





DATE SUBMITTED 02/22/2023  
 SUBMITTED BY Public Services  
 DATE ACTION REQUIRED 03/01/2023

COUNCIL ACTION ( )  
 PUBLIC HEARING REQUIRED ( )  
 RESOLUTION ( )  
 ORDINANCE 1<sup>ST</sup> READING ( )  
 ORDINANCE 2<sup>ND</sup> READING ( )  
 CITY CLERK'S INITIALS ( )

**IMPERIAL CITY COUNCIL  
 AGENDA ITEM**

SUBJECT: Purchase Pump Station Parts	DISCUSSION/ACTION: 1. Discuss, Approve/Disapprove Purchase of Pump Station Maintenance Parts
DEPARTMENT INVOLVED: Public Services - Wastewater	
BACKGROUND/SUMMARY:  Public Services would like to purchase routine maintenance parts for the following Wastewater Pump Stations: <ul style="list-style-type: none"> <li>• B St. Rotating Assembly</li> <li>• Sky Ranch Rotating Assembly</li> <li>• General Stock for all Pump Stations (O-Rings &amp; Air Relief Valves)</li> </ul>	
FISCAL IMPACT: \$15,483.00 + tax & fees – EWS  55-555-5241 – 100% Wastewater Collections Maintenance	FINANCE INITIALS 
STAFF RECOMMENDATION: Approve	DEPT. INITIALS 
MANAGER'S RECOMMENDATION: 	CITY MANAGER'S INITIALS 
MOTION:	
SECONDED: AYES: NAYES: ABSENT:	APPROVED ( )      REJECTED ( ) DISAPPROVED ( )      DEFERRED ( )  REFERRED TO:



February 18, 2023

Quotation #: 23-0218--NSM01

Chris Kemp  
Imperial Wastewater Authority  
201 S B Street  
Imperial, CA 92251

PH: 760-457-5772  
EMAIL: ckemp@cityofimperial.org

Dear Chris Kemp,

Per your request, Environmental Water Solutions, Inc. is pleased to quote on the following for your favorable consideration.

Item	Qty	Part #	Description	Unit Price	Ext. Price
1	1	44163-473	R ROT V3B60/VS3B60/WW Pump Station (15-3187-LE)	\$5,363.00	\$5,363.00
2	2	GRP33-07/WW	AIR RELEASE VALVE Pump Station (15-3187-LE)	\$910.00	\$1,820.00
3	20	25152-273	O-RING BUNA CTD Pump Station (01-5976-A)	\$8.00	\$160.00
4	2	GRP33-07A/WW	AIR RELEASE VALVE Pump Station (01-5976-A)	\$910.00	\$1,820.00
5	1	44163-261	R ROT T4A3S-B Pump Station (02-6068-AM)	\$4,500.00	\$4,500.00
6	2	GRP33-07A/WW	AIR RELEASE VALVE Pump Station (02-6068-AM)	\$910.00	\$1,820.00
				<b>Total</b>	<b>\$15,483.00</b>

**Price Does Not Include Tax or Freight**

Shipment: Parts can be shipped in approximately 12-13 weeks from factory (transit time will vary), subject to prior sale and/or current shop load. Lead time may be adjusted at time of order.

ExWorks: Factory - Gardena

Freight: Pre-Pay & Add

Terms: Net 20 Days / Based Upon Credit Approval

Price Validity: 10 days from the date of this quote.

Cancellation Charges Apply

The attached Environmental Water Solutions, Inc. standard terms and conditions of sale apply to this quote.

Thank you for giving us the opportunity to quote the above. We look forward to completing this order to your satisfaction.

Regards,  
Nathan Maldonado  
Field Sales Engineer

13720 Cimarron Avenue  
Gardena, CA 90249  
Phone: 310-667-4390 Fax: 310-667-4395



**Environmental Water Solutions, Inc.**  
a M<sup>o</sup>Kenna Engineering Company

Accepted By – Name: \_\_\_\_\_ Purchase Order #: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**STANDARD TERMS AND CONDITIONS OF SALE FOR UNITS, PACKAGES, SYSTEMS, & PARTS**

Effective 7/1/2014

The foregoing quotation ("quotation") is subject to the following Environmental Water Solutions, Inc. [Seller] Standard Terms and Conditions which supersedes Buyer's [Buyer] proposed terms and conditions, if any. The quotation and these standard terms and conditions shall be referred to hereinafter collectively as the "quotation."

This quotation contains the entire agreement of the parties and all proposals, negotiations, representations, or agreements made or entered into prior to or contemporaneously with this quotation are excluded whether oral or in writing. Prices and specifications set forth in this quotation are based upon the terms and conditions set forth herein.

ANY TERMS PROPOSED IN BUYER'S ACCEPTANCE OF THIS QUOTATION WHICH ADD TO, VARY FROM, OR CONFLICT WITH THE TERMS HEREOF ARE HEREBY OBJECTED TO AND REJECTED AND SHALL NOT CONSTITUTE ANY PART OF ANY CONTRACT RESULTING FROM THIS QUOTATION. ANY SUCH PROPOSED TERMS SHALL HAVE NO FORCE OR EFFECT AND THE TERMS HEREIN SHALL CONSTITUTE THE COMPLETE AND EXCLUSIVE STATEMENT OF THE TERMS AND CONDITIONS OF ANY CONTRACT RESULTING FROM THIS QUOTATION AND MAY BE MODIFIED ONLY BY WRITTEN INSTRUMENT EXECUTED BY THE AUTHORIZED REPRESENTATIVES OF BOTH PARTIES.

1. Prices are EXW (Ex Works Incoterms) unless otherwise specified. Freight charges are not included in the quoted price, unless so stated. If order is not picked up by the Buyer, Seller may, in its discretion, select the carrier unless specified in advance by the Buyer. Purchase prices are stated in United States Dollars and payment shall be in United States currency.
2. Invoice terms are net 20 days unless otherwise specified. If Buyer fails to fulfill the terms of payment, Seller at its option may defer further shipment. Account past due shall bear interest at the rate of 1 1/2% per month or at the highest rate permitted by law until paid. In addition to such late payment charges, Buyer shall pay Seller any and all costs associated with collection thereof, including reasonable attorneys' fees. Seller reserves the right to modify or withdraw credit terms at any time without notice and may require down payments, C.O.D., payment in advance, progress payments, or payment guarantees.
3. Prices do not include sales, use, excise or any similar tax. Any tax or other governmental charge upon the production, sales, shipment, or use of the product which Seller is required to pay or collect from Buyer shall be paid by Buyer to Seller unless Buyer furnishes Seller with a tax exemption certificate acceptable to the applicable taxing authority. Buyer shall be responsible for obtaining any necessary governmental clearances, including import and foreign exchange licenses, which may be required by any government other than the government of the United States.
4. Seller shall not be liable for any failure to perform its obligations under any contract resulting from this quotation when such failure arises directly or indirectly from or is contributed to by any act of God, acts of Buyer, acts of civil or military authority, terrorism, priorities, fire, strikes or other labor disputes, accidents, floods, epidemics, war, riot, delays in transportation, lack of or inability to obtain raw materials, components, labor, fuel or supplies, or other circumstances beyond Seller's reasonable control whether similar or dissimilar to the foregoing.
5. Shipping dates are given to the best of Seller's knowledge based upon conditions existing at the time any contract resulting from this quotation is entered into and specifications contained therein, but are not of the essence of or in any way terms of the contract or representation of fact. Seller will, in good faith, endeavor to ship by the estimated shipping date, but shall not be responsible for any delay or any damage arising from failure to ship on the estimated shipping date. If Seller's completion of an order/contract is delayed by Buyer, that portion of the order/contract that is completed or ready for shipment, will be invoiced at that time, to be paid per the payment terms of the order/contract. Equipment held for the Buyer will be at the risk and expense of the Buyer, including applicable storage charges.
6. Any order resulting from this quotation cannot be cancelled, altered, or rescheduled except with the written consent of the Seller and upon terms which will indemnify the Seller against all loss associated thereby. All additional costs incurred by the Seller due to changes to the order by Buyer shall be paid by the Buyer. Goods may be returned only when specifically authorized by the Seller. Seller's Cancellation Terms will apply for order or goods cancelled or returned by the Buyer.
7. Title to the products and risk of loss with respect thereto shall pass to Buyer upon release thereof by Seller to a common carrier or upon tender of the products to an agent, employee, or representative of Buyer.
8. If Buyer has not made a claim to Seller within thirty (30) days after receipt of the products, the products shall be considered accepted and conforming to contract requirements.
9. Installation, start up of equipment, factory inspection or testing, and any materials or services shall be the responsibility of the Buyer unless otherwise specifically included in the Seller's quotation or contract.
10. Seller warrants to Buyer for a period of 18 months from the date of shipment or 12 months from placement into service, whichever first occurs, that any product delivered under any contract resulting from this quotation will at the time of shipment be free from defects in material and workmanship. If, within said warranty period, any such product is found, by Seller following its examination, to be defective in material or workmanship, Seller's sole obligation under this warranty will be to repair or replace such defective product at its option and expense, when received Freight Prepaid at the business establishment of Seller, or a repair facility authorized by Seller during regular working hours. Seller's obligation under this warranty shall not include any transportation charges, cost of removal and reinstallation, duty, taxes or any other charges whatsoever which will be paid by the Buyer. No goods may be returned by the Buyer without Seller's prior written consent. Seller does not warrant any products, accessories, or components not manufactured by Seller, but to the extent possible agrees to provide Buyer with the benefits of the manufacturer's warranty, if any. Seller shall not be liable for damage to or wear of products caused in whole or in part by abnormal conditions, improper application; maintenance; or use, failure to provide proper inlet conditions or flow, corrosives, abrasives or foreign objects, or other external causes. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.
11. Neither party shall disclose to third parties nor use for its own purposes any confidential information or trade secrets of the other party.
12. The rights of the Buyer herein shall neither be assignable or transferable without written consent from the Seller. If bankruptcy or insolvency proceedings are instituted by or against the Buyer, or if Buyer makes an assignment for the benefit of creditors, Buyer will be deemed in default and Seller will have the right to terminate its obligations by written notice to the Buyer, but such termination will not affect Buyer's obligation to pay for items delivered and work in progress.
13. In the event Buyer claims that Seller has breached any of its obligations under any contract resulting from this quotation, whether in warranty or otherwise, Seller may request and require return of the product and refund the Buyer's purchase price (if product is in same condition as when shipped by Seller) upon Seller's receipt of returned product. If Seller so requests the return of the product, the product shall be redelivered to Seller in accordance with Seller's instructions. Redelivered freight charges will be to Seller's account. In the event Seller elects to require return of the product, Seller shall absolutely have no further obligation to Buyer under any contract resulting from this quotation except to refund such purchase price upon redelivery of the product and Buyer will be deemed to have waived any and all claims arising from such contracts.

THE REMEDIES PROVIDED FOR IN THIS AND THE PRECEDING PARAGRAPH SHALL CONSTITUTE THE SOLE RECOURSE OF BUYER AGAINST SELLER FOR BREACH OF ANY OF SELLER'S OBLIGATIONS UNDER ANY CONTRACT RESULTING FROM THIS QUOTATION, WHETHER THE CLAIM IS MADE IN TORT, CONTRACT, OR IN ADMIRALTY, INCLUDING CLAIMS BASED ON WARRANTY, NEGLIGENCE, OR OTHERWISE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, NOR SHALL SELLER'S LIABILITY FOR ANY CLAIMS OR DAMAGE ARISING OUT OF OR CONNECTED WITH ANY CONTRACT RESULTING FROM THIS QUOTATION, OR THE MANUFACTURE, SALE, DELIVERY OR USE OF THE PRODUCT, EXCEED THE PURCHASE PRICE OF THE PRODUCT.

14. In the event (1) Buyer modifies any product sold pursuant to any contract resulting from this quotation without the express written consent of Seller or (2) Buyer fails to implement any changes in the product directed by Seller or (3) any product to be furnished under any contract resulting from this quotation is made in accordance

- with drawings, samples, or manufacturing specifications provided or designated by Buyer, Buyer agrees to defend, indemnify and hold harmless Seller from any and all claims, demands, actions, or causes of action or costs or expenses however incurred.
15. In the event any product to be furnished under any contract resulting from this quotation is to be made in accordance with drawings, samples or manufacturing specifications provided or designated by Buyer, Buyer agrees to indemnify and hold Seller harmless from any and all damages, costs and expenses arising from a claim that such product furnished to Buyer by Seller or the use thereof, infringes any Letters Patent, foreign or domestic, and Buyer agrees at its own expense to undertake the defense of any suit against Seller brought upon such claim or claims. In the event any product to be furnished under any contract resulting from this quotation is not for a U.S. Government application and is not to be made in accordance with drawings, samples or manufacturing specifications provided or designated by Buyer, but rather is the design of Seller, Seller agrees to hold Buyer and its customers harmless against any damages awarded by a court of final jurisdiction in any suit for infringement of any United States Letters Patent by reason of the sale or use of such product as furnished by Seller under any contract resulting from this quotation. In the event any claim is asserted or threatened, as to which Buyer may seek indemnification hereunder, Seller shall have the sole right to contest, compromise, litigate, or otherwise dispose of said claim, including the right to substitute non-infringing products, and Buyer agrees to cooperate fully with Seller with respect thereto. The foregoing undertaking of Seller shall not apply unless Seller shall have been informed in writing immediately by Buyer of any charge or suit alleging such infringement and shall have been given the opportunity to assume the defense thereof with counsel of its choosing, and further, such undertaking shall not apply if (i) the claimed infringement is settled without the consent of Seller, or (ii) the infringement results from the use of a product delivered hereunder which is modified by Buyer or others without authorization by Seller or (iii) used in combination with a product not delivered by Seller where such infringement would not have occurred from the lone use of the product delivered under any contract resulting from this quotation.
  16. The parties agree that should any provision contained in this Agreement be unenforceable under present or future laws or in a court of with jurisdiction over this agreement, the unenforceable provision will be replaced by a provision which lawfully enforces the parties' intention underlying the unenforceable provision, and the remaining provisions of this Agreement will remain in full force and effect.
  17. No provision of this Agreement is waived by any act or knowledge on the part of either party, except by a written instrument signed by an authorized representative of that party. The waiver by either party of any right or a party's failure to enforce a provision of this Agreement is not a continuing waiver or a waiver of any other rights or of any material breach or failure of performance of the other party.
  18. All articles herein will survive the termination or expiration of this Agreement or completion of any order.
  19. Any contract resulting from this quotation shall be governed by the Uniform Commercial Code as adopted in the State of California as effective and in force on the date hereof. Wherever a term defined by said Uniform Commercial Code is used herein, the definition contained in the Uniform Commercial Code is to control, provided, however, the term "Ex Works" shall be as defined in the Incoterms. No action for breach of sale, any contract resulting from this quotation or any covenant or warranty arising therefrom shall be brought more than one year after the cause of action has accrued.
  20. Dispute Resolution. It is the intent of the parties hereto to use alternative dispute resolution proceedings ("ADR"), by first requiring participation in mediation and then requiring mandatory binding arbitration.
    - a. Arbitration: Subject to the mediation provision below, any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Los Angeles County, California, before one arbitrator. At the option of the first to commence an arbitration, the arbitration shall be administered either by JAMS pursuant to its Streamlined Arbitration Rules and Procedures, or by the American Arbitration Association ("AAA") pursuant to its Commercial Arbitration Rules. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.
    - b. Allocation of Fees and Costs: The arbitrator may, in the Award, allocate all or part of the costs of the arbitration, including the fees of the arbitrator and the reasonable attorneys' fees of the prevailing party.
    - c. Mediation Before Arbitration: The parties agree that any and all disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to JAMS or AAA, or its successor, for mediation, and if the matter is not resolved through mediation, then it shall be submitted to final and binding arbitration pursuant to the arbitration clause set forth above. Either party may commence mediation by providing to JAMS or AAA and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested. The parties will cooperate with JAMS or AAA and with one another in selecting a mediator from JAMS' or AAA's panel of neutrals, and in scheduling the mediation proceedings. The parties covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or any JAMS or AAA employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may initiate arbitration with respect to the matters submitted to mediation by filing a written demand for arbitration at any time following the initial mediation session or 45 days after the date of filing the written request for mediation, whichever occurs first. The mediation may continue after the commencement of arbitration if the parties so desire. Unless otherwise agreed by the parties, the mediator shall be disqualified from serving as arbitrator in the case. The provisions of this Clause may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the party against whom enforcement is ordered.
    - d. Not a Condition of Employment. Employee and Company both acknowledge and agree that the decision to use ADR including arbitration was for each party's benefit and convenience and that use of arbitration or other form of ADR was not a condition of employment of Employee by Company. Employee understands and acknowledges that by agreeing to mandatory arbitration he relinquishes his right to have his claims or defense heard by a judge and jury.
  21. BOTH SELLER AND BUYER AGREE TO INDEMNIFY, DEFEND AND HOLD THE OTHER PARTY HARMLESS FROM ANY AND ALL LOSSES, LIABILITIES, DAMAGES, CLAIMS (INCLUDING, WITHOUT LIMITATION, CLAIMS FOR PERSONAL INJURY, BODILY INJURY, ILLNESS, DEATH OR PROPERTY DAMAGE), COSTS, EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES), PENALTIES, FINES AND JUDGMENTS OF ANY NATURE WHATSOEVER (COLLECTIVELY "LOSSES"), CAUSED BY OR ARISING OUT OF ANY NEGLIGENT ACTION, OR OMISSION, OR WILLFUL MISCONDUCT, OR ENVIRONMENTAL LIABILITY OF THE INDEMNIFYING PARTY, OR ANY OTHER BREACH OF THIS AGREEMENT BY THE INDEMNIFYING PARTY. NOT WITHSTANDING THE ABOVE, IN NO EVENT SHALL BUYER OR SELLER IS LIABLE TO EACH OTHER FOR INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR FOR LOSS OF ORDERS.  
Where Services provided to or on behalf of the Buyer are sold, resold, or otherwise transferred to a third party, the third party, and its customers, assignees, and other successors in interest to these Services, shall have no rights greater than those granted Buyer herein. Buyer shall defend, indemnify and hold Seller harmless, its officers, directors, and employees, from and against any and all claims, losses, liabilities or expenses of third parties (including without limitation attorney's fees) which Buyer could not itself recover hereunder.