\$200.00) per a single fiscal year.

Per the City of Denton Ethics Code, Section 2-282. – Disposition (b), (5) Ineligibility

If the Board of Ethics finds that a Vendor has violated this Article, the Board may recommend to the City Manager that the Vendor be deemed ineligible to enter into a City contract or other arrangement for goods, services, or real property, for a period of one (1) year.

Certificate Of Completion

Envelope Id: FE3DA4AE-BD3C-4860-8B2A-551710363A40

Status: Sent

Subject: Please DocuSign: City Council Contract 8751 WEMCO Pump Replacement

Source Envelope:

Document Pages: 60

Signatures: 4

Envelope Originator:

Certificate Pages: 6

Initials: 1

Gabby Leeper

AutoNav: Enabled

901B Texas Street

Envelopeld Stamping: Enabled

Denton, TX 76209

Time Zone: (UTC-06:00) Central Time (US & Canada)

Gabby.Leeper@cityofdenton.com

IP Address: 198.49.140.104

Record Tracking

Status: Original

Holder: Gabby Leeper

Location: DocuSign

5/23/2025 8:26:49 AM

Gabby.Leeper@cityofdenton.com

Signer Events

Signature

Timestamp

Gabby Leeper

Completed

Sent: 5/23/2025 8:33:40 AM

gabby.leeper@cityofdenton.com

Viewed: 5/23/2025 8:34:39 AM

Senior Buyer

Signed: 5/23/2025 8:35:00 AM

City of Denton

Using IP Address: 198.49.140.104

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Lori Hewell

Sent: 5/23/2025 8:35:03 AM

lori.hewell@cityofdenton.com

Viewed: 5/23/2025 9:59:19 AM

Purchasing Manager

Signed: 5/23/2025 10:00:14 AM

City of Denton

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style

Using IP Address: 47.184.122.38

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Marcella Lunn

DocuSigned by:
Marcella Lunn
4B070831B4AA438...

Sent: 5/23/2025 10:00:17 AM

marcella.lunn@cityofdenton.com

Viewed: 5/23/2025 11:06:49 AM

Senior Deputy City Attorney

Signed: 5/23/2025 11:09:06 AM

City of Denton

Security Level: Email, Account Authentication (None)

Signature Adoption: Pre-selected Style

Using IP Address: 166.198.250.44

Signed using mobile

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Shelley Phebus

DocuSigned by:
Shelley Phebus
40BF5E450BD9480...

Sent: 5/23/2025 11:09:13 AM

Shelley.Phebus@trilliumflow.com

Viewed: 5/23/2025 11:35:59 AM

Technical Sales Scheduler

Signed: 5/23/2025 2:40:33 PM

Security Level: Email, Account Authentication (None)

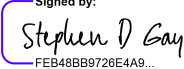
Signature Adoption: Pre-selected Style

Using IP Address: 34.213.225.135

Electronic Record and Signature Disclosure:

Accepted: 5/23/2025 11:35:59 AM

ID: 89f4507f-f675-4815-941f-9ef48226bdd3

Signer Events	Signature	Timestamp
Stephen D Gay Stephen.Gay@cityofdenton.com General Manager Water Utilities Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 5/23/2025 2:55:37 PM ID: 786ae4c2-4cd0-4109-b5e0-24be8ecc20d2	<div>Signed by:  FEB48BB9726E4A9...</div> Signature Adoption: Pre-selected Style Using IP Address: 172.56.3.119 Signed using mobile	Sent: 5/23/2025 2:40:39 PM Viewed: 5/23/2025 2:55:37 PM Signed: 5/23/2025 2:58:45 PM
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		Sent: 5/23/2025 2:58:50 PM
Sara Hensley sara.hensley@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Lauren Thoden lauren.thoden@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Cheyenne Defee cheyenne.defee@cityofdenton.com Procurement Administration Supervisor City of Denton Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div>COPIED</div>	Sent: 5/23/2025 8:35:02 AM
Gretna Jones gretna.jones@cityofdenton.com Legal Secretary City of Denton Security Level: Email, Account Authentication (None)	<div>COPIED</div>	Sent: 5/23/2025 2:58:50 PM

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via DocuSign City Secretary Office citysecretary@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign Rusty Willard rusty.willard@cityofdenton.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	5/23/2025 8:33:40 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Denton (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact City of Denton:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: purchasing@cityofdenton.com

To advise City of Denton of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at melissa.kraft@cityofdenton.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from City of Denton

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with City of Denton

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to purchasing@cityofdenton.com and in the body of such request you must state your e-mail, full name, US Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000? or WindowsXP?
Browsers (for SENDERS):	Internet Explorer 6.0? or above
Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	<ul style="list-style-type: none">•Allow per session cookies•Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify City of Denton as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by City of Denton during the course of my relationship with you.