

COUNCIL AGENDA STATEMENT



Meeting Date: June 10, 2025

To: Honorable Mayor & Members of the City Council

From: Dan Saus, Utilities Manager

Through: George Garrett, City Manager

Agenda Item: **Resolution 2025-55**, Waiving The City's Purchasing Policies And Procedures And Approving Change Order #1 to A Sole Source Purchase Of Wastewater Treatment Membrane Upgrades For Service Area 5 Wastewater Treatment Facility From Kubota Membrane USA, In An Amount Not To Exceed \$104,107.00; Authorizing The City Manager To Execute Purchase Orders, Appropriating and Expending Funds On Behalf Of The City; And Providing For An Effective Date

BACKGROUND & JUSTIFICATION:

After performing a postmortem on the failed membranes in Jan/Feb 2025, both Kubota's and the City's engineers agree that some of the failure issue is caused because our cleaning procedures are limited by the way the membranes are piped. With the current piping arrangement, we can only clean all of the modules in a tank at the same time. This change order includes multiple valves and piping changes that will allow us to clean the modules individually giving us an extended life expectancy. We also identified that we needed more new membranes than previously thought. Those are also included in the change order.

The City of Marathon purchased the Service Area 5 "Little Venice" wastewater treatment plant from the FKAA and since then has continued to upgrade the facility to meet all FDEP permit requirements. The latest membrane technology has been very successful, but we recently found that the supporting structures made of 304SS are failing. After negotiations with Kubota, they have agreed to replace all of structures with 316SS along with any damaged membrane units. Approx. 90 units have already been replaced under warranty and we expect that number to rise to about 150 by the end of this upgrade. Recent king tides and development have caused us to unexpectedly need expanded hydraulic capacity at the plant. Newer membrane technology allows us replace the current ones with units that provide 50% more hydraulic capacity. Since all of the frames need replacing, this is the perfect time to upgrade to the newer units. The attached proposal will achieve this capacity expansion while also replacing all the needed structures at minimal cost to the city.

The Utilities Director and Operations staff have reviewed the proposal we received and propose approval of the change order. Kubota is the original supplier of membranes for the facility and therefore is the best supplier capable of providing this equipment and service.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u>X</u>	_____
2. Other – 2010 Sewer Mandate	<u>X</u>	_____
3. Not applicable	<u>X</u>	_____

FISCAL NOTE:

Approval will appropriate funds in the FY25 Wastewater Utility Budget for this purchase.

RECOMMENDATION:

Approve Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2025-55**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, WAIVING THE CITY'S PURCHASING POLICIES AND PROCEDURES AND APPROVING CHANGE ORDER #1 FOR THE PURCHASE OF WASTEWATER TREATMENT MEMBRANE UPGRADES FOR SERVICE AREA 5 FROM KUBOTA MEMBRANE USA, IN AN AMOUNT NOT TO EXCEED \$104,107.00; AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS, APPROPRIATING AND EXPENDING FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Ordinance 2015-14, the City Council of the City of Marathon, Florida (the "City"), adopted Purchasing Policies and Procedures after determining that it was fiscally prudent and in the best interests of the City's residents for the City to adopt policies and procedures for City employees and officials regarding the purchasing and acquisition of contractual services, equipment, goods, professional services and other similar types of services; and

WHEREAS, in accordance with Section 2-183 and 2-184(F), the City may waive competitive bidding procedures to obtain goods and services which cannot be acquired through the normal purchasing process, and in this case, where only one vendor possesses the unique and singularly available capability to meet the requirement for wastewater equipment and supplies which are in the City's best interest; and

WHEREAS, the City's wastewater treatment plants and collection systems consist of specialized equipment requiring products and supplies for repairs and maintenance by specified vendors, and Kubota Membrane USA is the sole source of the original membranes for the City's Service Area 5 wastewater treatment plant as provided by Exhibit "A", which are distributed solely by Kubota Membrane USA; and

WHEREAS, the City Manager recommends the City Council waive the City's purchasing policies and procedures due to the sole source status of the vendor, Kubota Membrane USA, in an amount not to exceed \$104,107.00, Change Order #1 as provided on Exhibit "A" for the replacement membranes for Service Area 5 and needed piping modifications.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:

Section 1. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Based upon the recommendation of the City Manager the City Council finds that sole source vendor purchases of specialized equipment requiring products and supplies for repairs and maintenance of the City's wastewater treatment systems is in the best interest of the City

and approves the purchase.

Section 3. The City's purchasing policies and procedures are hereby waived and the City Council hereby approves sole source purchase of membrane replacement from Kubota Membrane USA for the City's wastewater treatment plant five. The City Manager is hereby authorized to execute a purchase with Kubota Membrane USA as described in the proposal attached hereto as Exhibit "A," and expend budgeted funds.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10th DAY OF JUNE, 2025.

THE CITY OF MARATHON, FLORIDA

Lynn Landry, Mayor

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

Steve Williams, City Attorney

May 6, 2025

Dan Saus, P.E.
Utility Director
City of Marathon
9805 Overseas Highway
Marathon, Florida 33050

Subject: 3 Change Order Options for Marathon Area 5 WRF, FL Capacity Increase

Dear Dan,

As we explained in the online meeting on Mar 28, we will propose 3 change order options below for your consideration.

Option 1- Increase the qty of SMU with membrane modules

-Increase the qty of SMUs with membrane modules from 3 to 5 and decrease the qty of empty SMUs without modules from 6 to 4.

-Existing facility has 9 units of SMU model SP400 (40 modules/Unit) with total 360 modules in 3 MBR tanks.

New facility will have 9 units of SP600 (60 modules/Unit) with total 540 modules.

-Original plan was to add 3 new units of SP600 with modules (180 new modules) for 1 of 3 MBR tanks and 6 units just with SS frames without modules. Then, reuse all 360 existing modules for those 6 units in rest 2 of 3 MBR tanks.

180 new modules + 360 old modules = Total 540 modules.

-Our technical support, Taz suggested to increase the qty of SMUs with modules from 3 to 5 because he found some of existing modules have already damages and that we cannot reuse all of them when he inspected membranes last year.

-So, we propose to add 120 new membrane modules in addition to previously proposed 180 new ones (Total 300 modules) and reuse 240 of 360 existing modules.

300 new modules + 240 old modules = Total 540 modules.

-Our price for this option 1 is **\$74,632**.

Option 2- Add permeate isolation valve (See 1st attachment for product details)

-Add qty 18 of 3" permeate isolation valves.

-Existing SMU model SP400 does not have permeate isolation valve inside MBR tank and permeate pipe is directly connected to permeate header pipe.

-When operators clean existing membranes, there is no function to isolate each individual membrane. So, chemical solution is injected to 3 membranes at the same time and we cannot make sure that chemical solution is distributed evenly to each membrane when it is partially or fully dewatered with sludge.

-So, we propose to have qty 6 of 3" permeate isolation valves per each MBR tank, qty 18 in total to give the capability to isolate each membrane and inject chemical solution individually.

-8" new permeate header pipe is installed below side water depth to avoid air accumulation issue. So, those valves need to have stem extension and manual lever to provide the access to operators without draining the tank.

-Our price for this option 2 is **\$28,584**.

Option 3- Add permeate vent valve (See 2nd attachment for product details)

-Add qty 3 of 1" permeate vent valves.

-Existing permeate pipe does not have vent pipe/valve and there is relatively long downward piping after permeate pipe goes out from the MBR tank through wall penetration and before it reaches to permeate pump.

-There is a risk that air accumulates inside the permeate pipe and it would result in inaccurate reading of TMP, Trans Membrane pressure.

-So, we propose to add qty 1 of 1" permeate vent valve per each MBR tank, qty 3 in total to release those accumulated air when system goes into relaxation mode in every 10 min of filtration cycle.

-Our price for this option 3 is **\$891**.

Summary

The total adder with 3 change order options is **\$104,107** excluding sales tax.

Original contract amount is **\$269,183** excluding sales tax.

Including this, the revised project contract amount will be **\$373,290** excluding sales tax.

Best regards,

Damone Supica
Regional Sales Manager MBR Systems
Kubota Water and Environment USA Corporation
Cell:425-248-7897
Email: damone.supica@kubota.com
Cc: Ben Mcdorman, Moss Kelley

Yusuke Oi
Project Manager
Kubota Water and Environment USA Corporation
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E-mail: yusuke.oi@kubota.com

Note

The pricing in this proposal includes the cost of tariffs and increased duties which are in effect at the time of this proposal. An additional surcharge shall be borne by the client and added to the proposed price shown in this document if new tariffs, taxes, or duties are implemented after the date of this proposal, including the increased cost of equipment supplied to KWU due to resulting market conditions.

Table 1. KWU scope of supply

No.	Name	Type, Brand, Model	Size, Voltage	Qty	Note
1	Submerged Membrane Unit (SMU) with modules	Flat Plate, Kubota, SP600, SS316 Frame, 60 modules/Unit	-	3→5	Option 1
2	Submerged Membrane Unit (SMU) without modules	Flat Plate, Kubota, SP600, SS316 Frame, no modules/Unit	-	6→4	Option 1
3	SMU Guide rail & Stabilizer set	Guide rail and Stabilizer pipes, SS316	-	9 sets	
4	Permeate Isolation Valve	Bray manual butterfly valve with stem extension and lever S41 series, stainless steel body	3-inch	18	Option 2 See 1st attachment
5	Permeate Vent Valve※	ASCO solenoid valve 8201 series, normally closed Brass body	1-inch 120 VAC	3	Option 3 See 2nd attachment

※ : KWU selected solenoid valve because existing facility has programs for it.

KWU recommends operator to check if this solenoid valve opens while in relaxation mode periodically.

KWU's standard selection is Dwyer on/off actuated valve because it is more reliable than solenoid valve and we can make sure it opens while the system is in relaxation mode.

In that case, additional electrical wiring work and small modification work in control panel / programs are needed. KMU can provide the service to modify programs during installation work with additional cost.

End

GENERAL TERMS & CONDITIONS

1. **Precedence of Terms.** These general terms and conditions shall apply to this Contract, except that provisions set forth on the face hereof shall take precedence over any inconsistent or contrary provisions set forth in these General Terms and Conditions. No conditions contrary to or in addition to those set forth in this General Terms and Conditions shall be binding upon the Seller unless expressly approved in writing by Seller. Performance by Seller shall not be construed as accepting any different or additional terms.
2. **Quality and Quantity.** Seller shall not be responsible for any damage to or deterioration in the quality or loss in weight or units of the Goods during transit or due to natural causes.
3. **Shipment.** Shipment within the time stipulated on the face hereto shall be subject to the availability of vessel's space. In case FCA or FOB INCOTERMS apply to this Contract and Buyer fails to obtain space in time to fulfill the stipulated shipment date, Buyer shall be responsible for all costs, expenses and damages resulting directly or indirectly therefrom, including, without limitation, all increases in freight and insurance charges, losses, and other damages incurred by Seller prior to or after such failure by Buyer. The date of the Bill of Lading or the Waybill shall be conclusive evidence of the shipment date.
4. **Risk of Loss and Transfer of Title.** Risk of loss or damage to the Goods shall pass from Seller to Buyer in accordance with the INCOTERMS set forth on face hereof. Title to and the right to possess the Goods shall pass from the Seller to the Buyer at the same time when the risk of loss or damage to the Goods is passed to the Buyer as stipulated above, however, that the title to and the right to repossess the Goods are to be retained by Seller until Seller has received the full contract amount due to Seller pursuant to this Contract.
5. **Payment.** Payment by Buyer to Seller under this Contract shall be made by means of telegraphic transfer in immediately available funds to such bank account as designated by Seller or a confirmed, irrevocable, without recourse documentary letter of credit, in favor of Seller and with terms any satisfactory to Seller. If Buyer desires to pay Seller by means of a letter of credit, the letter of credit shall (i) cover the full contract amount (ii) be established through a prime-bank immediately after the date of this Contract, (iii) be negotiable on sight draft, and (iv) be valid for negotiation against the relative draft for at least fifteen (15) days after the end of the last month in which the Goods are shipped.

The letter of credit shall authorize reimbursement to Seller for any expenses incurred by Seller on account of Buyer pursuant hereto, and shall authorize partial payment against partial delivery. Any bank charges arising in connection with payment hereunder shall be borne by Buyer. If Buyer fails to satisfy any payment terms of this Contract, Seller at its sole discretion and at Buyer's expense and risk may resell all or any part of the Goods on account of Buyer, hold all or any part of the Goods on account of Buyer, cancel all or any part of this Contract and/or claim any damages resulting from such breach.

In the event of late payment of any amount due hereunder, Seller shall, in addition to any other remedy it may have hereunder or pursuant to applicable law, be entitled to receive interest at the maximum rate allowed by law in the country/state of Buyer or eighteen percent (18%) per annum, whichever is greater, on such late payment until payment is received in full.
6. **Increased Costs.** Any new, additional or increased freight rates, surcharges (bunker, currency, congestion or other surcharges), taxes, customs duties, tariffs, export or import surcharges or other governmental charges, or insurance premiums, which may be incurred by Seller with respect to the Goods after the date of this Contract, shall be for the account of Buyer and shall be reimbursed to Seller by Buyer within a reasonable time on demand.
7. **Force Majeure.** Seller shall not be liable for failure or delay to perform its obligations hereunder due to any reason including, but not limited to, acts of God, earthquake, fire, flood, prohibition of exportation, refusal to issue export license, war, blockade, revolution, insurrection, sub vendor manufacturing delays, civil commotion, riots, mobilization, strikes, lockout, plague, other epidemics, pandemics, or any other causes beyond the control of Seller, and may, at its option, extend the time of shipment or delivery of the Goods or terminate unconditionally and without liability of this Contract to the extent so affected or prevented.
8. **Cancellation.** If Buyer fails to carry out any of the terms of this and/or any other contract with Seller, or in the event of the death, bankruptcy or insolvency of Buyer, liquidation, modification or reorganization of the corporate structure of Buyer, or nonpayment for any shipment, Seller shall have the right to cancel this and/or any other contract with Buyer or to postpone the shipment, or to stop the Goods in transit, and Buyer shall indemnify, defend and hold Seller harmless from all losses, costs, and expenses resulting from Seller taking any such actions.
9. **Intellectual Property Rights.** Buyer shall defend, indemnify and hold Seller harmless from any and all liability, loss or expense (including reasonable attorney's fees) arising from or in connection with any actual or alleged infringement of any patent, trademark, copyright, industrial design, registered pattern, trade secret or other similar intellectual property rights used or owned by Seller.
10. **Liability of Agent.** If this Contract is signed by an agent or on behalf of a principal as Buyer hereunder, whether the principal is disclosed or otherwise, the agent shall be liable not only as agent but also as principal for the performance of the obligations of Buyer under this Contract. This provision shall not affect Buyer's obligation as principal under this Contract.
11. **Construction.** The meanings of the terms UCPDC or INCOTERMS, when used in this Contract shall be determined in accordance with the Uniform Customs and Practice for Documentary Credit ("UCPDC") and Incoterms® ("INCOTERMS") adopted by the International Chamber of Commerce in effect on the date of this Contract. This Contract shall be governed by the laws of the state of Washington, USA without giving effect to any conflicts of laws principles. This Contract shall not be governed by the United Nations Contracts for the International Sales of Goods, the application of which is expressly excluded.
12. **Inspection.** Unless otherwise stated on the face of this Contract, any export inspections by Japanese authorities, Seller's suppliers or Seller shall be considered as final. When Buyer requires special inspection by an independently

appointed inspector, Buyer shall inform Seller in writing the details of such special inspection including without limitation the name of such inspector at the time of this Contract. Such especial inspection shall be made promptly upon delivery of the Goods but in any event within two (2) weeks after delivery of the Goods, and all inspection fees and costs therefor shall be borne by Buyer.

13. **Warranty.** Seller Membrane Warranty is governed by the KUBOTA Corporation Products Warranty Terms and Conditions, which are incorporated herein by reference. Seller warrants that any Goods delivered hereunder are free from defects in material and workmanship and, if Seller's specifications are set forth or incorporated by reference on the face hereof, or separately provided to Buyer, will meet such Seller's specifications.

Unless otherwise specified in Seller's warranty statement set forth or incorporated by reference on the face hereof, or separately provided to Buyer, Seller's liability under this warranty is limited to repair or replacement of any Goods delivered hereunder that do not conform to this warranty.

Buyer shall not be entitled to any remedy for lack of conformity of the Goods, including latent defects, under this warranty if he fails to notify Seller thereof within a six months period commencing on the shipment date of the Goods (and if there are more than one shipment dates, the first shipment date). Such notification shall contain full particulars of such lack of conformity of the Goods to the Seller's reasonable satisfaction.

Notwithstanding anything herein contained to the contrary, Seller shall have no liability under this warranty i) for minor deviations from Seller's specifications (if applicable) that do not affect the performance of the Goods, or ii) for any lack of conformity of the Goods caused by misuse, neglect, improper installation, handling, operation, or maintenance, repair, alteration, fair wear and tear, erosion or corrosion, or accident, including any damage or loss of the whole or a part of the Goods that occurs after the shipment date.

14. **Limitation of Liability.** EXCEPT AS EXPRESSLY STATED IN SECTION 13, SELLER HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE GOODS, WHETHER EXPRESS, IMPLIED OR STATUTORY (EXCEPT AS TO TITLE) INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND OTHER IMPLIED WARRANTIES UNDER ANY APPLICABLE LAWS, RULES OR REGULATIONS. SECTION 13 SETS FORTH THE FULL EXTENT OF SELLER'S LIABILITY TO BUYER OR ANY OTHER PARTY FOR ANY BREACH OF WARRANTY WITH RESPECT TO THE GOODS.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, SELLER'S AGGREGATE AND CUMULATIVE LIABILITY ARISING OUT OF OR RELATING TO THIS CONTRACT, INCLUDING WITHOUT LIMITATION ON ACCOUNT OF PERFORMANCE OR NON-PERFORMANCE OF OBLIGATIONS, REGARDLESS OF THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), STATUTORY OR OTHERWISE WILL BE LIMITED TO DIRECT DAMAGES AND SHALL NOT

EXCEED THE FULL CONTRACT AMOUNT OF GOODS STATED ON THE FACE HEREOF.

SELLER SHALL HAVE NO LIABILITY FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR SIMILAR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SALE, DELIVERY, NONDELIVERY, STORAGE, USE, MAINTENANCE, CONDITION OR POSSESSION OF THE GOODS.

15. **Arbitration.** All disputes or controversies which may arise between the parties hereto, out of or in relation to or in connection with this Contract, shall be negotiated in good faith and settled by agreement between both parties as promptly as possible. If not amicably settled within 14 days after the first negotiation day, such disputes or controversies shall be settled by arbitration in Seattle, Washington by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules including the Optional Rules for Emergency Measures of Protection, and judgment on the award rendered by the arbitrators shall be final and binding and may be entered in any court having jurisdiction thereof. All arbitration proceedings shall be held in the English language.

16. **Governing Law.** These Terms and Conditions shall be governed by and construed in accordance with the laws of the State of Washington, USA, for both domestic and international sales contract. All buyers agree that jurisdiction and venue shall be Seattle, Washington State.

17. **Liability for Delays and Return Trips.** Buyer agrees that if Seller or any of its representative's must make an additional service trip due to the site conditions not being ready for installation check, start up, or training to compensate them for their cost for additional travel expenses and pay for additional labor at their published labor rates. Additionally, should Buyer (or any of its representative's) cancel an installation check, start up, or training trip with less than 72 hours' notice, that Buyer will be liable for any additional travel costs and that the cancelling party will be liable for unused labor at their published labor rates.

18. **Change Orders.** If it is determined that the Seller needs to supply any other equipment or services not specified in the Sellers Project Proposal, shall warrant a change order.