



**CITY OF FORT WORTH
CHAPTER 252 EXEMPTION FORM**

This form must be provided when requesting to make a purchase over \$50,000 without following public bidding requirements.

Instructions: Fill out the entire form with detailed information. Once you have completed this form, provide it to the Purchasing attorney for review. The attorney will review the information you have provided and determine whether using an exemption to Chapter 252’s bidding requirements would be defensible. If you are printing this form to provide to Legal, please do not provide the Primer portion. Failure to provide sufficient information may result in follow up questions and cause a delay in the attorney’s determination.

Section 1: General Information

Requesting Department: Village Creek WWTP Ovation 3.3 to 3.7 Evergreen Program ___

Name of Contract Manager: Darla Morales_____

Department’s Attorney: Doug Black_____

Item or Service sought: The purchase of the Ovation 3.3 to 3.7 Evergreen Program for the Village Creek Water Reclamation Facility Distributed Control (DCS) Ovation System.

Vendor: Emerson Process Management Power & Water Solutions, Inc._____

Current Agreement for item/service: Yes X (for services) No _____

CSC #: 51115_____ (SureService Agreement)

How will this item or service be used: This contract would provide a means of procuring products needed to maintain the Emerson Ovation DCS Ovation system that controls all of the water reclamation processes at Village Creek.

Section 2: Exemption Justification

Please indicate which exemption you believe applies to the purchase and provide information to support its applicability. Please refer to the Exemption Primer for detailed information about common exemptions.

_____ a procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality’s residents or to preserve the property of the municipality;

- a procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- a procurement necessary because of unforeseen damage to public machinery, equipment, or other property;
- a procurement for personal, professional, or planning services;
- a procurement for work that is performed and paid for by the day as the work progresses;
- a purchase of land or a right-of-way;
- a procurement of items that are available from only one source, including:
 - a purchase of rare books, papers, and other library materials for a public library;
 - paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements;
 - a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters;
- a payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212; personal property sold:
 - (A) at an auction by a state licensed auctioneer;
 - (B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code;
 - (C) by a political subdivision of this state, a state agency of this state, or an entity of the federal government; or
 - (D) under an interlocal contract for cooperative purchasing administered by a regional planning commission established under Chapter 391;
- services performed by blind or severely disabled persons;
- goods purchased by a municipality for subsequent retail sale by the municipality;
- electricity; or
- advertising, other than legal notices.

Please provide details and facts to explain why you believe the exemption applies to the purchase. You may also attach documentation to this form.

Emerson Power and Water Solutions components used as a part of an Ovation system are designed specifically to operate with the other standard components selected for the Ovation architecture, including Dell workstations and servers. Components selected to be part of Ovation are vigorously tested and validated as a complete and integrated system. The use of non-standard platforms or non-tested models/configurations is not recommended due to the following main reasons:

- The use of non-validated or tested equipment may introduce abnormal operation or unexpected failures to the system. Putting at risk the Ovation Network and the processes operated/controlled by the DCS.
- The Microsoft Operating Systems chosen for use on Ovation have been customized and are part of a corporate agreement between Emerson and DELL/Microsoft and can only be purchased by means of the existing agreement and installed in equipment as part of the agreement.

- Equipment procured via third parties will not be covered by Emerson warranties or component coverages as part of SureService. If customer provided equipment is suspected to be at fault, Emerson will require the customer to address resolution of that product and may request that as part of the diagnostics that standard equipment is used to prove functionality.
- Potential failures due to abnormal operation induced by non-tested equipment or configurations may potentially result in disruption to the control system and Emerson's ability to pinpoint the issue may be limited and only consultative in nature.
- CISCO products – hardware, firmware and its configuration prepared and validated for use with Ovation DCS are a critical part of the control system and are subject to internal quality and validation procedures. The goal of validation is to verify that any given component (as defined above) will not have negative impact on system stability, availability and reliability when connected with other elements of the Ovation DCS. All validation procedures are prepared and run by Research and Development Department of Emerson Process Management Power & Water Solutions.

Section 3: Attorney Determination

With the facts provided by the department, is the use of the claimed exemption defensible if the City were to be challenged on this purchase? Yes or No

Was there anything not included on this form or attached hereto that was relied on in making this determination? Yes or No

If yes, please explain: _____

Approved by:



Taylor Paris
Assistant City Attorney