

## COUNCIL AGENDA STATEMENT



Meeting Date: July 8, 2025

To: Honorable Mayor & Members of the City Council

From: George Garrett, City Manager

Through: Dan Saus, Utilities Director

Agenda Item: **Resolution 2025-68**, Waiving The City's Competitive Bidding Procedures And Approving A Purchase Of A 27 HP, Grundfos Submersible Pump By FJ Nugent., In An Amount Of \$132,793; Authorizing The City Manager To Execute Purchase Orders, Appropriate Funds On Behalf Of The City; And Providing For An Effective Date

### BACKGROUND & JUSTIFICATION:

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 City of Marathon City Council approved on November 14, 2024 the purchase of new membranes for the Area 5 WWTP. On May 27<sup>th</sup> the City Council approved the change order for the upgrades of the Area 5 WWTP. In order for them to be used to their full potential, the feed forward pumps must also be upgraded as soon as possible. Pursuant to Sections 2-183 of Purchasing Ordinance, the City may waive competitive bidding procedures to obtain goods and services which cannot be acquired through the normal purchasing process. As part of the Area 5 MBR project we received three (3) quotes from vendors. However only two (2) were given. Based on the quotes and estimated lead time we are requesting the purchase from FJ Nugent for the 27 HP, Grundfos Submersible Pump in the amount of \$132,793 as specified in Exhibit "A" of the attached Resolution.

### CONSISTENCY CHECKLIST:

1. Comprehensive Plan
2. Other – 2010 Sewer Mandate
3. Not applicable

Yes	No
<u>X</u>	_____
<u>X</u>	_____
_____	_____

### FISCAL NOTE:

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

RECOMMENDATION: Approval of Resolution.

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2025-68**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, WAIVING THE CITY'S COMPETITIVE BIDDING PROCEDURES AND APPROVING A PURCHASE OF A 27 HP, GRUNDFOS SUBMERSIBLE PUMP BY FJ NUGENT., IN AN AMOUNT OF \$132,793; AUTHORIZING THE CITY MANAGER TO EXECUTE PURCHASE ORDERS, APPROPRIATE FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, pursuant to Ordinance 2015-04, the City Council of the City of Marathon, Florida (the "City"), adopted Purchasing 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 Sections 2-183 of the Purchasing Ordinance, the City Council may authorize at a public meeting after majority vote the waiver of competitive bidding procedures upon the recommendation of the City Manager that it is in the City's best interest to do so, to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors. Purchases authorized by waiver process shall be acquired after conducting a good faith review of available sources and negotiation as to price, delivery and terms; and

**WHEREAS**, the City's wastewater treatment plants and collection systems consist of specialized equipment some of which require routine repair, maintenance, and particularly, calibration, not immediately available by multiple vendors in the Florida Keys; and

**WHEREAS**, on November 14, 2024 the City Council approved the purchase of new membranes for the Area 5 WWTP and on May 27<sup>th</sup> the City Council approved the change order for the upgrades of the Area 5 WWTP. In order for them to be used to their full potential, the feed forward pumps must also be upgraded as soon as possible; and

**WHEREAS**, the City Manager recommends the City Council waive the City's purchasing policies and procedures due to least lead time and lowest cost proposal.

**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 purchases of specialized equipment and services as identified in requiring products and

supplies for repairs and maintenance of the City's wastewater treatment systems is in the best interest of the City.

**Section 3.** The City's purchasing procedures are hereby waived and the City Council hereby approves the purchase as part of the Area 5 MBR project from FJ Nugent for the 27 HP, Grundfos Submersible Pump in the amount of \$132,793 as specified in Exhibit "A" and appropriating 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 8<sup>TH</sup> DAY OF JULY, 2025.**

**THE CITY OF MARATHON, FLORIDA**

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**Lynn Landry, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk  
(City Seal)

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

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Steve Williams, City Attorney



## MEMORANDUM

**To:** Dan Saus, Utilities Director  
**From:** Richard Lindsay  
**Date:** June 12<sup>th</sup>, 2025  
**Re:** Pump Selection Summary – Area 5 MBR Extension Project

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As part of the Area 5 MBR Extension project, we requested and reviewed pump equipment quotations from two vendors to supply (4) solids-handling pumps sized for 972 GPM at 49.7 feet total dynamic head. Do note we had requested an alternate pump from Hayward Gordon on May 29<sup>th</sup>, 2025 that can handle lower GPM flow days, however, at this time we have not received an updated pump cut sheet or proposal. Attached below is each vendors proposal to the City.

### Summary of Quotations:

1. **FJ Nugent – Grundfos SE.A40.270.4.52H.EX.61R.A**
  - 27 HP, submersible, 460V, 3-phase
  - Includes (4) pumps, pump stands, suction elbows with cleanouts, anchor bolts, and startup service
  - Quoted Price: **\$132,793.00** (exclusive of taxes and tariffs)
  - Estimated Delivery: **5–6 weeks** from receipt of purchase order
2. **Ebara HG ULC – Hayward Gordon XCS6A-VDP-I**
  - 25 HP, vertical dry pit screw centrifugal pump, 460V, 3-phase
  - Includes (4) pumps; excludes accessories such as anchor bolts and startup service
  - Quoted Price: **\$437,120.00** (exclusive of taxes)
  - Estimated Delivery: **38–40 weeks** from submittal approval

### Recommendation:

Based on the submitted quotations, our office recommends proceeding with the Grundfos equipment proposed by FJ Nugent. The quoted package meets the project's performance requirements and includes key accessories and startup service. Additionally, the shorter estimated lead time and lower total cost are favorable relative to the alternate proposal.

Please contact us if you have any questions.

## PROPOSAL

To: City of Marathon  
Dan Saus

Date: 6/5/2025

Project: Marathon – Area 5 Wastewater Project

We are pleased to offer the following equipment for the above referenced project:

- (4) Grundfos: SE.A40.270.4.52H.EX.61R.A
  - 27 hp
  - 3ph/460v
  - 972gpm @ 49.7' tdh (running at 86%)
  - 49' Power Cable
  - 4" Discharge
- (4) Pump Stand
- (4) 6" Suction Elbow with cleanout
- (16) Anchor Bolts, 316SS
- (1) Start Up Service

**Total Price: \$132,793.00, plus taxes & tariffs**

**Note:** Price does not include any tariffs, Telemetry, main disconnect, piping, installation, lubricants, spare parts or any item not specifically listed in this proposal.  
**Terms:** Net 30 days, Proposal is valid for 30 days.  
**Freight:** Freight included to Job Site.  
**Delivery:** Submittals - Approximately 2 weeks after receipt of purchase order.  
Equipment - 5-6weeks.

Thank you for the opportunity to quote on this project. Please contact us with any questions.

Sincerely,

Michael Leddy  
Cell: (863) 441-1535  
Email: [michael@nugentco.com](mailto:michael@nugentco.com)



**EBARA**  
HAYWARD GORDON

EBARA HG ULC  
5 Bridgen Gate  
Halton Hills, ON L7G 0A3  
P: (905) 693-8595  
[www.ebarahg.com](http://www.ebarahg.com)

**QUOTATION FOR EBARA HG ULC SOLIDS HANDLING PUMPS**

<b>Date:</b>	5/21/2025	<b>Project Reference:</b>	Marathon WWTP #5 - MBR Extension - HG - Weiler Engineering
<b>Quotation No.:</b>	Q5-87107 Rev. 0	<b>Equipment Reference:</b>	

<b>Customer:</b>	Moss Kelley Inc. 7284 West Palmetto Park Road Suite 304 Boca Raton FL 33433	<b>Delivery:</b>	38-40 Weeks after approvals
		<b>Incoterms:</b>	EXW
		<b>Freight:</b>	PREPAID
		<b>Terms of Payment:</b>	0 {Net 30 Days}
		<b>Taxes:</b>	Not Included
		<b>Price Validity</b>	60 days
		<b>Currency:</b>	US \$
		<b>Salesperson:</b>	David Caton
<b>Attention:</b>	W. Ben McDorman	<b>Submitted By:</b>	Davide Castellana

**PRODUCT:**

QTY	MODEL	UNIT SELL PRICE	LOT SELL PRICE
4	HAYWARD GORDON XCS6A-VDP SCREW CENTRIFUGAL PUMP	\$109,280.00	\$437,120.00

**CONSTRUCTION DETAILS:**

<b>Wet End:</b>	Casing: ASTM A48 CL30 Cast Iron / Impeller & Suction Liner: ASTM A532 High Chrome Iron
<b>Seal:</b>	Chesterton 1510 Single Cartridge Seal (TC/TC) - Clean Water Flush Required
<b>Ports/Flanges:</b>	8" suction x 6" discharge - 125#RF
<b>Motor Details:</b>	25HP, 1200RPM, 460V/3/60, TEXP-NV, 360TY w 320TY FL, Inverter Duty Rated , 25 ft Cable.
<b>Drive:</b>	Direct Drive / Close Coupled
<b>Guard:</b>	NA
<b>Base/Coverplate:</b>	Pump Pedestal with Cast Iron Suction Elbow
<b>Pump Setting:</b>	Vertical

**APPLICATION DETAILS:**

<b>Fluid:</b>	Sludge	<b>Impeller Diameter:</b>	Full	<b>Solids:</b>	Unknown
<b>Capacity:</b>	972 GPM	<b>Viscosity:</b>	Waterlike	<b>NPSHR:</b>	Flooded
<b>Head:</b>	49.7 ft	<b>Temperature:</b>	Ambient		
<b>Pump RPM:</b>	1126 RPM	<b>Specific Gravity:</b>	0.00		

**REMARKS:**

Budgetary quote for (4) four XCS6A-VDP-I, Vertical Dry Pit w Immersible Motor  
General Comments:  
Hayward Gordon's standard epoxy paint is included (Amercoat370)  
Hayward Gordon's Non-Witnessed 6 pt Performance Test to be performed.  
All VFDs, starters and control equipment are not within Hayward Gordon ULC scope of supply and are to be supplied by others  
Anchor Bolts are not included.

**GENERAL COMMENTS:**

1. Price validity is based on receipt of complete approval and release for production no more than eight weeks after drawings have been submitted by EBARA HG ULC.
2. EBARA HG ULC's standard Terms and Conditions of Sale apply and are an integral part of this quotation unless specifically noted otherwise in this proposal.
3. All start-up and instructional services not included unless specifically noted otherwise in this proposal.
4. All starters and control equipment are not within EBARA HG ULC's scope of supply and are to be supplied by others unless specifically noted otherwise in this proposal.
5. This proposal does not include installation, wiring, field painting or any other items except as specifically described above.

Ebara HG ULC  
5 Bridgen Gate · Halton Hills · ON · CANADA · L7G 0A3  
T: 905-693-8595  
<https://www.ebarahg.com>

# Pump Data Sheet - Hayward Gordon

Company:  
Name:  
Date: 05/21/2025



## Pump:

Size: XCS6-A  
Type: XCS ScrewCentrifugal  
Synch Speed: Adjustable  
Dia: 14 in  
Curve: 005-10598

Dimensions:  
Suction: 8 in  
Discharge: 6 in

## Fluid:

Name: Water  
SG: 1  
Density: 62.4 lb/ft<sup>3</sup>  
Viscosity: 1.1 cP  
Temperature: 60 °F

Vapor Pressure: 0.256 psi a  
Atm Pressure: 14.7 psi a  
Margin Ratio: 1

## Search Criteria:

Flow: 972 US gpm  
Head: 49.7 ft

Near Miss: ---  
Static Head: 0 ft

## Pump Limits:

Temperature: ---  
Wkg Pressure: ---

Sphere Size: 4.88 in

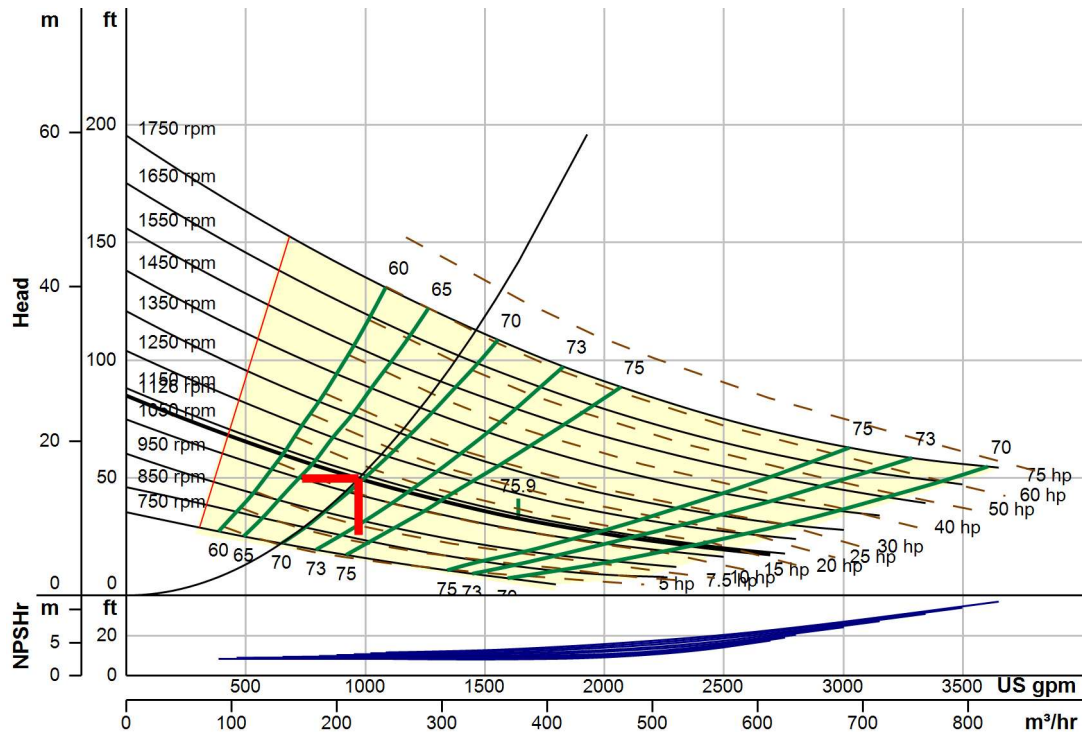
## Motor:

Consult Hayward Gordon to select a motor for this pump.

## Pump Selection Warnings:

None

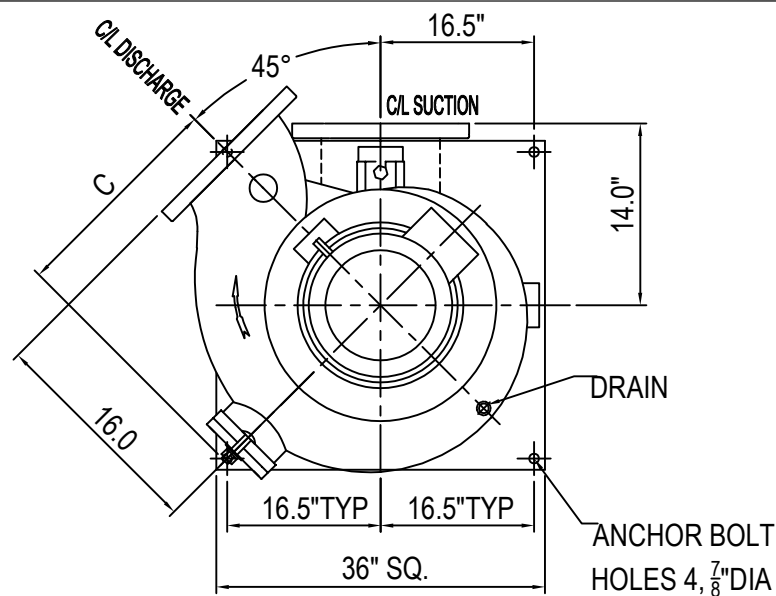
--- Duty Point ---	
Flow:	972 US gpm
Head:	49.7 ft
Eff:	69.6%
Power:	17.5 hp
NPSHr:	8.96 ft
Speed:	1126 rpm
--- Design Curve ---	
Shutoff Head:	84.9 ft
Shutoff dP:	36.8 psi
Min Flow:	443 US gpm
BEP:	75.9% @ 1640 US gpm
NOL Power:	21 hp @ 2694 US gpm
--- Max Curve ---	
Max Power:	72.1 hp @ 3650 US gpm



## Performance Evaluation:

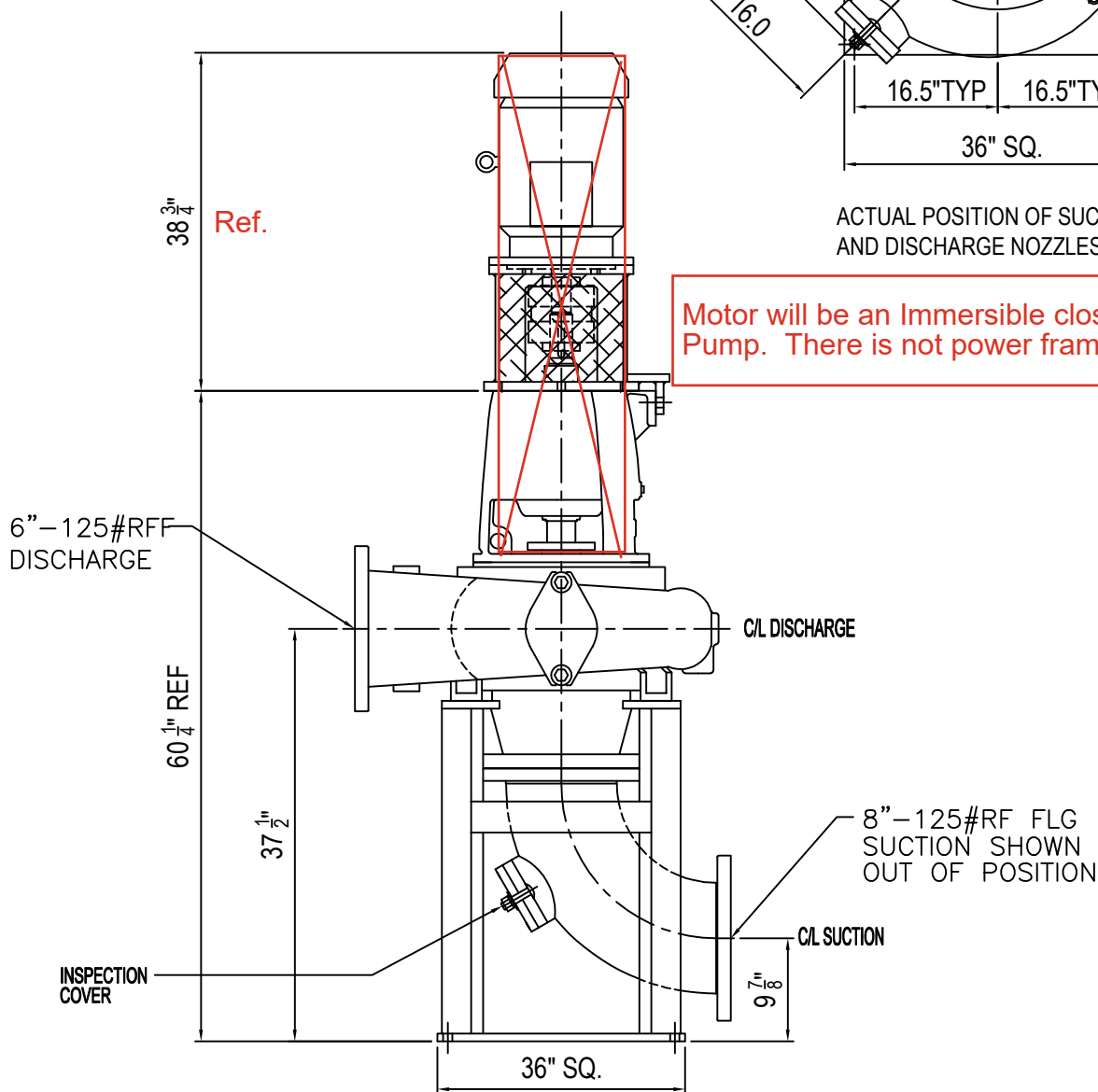
Flow	Speed	Head	Efficiency	Power	NPSHr
US gpm	rpm	ft	%	hp	ft
1166	1126	44.2	72.8	17.9	8.74
972	1126	49.7	69.6	17.5	8.96
778	1126	55.7	65	16.8	8.96
583	1126	62.6	57.1	16.3	8.96
389	1126	---	---	---	---

1. SUCTION AND DISCHARGE FLANGES:  
C.I. AND NI-HARD - 125 lbs R.F.  
ALLOYS - 150 lbs R.F.△  
ALL FLANGES MATE WITH STD. ASA FLANGES
2. PUMP ROTATION - C.W. VIEWED FROM  
SHAFT END.
3. CASTING DIMENSIONS MAY VARY ± 1/8"
4. ALL DIMENSIONS ARE IN INCHES. USE FOR  
INSTALLATION ONLY IF CERTIFIED.
5. SUCTION ELBOW CAN BE LOCATED IN  
ANY OF THE 4 POSITIONS SHOWN.



ACTUAL POSITION OF SUCTION  
AND DISCHARGE NOZZLES

Motor will be an Immersible close coupled to  
Pump. There is not power frame or coupling.



Drawing is for Ref only.  
A GA can be created if required  
if requested and or ARO.

PUMP:	HAYWARD GORDON XCS SCREW CENTRIFUGAL PUMP MODEL XCS6A-VDP. WITH CAST IRON CASING, HIGH CHROME IMPELLER & SUCTION CONE, CHESTERTON 442 MECH SEAL CARTRIDGE & GREASE LUBRICATED BEARINGS.		
MOTOR:	50 HP, 1800 RPM, 3/60/460V, 326TC TEFC W/ T-STATS & HTR	CAPACITY:	2000/2500/3000 GPM
DRIVE:	WOODS FLEXIBLE COUPLING	HEAD:	66/55/45 FT TDH
BASE:	FABRICATED STEEL PEDESTAL-PAINTED	SPEED:	1550 RPM
GUARD:	OSHA STANDARD-PAINTED	LIQUID:	RAS
TOTAL WEIGHT	WITH MOTOR: 2320 LBS (APPROX)	TAC:	SEC. 11126 RAS PUMP
	W/O MOTOR: 1570 LBS (APPROX)	QUANTITY:	ONE (1)

NO.	DATE	BY	REVISION
5			
HAYWARD GORDON LTD.			
TORONTO MONTREAL CALGARY VANCOUVER			
SCALE	CUST. P.O. NO.	GENERAL ARR. DWG. XCS6A-VDP-IFOR: WATER & WASTE	
NTS	DATE		
DRN.	DWG. NO.		





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HAYWARD GORDON

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[www.ebarahg.com](http://www.ebarahg.com)

## TERMS AND CONDITIONS OF SALE

### FORMATION OF AGREEMENT

These Terms and Conditions of Sale apply to the purchase of Products, Services, or both, by Buyer from EBARA HG ULC. (hereinafter referred to as "Seller"), each as identified in Seller's quote. These Terms and Conditions, together with Seller's quote, comprise the entire agreement between the parties (the "Agreement").

**Seller's agreement to furnish Product or Services is expressly conditioned on Buyer's agreement to these Terms and Conditions. An order for Products, Services, or both, constitutes Buyer's acceptance of these terms and conditions. Seller rejects any terms, conditions, or warranties in Buyer's purchase order or other document or communication that are additional to or differ from those set out in this Agreement, unless set out in writing and signed by Seller's authorized representative.**

### PRICES

**Quotes.** Prices in Seller's quote are valid for 30 days from the date of the quote unless otherwise specified in writing.

**Currency.** Prices are in the currency specified in Seller's quote. If no currency is specified, prices to buyers located in Canada are in Canadian dollars and prices to all other buyers are in US dollars.

**Taxes excluded.** Prices do not include any Taxes related to the Products or Services supplied under this Agreement, which are the responsibility of Buyer, unless Buyer presents a waiver or an exemption certificate acceptable to Seller.

### PAYMENT

**Terms.** Buyer will pay all invoiced amounts in full, without deduction, back charge or set-off, payment is not contingent on Buyer receiving payment from Buyer's customer. All invoices are payable within 30 days from the date of Seller's invoice, unless agreed to by Seller's authorized representative. All claims against invoices must be made within 30 days after receipt of goods.

**Payment Method.** Seller reserves the right to review Buyer's credit and extend or deny credit. The Buyer consents to provision of credit information and to the disclosure of information concerning the Buyer to credit agencies or financial institutions. Upon determination that the Buyer's creditworthiness has changed adversely, or does not satisfy current credit standards, Seller may change the credit limit. Buyer is hereby notified that payments by credit card will incur a 2% fee. NSF cheques will be subject to a \$100 charge.

**Late Payment.** If payment is not made when required, Seller may at its option take one or more of the following actions: (i) treat such failure as a repudiation of all or a portion of the order that has not been fully performed and immediately suspend performance, (ii) continue production and make shipment under reservation of title or a security interest, and demand payment against tender of documents of title; (iii) charge interest at the lesser of 2% per month with an annual cap of 24% and the maximum rate permitted under applicable law, from the due date until paid, plus Seller's reasonable costs of collection. (iv) enter the premises where any Products for which Buyer has not paid are located, repossess such Products whatever the mode of their attachment to realty or other property, sell the repossessed Products, apply the proceeds to the overdue payment, and recover any deficiency from Buyer. (v) cancel credit privileges without notice. (vi) accelerate payment of the full balance owed. (vii) recover from the Buyer all costs incurred in collecting any unpaid amounts, including, but not limited to, collection suit fees, legal fees, and court costs.

### DELIVERY, RISK, TITLE

**Delivery dates.** Delivery dates stated in advance of shipment, including in Seller's quote, are estimates only are not guaranteed. Seller will not be liable for or penalized because of delays in shipment for any cause. Seller reserves the right, upon prior notice to Buyer, to make partial deliveries or partial performance, which may be separately invoiced.

**Buyer Delay.** If Products cannot be shipped to or received by Buyer when ready because of any cause attributable to Buyer or its other contractors, Seller may store the Products at the sole expense and risk of Buyer; in such case, Seller will invoice Buyer and terms of payment will apply as if delivery had been made on the original delivery date.

**Damage/Shortage.** Claims for damages or shortages must be made within 5 days after receipt of Products.

### CHANGES

Orders accepted by Seller are not subject to change or cancellation by Buyer, except with Seller's written consent. Where Seller authorizes changes (including changes to specifications, and special packaging, tests, or inspections in addition to Seller's normal procedures and not set out in Seller's Quote), Seller may charge Buyer reasonable costs of such change.

Seller will make every effort to maintain initial prices throughout the drawing and submittals process. For the avoidance of doubt, in the instance of any change and resubmittal Seller reserves the right to adjust the price in accordance with equity and necessity.

Further, should the Buyer not respond to confirm drawings and submittals in 30 days, the initial price quoted may no longer be valid and may be subject to change in accordance with equity and necessity.

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## RETURNS

Goods may not be returned without prior authorization of seller and will incur a minimum 20% restocking fee. Returns are at Seller's sole discretion. Returns of custom products will not be accepted.

## INSTALLATION

All Products will be installed by and at the risk and expense of Buyer, unless otherwise specified in Seller's quote or agreed to in writing.

## WARRANTY

Seller warrants that during the warranty period:

- (i) all Products sold by it to Buyer pursuant to the Agreement, when properly stored, installed, used and maintained by Buyer, will in all material respects, conform to the specifications and be free from defects in materials and workmanship under normal usage; and
- (ii) the Services performed by Seller will be performed in a good and workmanlike manner in accordance with any mutually agreed specifications.

**Warranty Period.** The warranty period for Products is one year from date of shipment.

**Warranty Claims/Seller's Obligations.** A claim must be submitted in writing, within 30 days of discovery, within the warranty period, to give rise to Seller's obligations. Seller's sole liability and Buyer's exclusive remedy for a breach of this warranty is limited to repair or replacement by Seller, in the case of the Product warranty, and re-performance by Seller in the case of the Services warranty. Such repair, replacement or reperformance will not extend the warranty period. Seller may require access to complete and accurate records of operation and maintenance during the warranty period, or the return of defective parts, freight prepaid, before a warranty claim is recognized.

### Third-party components.

Products may contain components from third party manufacturers. Seller will use reasonable commercial efforts to extend to Buyer the benefit of any warranty given by the component manufacturer to Seller where the third-party manufacturer permits it to do so.

### No other warranties.

All other warranties, representations, terms and conditions (express, implied or statutory) as to quality, condition, description, merchantability, fitness for purpose, compliance with sample, or non-infringement (except implied warranty of title) are expressly excluded to the fullest extent permitted by law.

## LIMITATION OF LIABILITY

**Exclusions.** Without limiting the foregoing, Seller will have no liability in respect of:

- (i) failure to follow Seller's use restrictions, specifications, recommendations or instructions or any misuse of the Products; (ii) any alteration, modification, repair, or enhancement of the Products by Buyer or any third party without Seller's prior written consent; (iii) any defect in the Product arising from designs, specifications or materials supplied by Buyer; (iv) any shipping, storage or working conditions different than those advised by Buyer after Seller's delivery of Products to Buyer; (v) chemical attack or wear; (vi) normal wear and tear; (vii) accident; (viii) fraud, negligence or wilful misconduct of Buyer or any of its affiliates or representatives; (ix) any Product for which the purchase price has not been paid in full in accordance with the Agreement.

### Limitation.

- (i) In no event will Seller's liability, in the aggregate, for damages arising out of the use of the Product or Services, or arising under this Agreement, whether in contract, tort (including negligence), or otherwise, to Buyer or any other person exceed the amount paid by Buyer to Seller under the Agreement for the Products or Services to which such claim or damages relates; (ii) Seller will not be liable for loss of profit or revenues, loss of use of equipment or systems, loss or deferral of production, interruption of business or loss of contract, loss of use, increased operating costs, or claims of Buyer's customers for any of the foregoing, any special, consequential, incidental, indirect, or punitive damages, whether or not foreseeable at the date of Seller starting performance of the Agreement and even if Seller is advised in advance of the possibility of any such loss or damages.

## INDEMNITY

Each party will indemnify the other party from and against claims brought by a third party, on account of personal injury or damage to the third party's tangible property, to the extent caused by the negligence of the indemnifying party in connection with this Agreement. If the injury or damage is caused by joint or concurrent negligence of Buyer and Seller, the loss or expense will be borne by each party in proportion to its degree of negligence. For purposes of Seller's indemnity obligation, no part of a Product is considered third party property, and "third party" does not include Buyer or any subsequent owner of the Products, their subsidiaries, parents, affiliates, agents, successors, or assigns, including any operation or maintenance contractor, or their insurer.

## EXCUSED PERFORMANCE/FORCE MAJEURE

A party will not be liable in respect of the non-performance of any of its obligations to the extent such performance is prevented by any circumstances beyond its reasonable control including but not limited to, strikes, lock-outs or labour disputes of any kind (whether relating to its own employees or others), fire, flood, explosion, natural catastrophe, military operations, blockade, sabotage, revolution, riot, civil commotion, war



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or civil war, acts or threats of terrorism. If such an event occurs, the time for performance will be extended by the amount of time lost by reason of the event plus such additional time as may be needed to overcome the effect of the event.

#### **COMPLIANCE WITH LAWS**

Each party shall comply with all applicable laws and regulations, orders, ordinances, resolutions, decrees, or restrictive measures and/or other requirements, including, but not limited to, import and export control, anti-bribery and anti-money laundering laws, regulations, codes, or ordinances. In no event shall buyer use, divert, import, export, or re-export products and/or technology in violation of such applicable laws and regulations.

Buyer hereby certifies that it will not export, re-export, or transfer all or part(s) of the products to Iran, North Korea and any countries of the sanctioned countries under the laws and regulations applicable to seller.

#### **GOVERNING LAW**

Unless otherwise agreed to in writing, the laws of the jurisdiction from which Seller ships the Product(s) will govern the interpretation and construction of this Agreement, and the Parties agree to submit to the exclusive jurisdiction of the courts of such jurisdiction.

**Waiver.** No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar).

**Severability.** If any provision of this Agreement is determined to be illegal, invalid or unenforceable, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.

#### **Assignment/Subcontracting.**

Seller may assign or novate its rights and obligations under this Agreement, in whole or in part, to any of its affiliates. Seller may subcontract portions of the work to any third party.