

# **ATTACHMENT A**

**GENERAL SERVICES PROVIDER STANDARD AGREEMENT  
BY AND BETWEEN  
THE CITY OF VICTORVILLE  
AND  
ROMTEC UTILITIES, INC.  
FOR  
FURNISH AND DELIVER VICTORVILLE WELLNESS CENTER  
WASTEWATER LIFT STATION, PROJECT NO. ESC23-031**

THIS GENERAL SERVICES PROVIDER STANDARD AGREEMENT (hereinafter "Agreement"), is made and entered into by and between the City of Victorville, a municipal corporation located in the County of San Bernardino, State of California, hereinafter referred to as the "City", and Romtec Utilities, Inc., a State of Oregon corporation, hereinafter referred to as "Service Provider." City and Service Provider are sometimes hereinafter referred to individually as a "Party" and collectively referred to as the "Parties."

**RECITALS:**

**WHEREAS**, the City requires the manufacture a Wastewater Lift Station to be furnished and delivered in support of the Victorville Wellness Center; and

**WHEREAS**, such Lift Station are to be installed on the Project Site( the "Site") by an Independent General Contractor engaged by the City: and

**WHEREAS**, Service Provider is regularly engaged in the business of the off-site manufacture and fabrication of such Lift Stations, and by virtue of its experience is qualified to provide the manufactured Lift Stations required by the City; and

**WHEREAS**, in light of the facts set forth above, the City desires to retain the services of a qualified service provider to provide, on an independent contractor basis, the manufacture a Wastewater Lift Station to be furnished and delivered in support of the Victorville Wellness Center; and

**NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES HERETO AGREE AS FOLLOWS:**

**Section 1.                      RECITALS**

The Recitals set forth above are true and correct and are hereby incorporated into this Agreement by this reference, as though set forth fully herein.

**Section 2.                      SCOPE OF SERVICES**

Service Provider shall provide to the City those services set forth in the Scope of Services, attached hereto as Exhibit "A", and incorporated as part of this Agreement by this reference.

### **Section 3.                  COMPENSATION**

The City shall pay a total amount not to exceed **Two Hundred Ninety-two Thousand Two Hundred Seventy-seven and 88/100 DOLLARS (\$292,277.88)** for the services rendered by Service Provider pursuant to this Agreement, subject to the provisions of Section 4.

### **Section 4.                  FEE SCHEDULE**

The City shall pay Service Provider as provided in the Fee Schedule, attached hereto as **Exhibit “B”** and incorporated as part of this Agreement by this reference. The provisions of **Exhibit “B”** notwithstanding, in order to receive payments, Service Provider shall be required to submit to City monthly invoices detailing all services performed. Provided that services have been satisfactorily rendered, invoices shall be paid by the City approximately thirty (30) working days following receipt of Service Provider’s invoice.

### **Section 5.                  RESERVED**

### **Section 6.                  TERM OF AGREEMENT**

This Agreement shall be for an initial term of commencing on **the date of full execution of the Agreement** (the “Commencement Date”) and expiring on **twelve (12) weeks from the Commencement Date** (the “Termination Date”) (the “Term”), unless terminated earlier pursuant to Section 21 of this Agreement. From and after the Termination Date, and upon subsequent agreement by the Parties, this Agreement may continue on a month-to-month basis until terminated pursuant to Section 21 below.

### **Section 7.                  INDEPENDENT CONTRACTOR STATUS**

Service Provider shall at all times during the Initial Term of this Agreement, and (if applicable during any Option Periods), perform the services described in this Agreement as an independent contractor.

### **Section 8.                  REPRESENTATIONS AND ACKNOWLEDGMENTS REGARDING INDEPENDENT CONTRACTOR’S STATUS OF SERVICE PROVIDER**

- a. Service Provider represents and acknowledges the following:
  - (1) The City is not required to provide any training or legal counsel to Service Provider or its employees in order for Service Provider to perform the services described in this Agreement.
  - (2) Performance of the services described in this Agreement do not have to be integrated into the daily business operations of the City.
  - (3) The services described in this Agreement can be performed without the use of City equipment, materials, tools, or facilities, unless otherwise provided under a separate agreement.
  - (4) Nothing in this Agreement shall be interpreted to imply that the City must maintain any contractual relationship with Service Provider on a continuing basis after termination of this Agreement.

(5) The City will not be requested or demanded to assume any liability for the direct payment of any salary, wage, or other such compensation to any person employed by Service Provider to perform the services described in this Agreement.

(6) Service Provider shall not at any time or in any manner represent that it or any of its officers, employees, or agents are employees of the City.

b. The City represents and acknowledges the following:

(1) Service Provider is solely responsible for determining who, under the supervision or direction of Service Provider, will perform the services set forth in this Agreement.

(2) The City will not hire, supervise, or pay any employees or assistants working for Service Provider pursuant to this Agreement. Nothing contained in this Agreement shall prevent the City from hiring Service Provider's employees or assistants after termination of this Agreement.

(3) Nothing in this Agreement shall be interpreted to imply that Service Provider must maintain any contractual relationship with the City on a continuing basis after termination of this Agreement.

(4) It is the sole responsibility of Service Provider to set the hours in which Service Provider performs or plans to perform the services set forth in this Agreement.

(5) Service Provider is not required to devote full time to the business operations of the City in order to perform the services set forth in this Agreement.

(6) Unless deemed necessary under certain circumstances, Service Provider is not required to perform the services set forth in this Agreement at City Hall or on City-owned property.

(7) Nothing in this Agreement shall be interpreted to preclude Service Provider from working for other persons or firms, provided that such work does not create a conflict of interest.

## **Section 9. NOT AGENT OF THE CITY**

a. Nothing contained in this Agreement shall be deemed, construed, or represented by the City or Service Provider or by any third person to create the relationship of principal and agent.

b. Service Provider shall have no authority, express or implied, to act on behalf of the City in any capacity whatsoever as an agent, nor shall Service Provider have any authority, express or implied, to bind the City to any obligation whatsoever.

## **Section 10. LICENSES AND PERMITS**

Service Provider represents that it has obtained and will maintain at all times during the initial Term, and (if applicable, during any Option Periods) of this Agreement all business licenses, including but not limited to a City of Victorville business license, certifications, or permits necessary for performing the services described in this Agreement.

**Section 11.**                    **WARRANTY**

Service Provider agrees to perform all services required by this Agreement in a workmanlike competent and satisfactory manner in accordance with the standards prevalent in the industry for such services.

**Section 12.**                    **FAMILIARITY WITH WORK**

Should Service Provider discover any latent or unknown conditions materially differing from those inherent in the services or as represented by the City, Service Provider shall immediately inform the City of such fact and shall not provide any services, except at Service Provider's risk, until written instructions are received from **Brian Gengler, City Engineer**, or his designee.

**Section 13.**                    **CONFLICTS OF INTEREST**

Service Provider covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Service Provider's services under this Agreement. Service Provider further covenants that in the performance of services under this Agreement, no officer, employee or agent of Service Provider having such an interest shall be employed by it. In the event the City determines that Service Provider must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Service Provider shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk.

**Section 14.**                    **COMPLIANCE WITH LAWS**

Service Provider shall comply with all local, state, and federal laws and regulations applicable to the services to be rendered hereunder, including any rule, regulation, or bylaw governing the conduct or performance of Service Provider or its employees, officers, or board members.

**Section 15.**                    **COMMERCIAL GENERAL AND  
AUTOMOBILE LIABILITY INSURANCE**

a.        Service Provider shall procure and maintain at its own expense, during the initial Term of this Agreement, and (if applicable, during any Option Periods), commercial general liability insurance, of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in the aggregate, for bodily injury, personal injury, death, loss, or damage resulting from the wrongful or negligent acts by Service Provider or its officers, employees, servants, volunteers, and agents and independent contractors.

b.        Service Provider shall further procure and maintain, at its own expense, during the initial Term of this Agreement, and (if applicable, during any Option Periods) commercial vehicle liability insurance covering personal injury and property damage, of not less than One Million Dollars (\$1,000,000) combined single limit, covering any vehicle utilized by Service Provider or its officers, employees, servants, volunteers, agents and independent contractors in performing the services required by this Agreement.

**Section 16.**

**WORKERS' COMPENSATION INSURANCE**

a. Service Provider shall procure and maintain at its own expense, during the initial Term of this Agreement, and (if applicable, during any Option Periods), workers' compensation insurance, providing coverage as required by the California State Workers' Compensation Law.

b. If any class of employees employed by the Service Provider pursuant to this Agreement is not protected by the California State Workers' Compensation Law, Service Provider shall provide adequate insurance for the protection of such employees to the satisfaction of the City.

**Section 17.**

**RESERVED**

**Section 18.**

**ADDITIONAL INSURED**

Notwithstanding any inconsistent statement in any required insurance policies or any subsequent endorsements attached thereto, all insurance policies, except for the Workers' Compensation policy, shall be endorsed to name the City and its officers, employees, servants, volunteers, agents and independent contractors, including, without limitation, the City Attorney, as Additional Insureds.

**Section 19.**

**WAIVER OF SUBROGATION RIGHTS**

Service Provider shall require the carriers of all required insurance policies to waive all rights of subrogation against the City and its officers, employees, servants, volunteers, agents, and independent contractors and subcontractors. Each policy of insurance shall be endorsed to reflect such waiver.

**Section 20.**

**PROOF OF INSURANCE COVERAGE;  
REQUIRED ENDORSEMENTS**

a. Service Provider shall secure from a good and responsible company or companies authorized to transact insurance business in the State of California, the policies of insurance required by this Agreement and furnish to the City Clerk certificates of insurance evidencing the required coverage, and policy endorsements at least one (1) business day prior to the commencement of any services to be performed under this Agreement.

b. The policies and certificates of insurance shall be endorsed to provide that in the event of cancellation or amendment of any required insurance policy for any reason whatsoever, the City shall be notified by mail, postage prepaid, not less than thirty (30) days before the cancellation or amendment is effective. In the case of cancellation for non-payment, ten (10) days advance written notice shall be given.

c. Each policy and certificate of insurance shall be endorsed to provide that the policy shall not be terminated or expire without first providing thirty (30) days written notice to the City of such termination or expiration.

d. Each policy and certificate of insurance shall be endorsed to provide that the policy will be maintained throughout the Initial Term, and (if applicable during any Option Periods) of this Agreement.

e. The commercial general liability and vehicle liability policies shall be endorsed to contain the following provision: "For any claims related to this Agreement, Service Provider's coverage shall be primary with respect to the City. Any insurance maintained by the City shall be in excess of Service Provider's insurance and shall not contribute with it."

#### **Section 21.                    TERMINATION OR SUSPENSION**

a. This Agreement may be terminated or suspended without cause by either Party at any time, provided that the Party initiating the termination provides the other Party at least thirty (30) days advance written notice of such termination or suspension. In the event of such termination, the City shall only be liable for payment under the payment provisions of this Agreement for satisfactory services rendered or supplies actually furnished prior to the effective date of termination.

b. This Agreement may be terminated or suspended with cause by either Party at any time, provided that the Party initiating termination provides the other Party at least ten (10) days advance written notice of such termination or suspension. In the event of such termination, the City shall only be liable for payment under the payment provisions of this Agreement for satisfactory services rendered or supplies actually furnished prior to the effective date of termination.

#### **Section 22.                    TIME OF THE ESSENCE**

Time is of the essence in the performance of this Agreement.

#### **Section 23.                    INDEMNIFICATION**

a. Service Provider shall defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents, from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and attorneys fees, for any personal injuries, deaths, or property damage (including property owned by the City), which may arise out of Service Provider's negligence or willful misconduct in the performance of the services described in this Agreement, unless such losses or damages are proven to be caused by the City's own negligence or willful misconduct, or that of its officers or employees.

b. The City does not and shall not waive any rights that it may have against Service Provider under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

#### **Section 24.                    REPORTS**

Upon request by **Brian Gengler, City Engineer**, or his designee, Service Provider shall prepare and submit reports to the City concerning Service Provider's performance of the services required by this Agreement.

## **Section 25.**                      **RECORDS**

- a. Service Provider shall keep such books and records as shall be necessary to perform the services required by this Agreement and enable **Brian Gengler, City Engineer**, or his designee, to evaluate the cost and the performance of such services.
- b. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles.
- c. **Brian Gengler, City Engineer**, or his designee, shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.
- d. Records and supporting documents pertaining to the use of funds paid to Service Provider hereunder shall be retained by Service Provider and made available to **Brian Gengler, City Engineer**, or his designee, for purposes of performing an audit for a period of five (5) years from the date of termination of this Agreement.

## **Section 26.**                      **RESERVED**

## **Section 27.**                      **CONFIDENTIALITY**

- a. Any and all documents and information obtained from the City or prepared by Service Provider for the City shall be kept strictly confidential unless otherwise provided by applicable law. All City data, documents and information shall be returned to City upon termination of the Agreement.
- b. Any drawings, specifications, reports, records, documents, or other materials prepared by Service Provider in the performance of services under this Agreement shall not be released publicly without the prior written approval of **Brian Gengler, City Engineer**, or his designee, or as required by applicable law.
- c. Service Provider shall not disclose to any other entity or person any information regarding the activities of the City, except with the prior written approval of **Brian Gengler, City Engineer**, or his designee, or as required by applicable law.

## **Section 28.**                      **PRINCIPAL REPRESENTATIVES**

- a. **Dayna Lewis, Corporate Controller**, is designated as the principal representative of Service Provider for purposes of communicating with the City on any matter associated with the performance of the services set forth in this Agreement.
- b. **Brian Gengler, City Engineer**, or his designee, shall be the principal representative(s) of the City for purposes of communicating with Service Provider on any matter associated with the performance of the services set forth in this Agreement.
- c. Either Party may designate another individual as its principal representative by giving written notice of such designation to the other Party.



**Section 29.**

**MODIFICATIONS AND AMENDMENTS**

This Agreement may be modified or amended only by a written instrument signed by both Parties.

**Section 30.**

**ENTIRE AGREEMENT**

a. This Agreement supersedes any and all prior or contemporaneous agreements, either oral or written, between the City and Service Provider with respect to the subject matter of this Agreement.

b. This Agreement contains all of the covenants and agreements between the Parties with respect to the subject matter of this Agreement, and each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any Party, except those covenants and agreements in this Agreement.

c. No agreement, statement, or promise with respect to the subject matter of this Agreement, which is not contained in this Agreement, or in a valid modification or amendment to this Agreement, shall be valid or binding on either Party.

**Section 31.**

**AMBIGUITIES**

This Agreement is in all respects intended by each Party hereto to be deemed and construed to have been jointly prepared by the Parties and the Parties hereby expressly agree that any uncertainty or ambiguity existing herein shall not be interpreted against either of them. Except as expressly limited by this paragraph, all of the applicable rules of interpretation of contract shall govern the interpretation of any uncertainty or ambiguity of this Agreement.

Notwithstanding the foregoing, the Parties agree that **Exhibits “A” and “B”** are attached hereto for reference purposes and to the extent there are any ambiguities, inconsistencies or conflicts between the terms of this General Services Provider Standard Agreement and **Exhibits “A” and “B”** the terms of this General Services Provider Standard Agreement shall control and nothing set forth in **Exhibits “A” and “B”** shall be deemed to supersede any of the provisions of this General Services Provider Standard Agreement.

**Section 32.**

**NOTICES**

a. Any notice to be provided pursuant to this Agreement shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the Parties as follows:

To the City:

**Brian Gengler, City Engineer  
Engineering Department  
City of Victorville  
14343 Civic Drive  
Victorville, CA 92392**

To Provider:

**Dayna Lewis, Corporate Controller  
Romtec Utilities, Inc.  
18240 North Bank Rd.  
Roseburg, OR 97470**

b. Notices, payments, and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.

**Section 33. NON-LIABILITY OF CITY OFFICERS  
AND EMPLOYEES**

No officer or employee of the City shall be personally liable to Service Provider, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to Service Provider or to its successor(s), or for any breach of any obligation of the terms of this Agreement.

**Section 34. REVIEW BY ATTORNEYS**

Each Party hereto has had its attorney(s) review this Agreement and all related documents. Each Party hereto has consulted with its attorney(s) and has negotiated the terms of this Agreement based on such consultation.

**Section 35. WAIVER**

a. No waiver shall be binding unless executed in writing by the Party making the waiver.

b. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision.

c. Failure of either Party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of such provision or any of the remaining provisions of this Agreement.

**Section 36. ASSIGNMENT**

This Agreement shall not be assigned by either Party without prior written consent of the other Party.

**Section 37. CARE OF WORK**

The performance of services by Service Provider or the payment of money by the City shall not relieve Service Provider from any obligation to correct any incomplete, inaccurate, or defective work at no further cost to the City, when such incomplete, inaccurate or defective work is due to the negligence of Service Provider.

**Section 38.**                    **CAPTIONS AND HEADINGS**

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

**Section 39.**                    **SUCCESSORS, HEIRS, AND ASSIGNS**

Except as otherwise expressly provided herein, this Agreement shall be binding upon the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties to this Agreement and, likewise, shall inure to the benefit of the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties.

**Section 40.**                    **GENDER**

In this Agreement, unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall include one another.

**Section 41.**                    **SEVERABILITY**

If any one or more of the sentences, clauses, paragraphs, or sections contained herein is declared invalid, void, or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair, or invalidate any of the remaining sentences, clauses, paragraphs, or sections contained herein.

**Section 42.**                    **GOVERNING LAW**

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the Parties under this Agreement, shall be construed pursuant to and in accordance with California law.

**Section 43.**                    **DEFAULT**

a.        Failure or delay by any Party to this Agreement to perform any material term or provision of this Agreement shall constitute a default under this Agreement; provided however, that if the Party who is otherwise claimed to be in default by the other Party commences to cure, correct, or remedy the alleged default within fifteen (15) days after receipt of written notice specifying such default and shall diligently complete such cure, correction, or remedy, such Party shall not be deemed to be in default hereunder.

b.        The Party claiming that a default has occurred shall give written notice of default to the Party in default, specifying the alleged default. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default; provided, however, the injured Party shall have no right to exercise any remedy for a default hereunder without delivering the written default notice, as specified herein.

c.        Any failure or delay by a Party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any rights or remedies associated with a default.

d. In the event that a default by any Party to this Agreement may remain uncured for more than fifteen (15) days following written notice, as provided above, the injured Party shall be entitled to seek any appropriate remedy or damages by initiating legal proceedings.

**Section 44.**                    **CUMULATIVE REMEDIES**

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default of any other default by the other Party.

**Section 45.**                    **VENUE**

All proceedings involving disputes over the terms, provisions, covenants, or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable court or forum in San Bernardino County, California.

**Section 46.**                    **ATTORNEYS' FEES**

In the event any action, suit, or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement, or as a result of any alleged breach of any provision of this Agreement, the prevailing Party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorneys' fees, from the losing Party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

**Section 47.**                    **EFFECTIVENESS OF AGREEMENT**

This Agreement shall not be binding upon the City, until signed by the authorized representative(s) of Service Provider, approved by the City's Risk Manager, and executed by the authorized City personnel or Mayor.

**Section 48.**                    **REPRESENTATIONS OF PARTIES AND  
PERSONS EXECUTING AGREEMENT**

a. Each of the Parties to this Agreement hereby represents that all necessary and appropriate actions of their governing bodies have been taken to make this Agreement a binding obligation of each of the Parties hereto.

b. The persons executing this Agreement warrant that they are duly authorized to execute this Agreement on behalf of and bind the Parties each purports to represent.

**Section 49.**                    **COUNTERPARTS**

This Agreement may be executed by the Parties in counterparts, and when executed by each of the Parties, each counterpart shall be deemed to be a part of this Agreement.

(END OF THIS PAGE)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the dates written below.

THE CITY OF VICTORVILLE

ROMTEC UTILITIES, INC.

By: \_\_\_\_\_  
**Debra Jones,**  
**Mayor**

By: \_\_\_\_\_  
**Dayna Lewis,**  
**Corporate Controller**

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

ATTEST

By: \_\_\_\_\_  
**Jennifer Thompson,**  
**City Clerk**

Dated: \_\_\_\_\_

THE CITY OF VICTORVILLE

APPROVED AS TO STANDARD FORM:

By: \_\_\_\_\_  
**Lee Brown,**  
**Risk Manager**

By: \_\_\_\_\_  
**Andre de Bortnowsky,**  
**City Attorney**

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

## **EXHIBIT A**

### **SCOPE OF SERVICES**

***See Attachment***



## **Preliminary Scope of Products and Services – Lift Station**

Project: Victorville Wellness Center Wastewater  
Lift Station

Customer: City of Victorville

Location: Victorville, California

Date: July 29, 2022

## Part 1: Overview

### 1.1 Project Overview

Romtec Utilities is a design, engineering, and manufacturing firm that specializes in site-specific package pumping systems. For this project, Romtec Utilities is proposing to design and supply a complete packaged wastewater lift station for the Victorville Wellness Center project. Romtec Utilities based this preliminary scope of work on information, design criteria, and plans provided by KWC Engineers and the City of Victorville as of 7/18/2022.

This is a complete, packaged wastewater lift station intended to serve Victorville Wellness Center for the purpose of pumping wastewater to the existing gravity system. This is a publicly funded project with the intent of the lift station to be owned and maintained by the City of Victorville. Romtec Utilities shall be solely responsible for the design, supply, performance, and warranty of all package pump station components provided by Romtec Utilities.

### 1.2 Operational Overview

Romtec Utilities has based the preliminary design of the Victorville Wellness Center wastewater lift station on a standard alternating duplex configuration with a pressure transducer as the primary level sensing device, and two (2) floats as backup/alarm level sensors. In this configuration, the pumps will alternate operation after every pumping cycle to allow for approximately equal wear on the pumps.

The pump cycles are based on 10 station starts per hour (5 starts per pump per hour). This is based on the peak pumping rate of 150 GPM.

All primary level settings and alarms are designed to be below the lift station invert-in elevation.

### 1.3 Key Notes

The preliminary design is intended match as closely as possible the given design criteria and standards. However, please note the following important clarifications regarding the proposed design.

- **Project Schedule** – From recent conversations with the City of Victorville, Romtec Utilities understands that the current goal is to complete construction by the end of 2022. This is a short turnaround time based on current component lead times and market volatility. As such, Romtec Utilities proposes the following schedule in order to do our best to meet the goal of lift station installation complete by the end of 2022.

**1.) Approval of 30% Design and receipt of signed Romtec Utilities Proposal no later than 08/05/22.**

***Note: Romtec Utilities understands that it may take more time to work through the contractual aspects of the Proposal, as such we will continue with designs in good faith if for some reason the Romtec Utilities Proposal is not able to be returned by 08/05/22. Approval of the 30% Design is the priority to keep things moving forward.***

**2.) If the 30% Design is approved by 08/05/22, Romtec Utilities will provide the 90% Scope of Supply and Design Submittal by 08/19/22.**

**3.) Romtec Utilities will then need to be released for production by 08/31/22**

***Special Note: Component availability and lead times are highly unpredictable in the current market. While Romtec Utilities will do everything in our power to help meet the goal of lift station installation completion by the end of 2022, we cannot guarantee this will be the case. The above proposed milestones give us the best chance of meeting this goal. Romtec Utilities will have a better idea of actual lead times once we are released for production.***

- **Discharge Piping** – Due to the availability and lead times on ductile iron piping and in order to meet the goal for construction by the end of 2022, Romtec Utilities is proposing fusion bonded epoxy coated (FBEC) steel discharge piping in the preliminary design rather than the previously proposed ductile iron
- **Hatches** – Romtec has included H-20 Occasional traffic rated hatches for the preliminary design of the wet well and valve vault. In previous proposals Romtec Utilities included H-20 Full traffic rated hatches in the preliminary design as the lift station location at that time was in a road. As that is no longer the lift station location, H-20 Occasional traffic rated hatches have now been included in the preliminary system design.
- **Pumps** – Romtec Utilities has included the use of submersible chopper pumps in the preliminary design of the system.



- **Alarm Notification in Power Outages** – Romtec Utilities has included a Pumpwatch autodialer in the preliminary system design. The Pumpwatch autodialer is designed to allow for remote alarm notification during power outages. As such, Romtec Utilities has not included an uninterruptable power supply (UPS) for remote alarm notification in the preliminary system design.
- **Supply Power** – Romtec Utilities has based the preliminary design on the use of 480V/three-phase supply power. Any changes to the supply power will change the system design and may result in a price increase.
- **Control Panel Location** – The lift station control panel location needs to be established before Romtec Utilities can confirm that the pump cables and level sensor cables are long enough to reach the designated location. For this preliminary design, Romtec Utilities has assumed the control panel will be located within range of the 100' submersible chopper pump cables or 75' of the alternate submersible pump cables included in the proposal. If the control panel is located further away than the available pump and/or level sensor cables, a junction box will be required.

*Note: This Preliminary Scope Letter will be superseded by the Scope of Supply and Design Submittal when Romtec Utilities is directed to proceed with its complete submittal package (upon receipt of a signed Purchase Order).*

## Part 2: Services

### 2.1 Plans and Submittals

#### A. Plans

Structural, mechanical, and electrical pump station plans designed as a complete packaged system

- i Structural and Mechanical
  - Wet well, valve vault, hatches.
  - Wet well uplift calculations.
  - pumps, valves, connections, mounting hardware, internal piping.
- ii Electrical
  - Electrical Equipment including control panel, level sensing.
- iii Site Layout
  - Romtec Utilities will provide a proposed equipment layout on the engineers site plan in CAD for inclusion in the engineer's plan set for review and approval by the owner.

#### B. Submittals

Submittals will be provided in Romtec Utilities' standard electronic format, and Romtec Utilities has included up to four (4) design revisions. Submittals include plans, component data sheets, and supplemental information.

*Note: Romtec Utilities will provide a recommended spare parts list at the time of final design approval.*

#### C. O&M Manual

Romtec Utilities will provide the Operation & Maintenance manual and for-construction drawings after the final design is approved. O&M manual will include all submittal documentation along with parts lists, maintenance manuals, and electrical schematics.

*Note: O&M manuals are final and not available for review/comment except at Romtec Utilities' discretion.*

### 2.2 Prefabrication

- A. Romtec Utilities will fully prefabricate/preassemble the pump station to the extent possible for shipping.
- B. For more info about prefabrication, please click [here](#) for structures and [here](#) for valve assemblies.

### 2.3 Delivery

- A. The pump station will be delivered on standard flat-bed trucks to be offloaded by the customer or contractor.
- B. Please click [here](#) for more info about delivery.

### 2.4 Install Advisor

- A. An Installation Advisor will be present onsite for one (1) day at the time of underground installation to oversee the delivery of components and provide advisory services for installation of the wet well.

- B. The Installation Advisor will complete an [Install Report](#) to confirm basic install info.
- C. Please click [here](#) for more info about the install advisor.

## 2.5 Start-up/Testing and Owner Training

- A. System start-up is performed by the installing contractor under the supervision of the Romtec Utilities Start-up Technician.
- B. The Start-up Technician will provide two (2) days of on-site field service.
- C. During start-up, Romtec Utilities will prove the performance of the system based on the final approved Submittal(s) and will provide training to the owner's designated personnel.
- D. The Start-up Technician will complete a [Field Start-up Report](#) with a copy for the customer and/or owner.
- E. Please click [here](#) for more info about start-up services.

## 2.6 Control Configuration and Programming

- A. This system includes a Romtec Utilities Tier 1B system control, which includes a proprietary Romtec PC3000XC as the pump control unit. This control system will be configured by Romtec Utilities and does not require or allow for any custom software or programming. This control system will accommodate primary and secondary level sensors and a variety of potential signal outputs to an optional cellular autodialer. Adjustment of the system operation can be performed via the interface on the PC3000XC unit at the control panel.
- B. See Part 3 below for more control system product details.

## 2.7 Electrical Support and Consulting

- A. Romtec Utilities provides support for the installing electrician over the phone prior to and during installation.

## 2.8 Warranty

- A. Please click [here](#) to review the Romtec Utilities warranty terms online.

# Part 3: Equipment Supply

## 3.1 Estimated Pick Weights

- A. Wet Well Base – 18,000 lbs.
- B. Valve Vault base – 7,500 lbs.
- C. Wet Well barrels – 10,000 lbs.
- D. Wet Well Top Slab – 5,500 lbs.
- E. Valve Vault Top Slab – 3,000 lbs.

## 3.2 Precast Concrete Wet Well and Mechanical Equipment

- A. Precast 6' diameter wet well and top slab with access hatch, mushroom cap side vent, and protective coating for concrete exterior
- B. H-20 occasional traffic rated.
- C. All barrels will include alignment brackets and joint sealant, and all pre-drilled cores/penetrations will include pipe boots.
- D. Drop bowl for influent deflection
- E. Carbon vent filter for odor control
- F. 4" ductile iron discharge piping in the wet well
- G. The wet well depth will be 16.73' from the rim to the floor.

## 3.3 Precast Concrete Valve Vault Assembly

- A. Valve vault is roughly 4' x 6.5' x 6' and includes access hatch, safety grate, and top slab.
- B. H-20 occasional traffic rated.
- C. Pipe supports and stands; plug valves; check valves; couplings, elbows, and tees; pressure gauges; diaphragm seals.
- D. Floor drain and piping with drainback valve for connection back to wet well
- E. Ladder
- F. 4" ductile iron in the valve vault.

### 3.4 Submersible Chopper Pumps

- A. Two (2) Vaughn SE3L, 5 HP explosion proof, submersible chopper pumps with 4" by 4" cast iron discharge elbows, guide rails, brackets, and lifting slings
- B. The pumps have been quoted with 100' cables

### 3.5 Submersible Pumps (Alternate)

- C. Two (2) Ebara DVBFU63.7, 5 HP explosion proof, submersible pumps with 4" by 4" cast iron discharge elbows, guide rails, brackets, and lifting slings
- D. The pumps have been quoted with 75' cables

### 3.6 Level Sensors

- A. Primary: Pressure transducer
- B. Secondary: Two (2) floats

### 3.7 Lift Station Control Panel

- A. UL listed for the USA
- B. NEMA 4 painted steel enclosure with an interior "dead" front panel with Hand-off-auto (H.O.A.) switches, color HMI, alarm beacon and audible alarm.
- C. Primary pump control: Romtec PC3000XC configured for duplex operation.
- D. Generator receptacle
- E. Manual transfer switch
- F. The control panel and pump station are configured for 480V/three-phase supply power.

### 3.8 Communications

- A. Cellular autodialer for remote alarm notification.
- B. The autodialer will be integrated into the control panel.
- C. Final configuration of the autodialer is by the owner.
- D. A Verizon 4G LTE service agreement is required to use the autodialer. This agreement is not included in the Romtec Utilities proposal. Cellular service provider agreement is by the owner.
- E. Romtec Utilities is not responsible for ensuring cellular service at the project site. Any required cellular service site surveys, external antennas, antenna cables, and/or antenna mounting are by others.

## Part 4: Exceptions/Exclusions

### 4.1 Romtec Utilities General Exception/Exclusions

Any items not explicitly included in Romtec Utilities scope should be considered excluded unless and until clarification is provided.

#### Services Exceptions/Exclusions

- A. Romtec Utilities is not responsible for determining the methods and equipment used in site preparation or installation.
- B. Final field trimming of piping, guide rails, and similar items is by the installer.
- C. If applicable, final placement of supplied floor drains, piping, and drainback valves is by the installer.
- D. Coring for conduits, and final mounting of electrical items are by the installer.
- E. Romtec Utilities is not responsible for any required permits, local code compliance, or any related documentation or requirements unless otherwise noted in the preliminary scope letter or the Romtec Utilities Scope of Supply and Design Submittal.
- F. Romtec Utilities does not guarantee the performance of any aspect of the overall system that is not supplied by Romtec Utilities.
- G. Romtec Utilities makes no representation as to how long it will take to prepare the site, install the system, connect the system to other equipment not supplied by Romtec Utilities, or to start-up and complete the system.
- H. If a geotechnical report is not provided for the lift station location, then Romtec Utilities makes no guarantees of the lift station structural design.
- I. Romtec Utilities is not a subcontractor and does not perform any installation or construction tasks at the project site. Any Romtec Utilities staff at the project site are there strictly to observe and advise.
- J. Unless notified by the customer, Romtec Utilities sources materials made around the world. "Buy America" requirements must be communicated to Romtec Utilities prior to signing a purchase order or a change order will be

issued.

- K. Romtec Utilities is not responsible for onsite structural or leak testing.
- L. Romtec Utilities is not responsible for providing site drainage plans (above or below grade). Adequate drainage is required for performance and stability of underground structures, especially in areas of high ground water. Inadequate site drainage may result in issues not covered by the Romtec Utilities warranty.
- M. Romtec Utilities is not responsible for ensuring communication signal/service at the project site. Any required comms/signal site surveys, supplemental antennas, antenna cables, and/or antenna mounting are by others.
- N. Romtec Utilities is not responsible for integrating any SCADA equipment with the owner's existing system.
- O. All steel fabrication work is performed by qualified fabricators in conformance with engineered drawings. Romtec Utilities does not offer third party certification or inspection of steel fabrication work.
- P. To ensure timely delivery of the pump system amid ongoing and industry-wide disruptions to shipping, parts/materials availability, and lead times, Romtec Utilities reserves the right make equivalent or better substitutions at any time for any components that are not specifically required to match an exact brand/model.

*Note: Romtec Utilities keeps only limited quantities of parts on hand and does not keep all recommended spare part in stock. Because of the ongoing industry-wide disruptions to shipping and extended lead times, Romtec Utilities encourages owners to stock all recommended spare parts.*

#### **Equipment Exceptions/Exclusions**

- A. Conduits and site wiring (including site convenience outlets and extension plugs) are by the installer.
- B. If required, supply and installation of thrust blocks around supplied retainer glands is by the installer.
- C. If required, all cast-in-place concrete is by the installer (e.g., generator slab, odor control slab, control panel mounting slab, etc.).
- D. Actual concrete dimensions will be within +/- 0.5" of the approved production drawing for major dimensions (height, length, width, core locations, wall thickness, etc.). Romtec Utilities is not responsible for any costs associated with field adjustments or engineered plan revisions based on slight changes to concrete dimensions in the field.
- E. All access hatches require 50lbs or less of force to open per OSHA requirements unless the hatch is labeled as "two-person lift".
- F. If required, generator metal heat exhaust shroud, exhaust piping, and any required supplemental tank vent piping is by the installer.
- G. Romtec Utilities is not responsible for any of the following:
  - 1. Installation of supplied goods.
  - 2. Unloading delivery vehicles and securing/protecting delivered goods.
  - 3. Any fasteners not included with the pre-assembled systems.
  - 4. Generator fuel of any kind.
  - 5. Traffic control, site safety, dunnage, fencing, signage, bollards, excavation, shoring, dewatering, sub-base rock, backfill material, crushed rock, asphalt paving
  - 6. Piping to and from pump station.
  - 7. Site electrical service/meter equipment.

**EXHIBIT A**

**FEE SCHEDULE**

***See Attachment***



18240 North Bank Rd.  
Roseburg, OR 97470  
P: 541-496-9678

Date

8/2/2022

**PROPOSAL****Victorville Wellness Center Wastewater Lift Station**

Customer: City of Victorville  
Stephan Longoria

Quantity	Description	Price
1	The Design, Supply, and Services for the Victorville Wellness Center Wastewater Lift Station per the 07/29/22 Romtec Utilities Preliminary Scope of Products and Services.	\$ 256,503.80

Freight to: Victorville, CA

**Note: Cost of freight will be set for 30 days from the date of any firm freight quote.**

<b>SUBTOTAL</b>	<b>\$</b>	<b>256,503.80</b>
<b>ESTIMATED FREIGHT</b>	<b>\$</b>	<b>13,330.00</b>
<b>ROMTEC UTILITIES QUOTE TOTAL</b>	<b>\$</b>	<b>269,833.80</b>
<b>ESTIMATED TAX BASED ON RATE OF:</b>	<b>8.75% \$</b>	<b>22,444.08</b>

**\*Due to recent market volatility and inflation rates, the proposal pricing is valid for two (2) weeks from the proposal date. If the Customer has not returned a signed purchase order within two (2) weeks of the proposal date, Romtec Utilities reserves the right to update the price to reflect cost changes.**

**\*This pricing is based on the understanding that Romtec Utilities will be released for production within ninety (90) days. If, for any reason, Romtec Utilities has not received Submittal Approval and Notice to Proceed on Production within ninety (90) days from the proposal date, Romtec Utilities reserves the right to update the purchase order price to reflect inflationary cost changes.**

**\*This proposal includes estimated sales or use tax based on the information available at the time of quoting. All sales are assumed subject to sales and use tax unless the customer provides Romtec Utilities with a resale certificate or proof of exemption. The applicable sales tax is subject to change on final invoice.**

**\*Romtec Utilities requires the customer submit the completed Credit Application and Project Information forms in order to determine bonding requirements (if applicable), and before any order-specific payment terms can be finalized.**

**\*Signing this purchase order authorizes Romtec Utilities to begin work on the Romtec Utilities Scope of Supply and Design Submittal document (SSDS), which the customer will review prior to providing design approval and notice to proceed on production. Only after Romtec Utilities receives design approval and formal notice to proceed on production will the physical production of the system commence. Other terms and conditions, such as a deposit payment, may apply prior to commencing production.**

**By signing this purchase order, the customer accepts and agrees to the pricing and the attached terms and conditions. Romtec Utilities reserves the right to update the pricing at any time if any of the terms and conditions are modified or amended for any reason.**

Customer/Owner Authorized Signature

Date

Romtec Utilities Authorized Sign:

Date

Customer/Owner Printed Name

Romtec Utilities Printed Name

Customer/Owner Company



## Design and Supply Terms and Conditions

Romtec Utilities, Inc. (ROMTEC UTILITIES), will provide the products listed on the Purchase Order in accordance with the following terms and conditions:

### **STANDARD PAYMENT TERMS**

In addition to these standard terms, Romtec Utilities, Inc. (herein referred to as "Romtec Utilities") offers to the Customer (the entity signing for and agreeing to this purchase order, herein referred to as "Customer") additional order-specific payment terms upon approved credit application and/or Customer payment bond. Payments may be by check or wire transfer, Visa, MasterCard, Discover, or American Express (a separate fee will be charged for payments exceeding \$20,000 made by credit card and for all COD orders). Romtec Utilities may agree, at its sole option, to accept COD payment by bank certified funds or cashier's check, provided the shipping vendor is selected by Romtec Utilities.

Unless otherwise stated in the order-specific payment terms, Romtec Utilities requires a deposit payment (to be defined in the order-specific payment terms) at or before the customer provides formal Notice to Proceed on Production (after design approval).

If Romtec Utilities is required to supply a performance and payment bond, Romtec Utilities charges 2.75% of the total contract value as the bonding rate. Unless otherwise stated in the Romtec Utilities price quote, this amount is not included in any pricing shown on the quote and may be applicable at the time of invoice.

### **Credit Terms**

Prior to finalizing any order-specific payment terms, the Customer shall provide a completed credit application (subject to approval) and/or evidence of a payment bond securing Customer's obligation to pay the balance of the purchase price in full. All credit terms are conditional and may be modified subsequently if, in the opinion of Romtec Utilities, new information or conditions warrant such modification\*.

\* Should Romtec Utilities choose not to approve credit terms or if terms must be subsequently modified, an alternative payment plan will be offered to the Customer.

### **Deviation From Payment**

Time is of the essence with respect to Customer's payment of the purchase price, and timely payment shall not be delayed or excused for any reason. Any payment agreement between Customer and other parties, or failure by other parties to pay Customer or perform any agreement with Customer shall not result in delay of any payment or deviation in any way from the agreed payment terms. Romtec Utilities does not accept partial payments, any offsets, and/or retainage against the Purchase Order price. Should Customer deviate from the agreed payment terms for any reason, the terms granted may be revoked by Romtec Utilities, and any remaining goods or services as yet undelivered may be subject to pre-payment terms whereby payment in full for deliverable goods is due ten (10) days prior to delivery. Any amounts not paid when due shall bear interest at the rate of 15 percent per annum or the highest lawful rate applicable, beginning from the date payment was originally due per the agreed payment terms. For Customer accounts that are 15 days or more overdue, Romtec Utilities withholds all warranty-related services until the Customer's account is fully paid and in good standing. Withholding of warranty service from overdue Customer accounts does not extend or otherwise affect the warranty period.

### **Delay of Project**

If for any reason Romtec Utilities is delayed or unable to finish producing deliverable goods per the purchase order for any amount of time beyond one (1) year from the date of the fully executed purchase order, Customer agrees to accept invoicing for and pay in full for all of Romtec Utilities' completed design work, related administrative expenses, and any customer authorized purchase of materials, regardless of the agreed payment terms or any subsequent modification.

Romtec Utilities reserves the right to update pricing after one (1) year has passed from the date of the fully executed purchase order, and Customer agrees to accept any related cost increases.

At its sole option, Romtec Utilities may terminate the agreement if satisfactory progress toward completion of the agreement is not made within one (1) year of the date of the fully executed purchase order. If Romtec Utilities elects to terminate the agreement, Customer agrees to accept invoicing for and pay in full for all of Romtec Utilities' completed design work, related administrative expenses, and any customer authorized purchase of materials, regardless of the agreed payment terms or any subsequent modification.

### **Delay of Deliverable Goods**

If any shipment of deliverable goods is delayed for any reason after the goods become deliverable, Customer agrees to accept invoicing for deliverable goods from Romtec Utilities and to pay in accordance with the agreed payment terms. Goods are considered deliverable from the date Romtec Utilities is ready to transfer the goods to a shipping carrier.

For Customer requested shipping delays, Customer agrees to pay Romtec Utilities prior to shipping for any incurred costs, plus storage fees for any goods stored by Romtec Utilities for any period of more than seven (7) days after the goods were originally ready to deliver.

**Change Orders**

Upon receipt of a signed purchase order from the Customer, Romtec Utilities begins producing the Scope of Supply and Design Submittal document (SSDS). Once the initial SSDS is complete, the customer (and any other relevant reviewing authority(ies)) will review the SSDS and provide any comments. Any of these comments that result in modifications to the design described in the SSDS may result in a price adjustment in the form of a written change order to be signed by the Customer. This is part of the standard design submittal and revision process.

After the customer provides formal Submittal Approval and/or Notice to Proceed on Production by signing the appropriate form (generally included in the SSDS), but prior to Romtec Utilities' completed manufacturing of any deliverable goods, any new comments or changes that result in modification to the Scope of Supply and Design Submittal will result in updated purchase order pricing, in the form of a written change order to be signed by the Customer. Payment terms for the change order will be determined at the time of the change order and will depend on the type of change order and its timing relative to the project's status and production progress.

After Romtec Utilities has produced any deliverable goods related to the Purchase Order or any related Change Orders, any new changes may require prepayment in advance of delivery, or payment by credit card if amounts are nominal (\$20,000 and under), or may require a separate purchase order.

**Cancellation**

Customer may only cancel the Purchase Order with the authorized signer of the ROMTEC UTILITIES Purchase Order. Should the Customer cancel this order prior to obtaining approval of the ROMTEC UTILITIES Scope of Supply & Design Submittal, the Customer agrees to pay ROMTEC UTILITIES 40% of the value of the Purchase Order. Should the Customer cancel this order after granting approval of the ROMTEC UTILITIES Scope of Supply & Design Submittal but prior to granting Notice to Proceed on Production, the Customer agrees to pay ROMTEC UTILITIES 60% of the value of the Purchase Order. Upon receiving approvals of the ROMTEC UTILITIES Scope of Supply & Design Submittal with Notice to Proceed on Production, ROMTEC UTILITIES will produce its products (and the Customer may not cancel the order) in conformance with this approved document. ROMTEC UTILITIES does not accept returns or exchanges.

**Collection Costs**

If Customer fails to pay any amount when due, and ROMTEC UTILITIES incurs any expenses in pursuit of collection, Customer agrees to pay the reasonable attorney fees (whether or not litigation is commenced) and other costs of such collection.

**ADDITIONAL TERMS****Description of Products and Services**

All Romtec Utilities products will be manufactured to the specifications as detailed in the Customer approved Romtec Utilities Scope of Supply and Design Submittal (SSDS) (forthcoming after Purchase Order execution). The Customer grants approval of the SSDS by signing the formal SSDS approval form that will be included with the SSDS. The Customer must also grant formal Notice to Proceed on Production prior to Romtec Utilities commencement of manufacturing. Depending on the Purchase Order and project timing, the Customer may grant formal Notice to Proceed on Production via the same form as the SSDS approval, or a separate form.

Romtec Utilities provides all supporting data describing the products and services in the form of the SSDS for submittal to the Customer and by the Customer to any appropriate reviewing agency or authority, including but not limited to government agencies or end-owners. The SSDS may include drawings, specifications, descriptions, and other details regarding what is included and not included in Romtec Utilities' scope of work for any particular purchase order. Romtec Utilities recognizes only the Customer approved SSDS as the only document that defines what Romtec Utilities will supply with respect to this Purchase Order. Customer accepts complete legal and financial responsibility for any subsequent deviations from a formally approved SSDS. If for any reason the Customer formally approves the SSDS, grants Romtec Utilities Notice to Proceed on Production, and/or requests delivery of any product prior to receiving approval of the SSDS from all appropriate reviewing agencies or authorities, the Customer agrees to accept complete and total financial risk related to any subsequent changes that result from further review of the approved SSDS or any subsequent changes mandated by any reviewing authority. In addition, the Customer will indemnify, defend, and hold Romtec Utilities harmless from and against any and all claims, demands, action, and causes of action related to any nonconformance resulting from such advance SSDS approval.

**Delivery Terms**

Romtec Utilities will not be liable for any delay in the performance of orders or contracts, or in the delivery or shipment of goods, or for any damages suffered by the Customer by reason of such delay. Unless otherwise stated in the Purchase Order, all goods are shipped FOB Roseburg, Oregon, which means that the risk of loss or damage to the goods and risk of delays in transit passes to the Customer when the goods are duly delivered by Romtec Utilities to the carrier in Roseburg, Oregon. Romtec Utilities has no control over arrival time of any such shipment, and shall not be responsible for delays in shipments once the goods are in possession of the carrier.

**Freight Damage Claims**

If Romtec Utilities agrees to ship goods under any arrangement other than FOB Roseburg, Oregon, any claims by the Customer for damage in transit shall be deemed waived and released by the Customer, unless made in writing endorsed on the bill of lading at the time Customer accepts delivery of the merchandise. CUSTOMER SHOULD CAREFULLY INSPECT THE MERCHANDISE BEFORE ACCEPTING DELIVERY.



**Procedure for Handling Products**

Customer is solely responsible for installation of Romtec Utilities supplied materials. The Customer accepts total responsibility for the installation of Romtec Utilities supplied products, and Romtec Utilities is not liable in any way for any structural failures or other problems that occur as a result of the actual installation varying in any way from the Romtec Utilities specifications in the Scope of Supply and Design Submittal and/or varying from any other installation recommendations provided by Romtec Utilities. Romtec Utilities hereby notifies the customer of the following:

- Products are not packaged for or palletized to withstand rough road transportation or other abuse.
- Products will require special equipment to unload from delivery trucks.

**Safety Threats**

Installation of the equipment to be supplied may implicate specific potential safety threats, among others:

- Work in confined spaces, particularly within wet wells or vaults.
- Inadequate shoring of dirt walls during underground installation.
- Misuse of machinery, such as cranes used in installation.
- High voltage.

Customer agrees and acknowledges:

- Customer is solely responsible for ensuring safety in all facets of installation
- Customer, not ROMTEC UTILITIES, assumes full responsibility for installation of the equipment.
- Customer is not an agent of ROMTEC UTILITIES in any capacity.

Romtec Utilities may provide informational documentation and/or recommendations related to installation and may provide an advisor to be present at installation, but any such advisor will have no authority, responsibility, or obligation to supervise, direct, or otherwise account for Customer's personnel or any other personnel not directly employed by Romtec Utilities during the course of installation.

**Contract Documents**

Together with this Purchase Order, the following constitute the "Contract Documents" and the entire contract between the parties, either written or oral: (i) ROMTEC UTILITIES Scope of Supply & Design Submittal, (ii) Limited Warranty document (usually attached separately and generally available for viewing and downloading at <https://romtecutilities.com/wp-content/uploads/2021/06/Romtec-Utilities-comprehensive-warranty-6-14-21.pdf>), (iii) Change Order form, (iv) the Pre-Construction Checklist, (v) On-site Construction Report, (vi) Start-Up Checklist, and (vii) Start-Up Report.

**Attorney Fees**

In any dispute involving the interpretation or enforcement of this agreement or involving issues related to bankruptcy (whether or not such issues relate to the terms of this agreement), the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorney fees, paralegal fees, costs, disbursements, and other expenses incurred by the prevailing party in the dispute, including those arising before and at any trial, arbitration, bankruptcy, or other proceeding, and in any appeal or review thereof. In addition, the amount recoverable by the prevailing party shall include an amount estimated as the fees, costs, disbursements, and other expenses that will be reasonably incurred in collecting a monetary judgment or award, or otherwise enforcing any order, judgment, award, or decree entered in the proceeding.

This agreement shall be interpreted and enforced according to the laws of the state of Oregon. The parties irrevocably submit and consent to the jurisdiction of the circuit courts of the State of Oregon for Douglas County, with respect to litigation regarding any dispute, claim or other matter related to this contract.

**Controlling Provisions**

The terms and conditions of this Purchase Order shall supersede and control any provisions, terms, and conditions contained on any confirmation order, Purchase Order, or other writing the Customer may give or receive, and the rights of the parties shall be governed exclusively by the provisions, terms, and conditions hereof.

**Binding Effect**

This Purchase Order agreement shall be effective and in force only when signed by Customer and also signed by ROMTEC UTILITIES. ROMTEC UTILITIES must consent to any assignment of this Purchase Order agreement in writing. Subject to any restrictions upon assignment, this Purchase Order agreement shall be binding on and inure to the benefit of the heirs, legal representatives, successors, and assigns of the parties.

**Notice**

All notices required by this Purchase Order agreement shall be in writing addressed to the party to whom the notice is directed at the address of that party set forth in this Purchase Order agreement and shall be deemed to have been given for all purposes upon receipt when personally delivered; one day after being sent, when sent by recognized overnight courier service; two days after deposit in United States mail, postage prepaid, registered or certified mail; or on the date transmitted by facsimile. Any party may designate a different mailing address or a different person for all future notices by notice given in accordance with this paragraph.

**Modification**

No modification of this Purchase Order agreement shall be valid unless it is in writing and is signed by all of the parties.

**Interpretation**

The paragraph headings are for the convenience of the reader only and are not intended to act as a limitation on the scope or meaning of the paragraphs themselves. This agreement shall not be construed against the drafting party.

**Severability**

The invalidity of any term or provision of this agreement shall not affect the validity of any other provision.

**Waiver**

Waiver of any party of strict performance of any provision of this Purchase Order agreement shall not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision.

**Counterparts**

This Purchase Order agreement may be executed in multiple counterparts, each of which shall constitute one agreement, even though all parties do not sign the same counterpart.

**Force Majeure**

Neither party will be liable for any delay or failure in the performance of any obligation under this Agreement or for any loss or damage (including indirect or consequential damage) to the extent that such nonperformance, delay, loss, or damage results from any contingency that is beyond the control of such party, provided such contingency is not caused by the fault or negligence of such party. A contingency for the purposes of this Agreement includes Acts of God, fires, floods, earthquakes, explosions, storms, wars, hostilities, blockades, public disorders, pandemic or other public health emergency, quarantine restrictions, embargoes, strikes, other labor disturbances or down time, unavailability of electronic communication lines or equipment, and compliance with any law, order or control of, or insistence by any governmental or military authority.