

EXHIBIT "A"

AGREEMENT FOR
GRUNDFOS PUMPS, PARTS AND REPAIR SERVICES

THIS AGREEMENT, is made and entered into this 28 day of November 2017, by and between the CITY OF CLERMONT, FLORIDA, a municipal corporation under the laws of the State of Florida whose address is: 685 W. Montrose Street, Clermont, Florida, (hereinafter referred to as "CITY"), and TOM EVANS ENVIRONMENTAL, INC., whose address is: 3200 Flightline Drive, Ste. 302, Lakeland, FL 33811, (hereinafter referred to as "CONTRACTOR").

WHEREAS, CITY is in need of Grundfos wastewater pumps, equipment parts and repair services for pumps currently used by City; and

WHEREAS, CONTRACTOR is the only authorized representative/distributor for all Grundfos products in the municipal market; and

WHEREAS, CONTRACTOR is a sole source provider as set forth in CITY's purchasing policy.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto, agree as follows:

ARTICLE I – SCOPE OF WORK

The CONTRACTOR shall furnish all labor, materials, equipment, machinery, tools, apparatus, and perform all of the work, on an as needed and as requested basis and as described in Exhibit "A" attached hereto and incorporated herein and shall do everything required by this Contract.

ARTICLE II – TERM AND TERMINATION

1. This Agreement is to become effective upon execution by both parties, and shall remain in effect for a period of five (5) years thereafter, unless terminated or renewed as provided for herein.
2. CITY shall have the right upon fifteen (15) days written notice to CONTRACTOR to terminate this Agreement with or without cause. In the event of termination without cause hereunder, CITY shall pay CONTRACTOR for services provided up to the date of termination.
3. Prior to, or upon completion, of the initial term of this Agreement, CITY shall have the option to renew this Agreement for three (3) additional twelve (12) month period(s). Prior to completion of each exercised Agreement term, the City may consider an adjustment to price based on changes on the U.S. Bureau of Statistics, Employment Cost Index (ECI) for the most recent twelve (12) month period (see www.bls.gov/eci/ Current Edition). It is the CONTRACTOR's responsibility to request in writing any price adjustment

under this provision. The CONTRACTOR's written request for adjustment should be submitted sixty (60) days prior to the anniversary date of the Agreement. The CONTRACTOR adjustment request must clearly substantiate the requested increase. The written request for adjustment should not be in excess of the relevant price index change. If no adjustment request is received from the CONTRACTOR, the CITY will assume that the contractor has agreed that the optional term may be exercised without price adjustment. Any adjustment request received after the commencement of a new option period shall not be applicable.

The CITY reserves the right to reject any written price adjustments submitted by the contractor and/or to not exercise any otherwise available option period based on such price adjustments. Continuation of the Agreement beyond the initial period, and any option subsequently exercised, is a CITY exclusive right, and not a right of the CONTRACTOR. This option right will be exercised only when such continuation is clearly in the best interest of the CITY.

ARTICLE III – THE CONTRACT SUM

The CITY shall pay to the CONTRACTOR, for the faithful performance of the Contract as set forth in the contract documents and the Unit Price Schedule, attached hereto and incorporated herein as Exhibit "A".

ARTICLE IV – COMMENCEMENT AND COMPLETION OF WORK

1. The CONTRACTOR shall only be authorized to, and shall, commence work within ten (10) calendar days after receipt of a Purchase Order, and shall provide the services within ten (10) days of repair approval from CITY.
2. The CONTRACTOR shall perform all services in a diligent and professional manner in accordance with all applicable laws. CONTRACTOR further agrees to provide a five (5) year complete warranty on all new pumps supplied, a one (1) year complete warranty on all parts installed and a one (1) year warranty on all labor/material.
3. Any ambiguity or uncertainty in the Specifications contained in "Exhibit "A" shall be interpreted and construed by the CITY's representative and his decision shall be final and binding upon all parties.
4. It is distinctly understood and agreed that the passing, approval and/or acceptance of any part of the work or material by the CITY or by any agent or representative as in compliance with the terms of this Contract and/or the Specifications covering said work shall not operate as a waiver by the CITY of strict compliance with the terms of this Contract and/or the Specifications covering said work; and the CITY may require the CONTRACTOR and/or his Surety to redo any service provided to comply strictly and in all things with this Contract and the Specifications.

ARTICLE V – PAYMENTS

In accordance with the provisions fully set forth in the Contract Documents, CONTRACTOR shall submit an invoice to CITY upon completion of the services and delivery to CITY as set forth in the applicable purchase order. CITY shall make payment to the CONTRACTOR for all accepted and undisputed services provided, within thirty (30) calendar days of receipt of the invoice. CONTRACTOR shall not bill CITY until the work authorized in the Purchase Order has been completed.

ARTICLE VI – DISPUTE RESOLUTION - MEDIATION

1. Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to voluntary arbitration or the institution of legal or equitable proceedings by either party.
2. The CITY and CONTRACTOR shall endeavor to resolve claims, disputes and other matters in question between them by mediation.
3. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Clermont, Lake County, Florida, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement Agreements in any court having jurisdiction thereof.

ARTICLE VII – INSURANCE AND INDEMNIFICATION RIDER

1. Worker's Compensation Insurance - The CONTRACTOR shall take out and maintain during the life of this Agreement Worker's Compensation Insurance for all his employees connected with the work of this Project and, in case any work is sublet, the CONTRACTOR shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. Such insurance shall comply with the Florida Worker's Compensation Law. In case any class of employees engaged in hazardous work under this Agreement at the site of the Project is not protected under the Worker's Compensation statute, the CONTRACTOR shall provide adequate insurance, satisfactory to the CITY, for the protection of employees not otherwise protected.
2. CONTRACTOR's Public Liability and Property Damage Insurance - The Contactor shall take out and maintain during the life of this Agreement Comprehensive General Liability and Comprehensive Automobile Liability Insurance as shall protect it from claims for damage for personal injury, including accidental death, as well as claims for property damages which may arise from operating under this Agreement whether such operations are by itself or by anyone directly or indirectly employed by it, and the amount of such insurance shall be minimum limits as follows:

- (a) CONTRACTOR's Comprehensive General, \$1,000,000 Each
(\$2,000,000 aggregate)

Liability Coverages, Bodily Injury Occurrence, & Property Damage
Combined Single Limit

(b) Automobile Liability Coverages, \$1,000,000 Each
Bodily Injury & Property Damage Occurrence,
Combined Single Limit

Insurance clause for both BODILY INJURY AND PROPERTY DAMAGE
shall be amended to provide coverage on an occurrence basis.

3. Indemnification Rider

- (a) To cover to the fullest extent permitted by law, the CONTRACTOR shall indemnify and hold harmless the CITY and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) , and (2) is caused in whole or in part by any negligent act or omission of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right to obligation of indemnity which would otherwise exist as to any party or person described in this Article.
- (b) In any and all claims against the CITY or any of its agents or employees by any employee of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligations under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.
- (c) The CONTRACTOR hereby acknowledges receipt of ten dollars and other good and valuable consideration from the CITY for the indemnification provided herein.
- (d) Contractor's indemnification shall apply to the proportionate extent that such actions, claims, demands, proceedings, losses and expenses were caused by the Contractor. It is the expressed intention of the parties, that each of them shall be liable for the consequences of their own negligent acts or omissions whether those acts or omission are the sole, joint, on concurring causes of any claims, demands, proceedings, losses or other liabilities.

City and Contractor waive against each other, and against the other's officers, directors, members, partners, and employees any and all claims for or entitlement to special, incidental, indirect, punitive, or consequential damages arising out of, resulting from, or related to the Contract. The parties further agree that the total liability of each party to the other for claims, costs, losses, and damages arising from this Contract shall be limited to the amount established in the Agreement as the Contract Price. The terms of this overall Limitation of Liability do not apply to or limit any claim by either party against the other based on the following: (a) costs, losses, or damages asserted by third parties for bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property; or (b) gross negligence or willful misconduct

Provided, however, that nothing contained in this agreement and specifically in this section 3(d) shall act as or be construed as a waiver of any sovereign immunity that the City may enjoy as a matter of law.

ARTICLE VIII – NOTICES

All notices shall be in writing and sent by United States mail, certified or registered, with return receipt requested and postage prepaid, or by nationally recognized overnight courier service to the address of the party set forth below. Any such notice shall be deemed given when received by the party to whom it is intended.

CONTRACTOR: Tom Evans Environmental, Inc.
3200 Flightline Drive, Ste. 302
Lakeland, FL 33811
Attn: Dale M. Jahn, V.P. / Sales

CITY: City of Clermont
Attn: Darren Gray, City Manager
685 W. Montrose Street
Clermont, FL 34711

ARTICLE IX – MISCELLANEOUS

1. Attorneys' Fees. In the event a suit or action is instituted to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover such sum as the Court may adjudge reasonable as attorneys' fees at trial or on any appeal, in addition to all other sums provided by law.
2. Waiver. The waiver by city of breach of any provision of this Agreement shall not be construed or operate as a waiver of any subsequent breach of such provision or of such provision itself and shall in no way affect the enforcement of any other provisions of this Agreement.

3. **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance is to any extent invalid or unenforceable, such provision, or part thereof, shall be deleted or modified in such a manner as to make the Agreement valid and enforceable under applicable law, the remainder of this Agreement and the application of such a provision to other persons or circumstances shall be unaffected, and this Agreement shall be valid and enforceable to the fullest extent permitted by applicable law.
4. **Amendment.** Except for as otherwise provided herein, this Agreement may not be modified or amended except by an Agreement in writing signed by both parties.
5. **Entire Agreement.** This Agreement including the documents incorporated by reference contains the entire understanding of the parties hereto and supersedes all prior and contemporaneous Agreements between the parties with respect to the performance of services by CONTRACTOR.
6. **Assignment.** Except in the event of merger, consolidation, or other change of control pursuant to the sale of all or substantially all of either party's assets, this Agreement is personal to the parties hereto and may not be assigned by CONTRACTOR, in whole or in part, without the prior written consent of city.
7. **Venue.** The parties agree that the sole and exclusive venue for any cause of action arising out of this Agreement shall be Lake County, Florida.
8. **Applicable Law.** This Agreement and any amendments hereto are executed and delivered in the State of Florida and shall be governed, interpreted, construed and enforced in accordance with the laws of the State of Florida.
9. **Public Records.** Contractor expressly understands records associated with this project are public records and agrees to comply with Florida's Public Records law, to include, to:
 - (a) Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the services contemplated herein.
 - (b) Provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided in this Florida's Public Records law or as otherwise provided by law.
 - (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining public records and transfer, at no cost, to the CITY all public records in possession of CONTRACTOR upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. CONTRACTOR shall use reasonable efforts to provide all records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.

(e) IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTRACTOR SHALL CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT CITY CLERK'S OFFICE, (352) 241-7331.

ARTICLE X – AGREEMENT DOCUMENTS

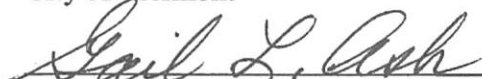
The Agreement Documents, as listed below are herein made fully a part of this Agreement as if herein repeated.

Document Precedence:


1. This Agreement
2. Purchase Order

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 28 day of November, 2017.

City of Clermont


Gail L. Ash, Mayor

Attest:


Tracy Ackroyd Howe, City Clerk

TOM EVANS ENVIRONMENTAL, INC.

By: Jennie M. Evans
(Signature)

Jennie M. Evans, Vice President
(Name & Title Printed or Typed)

Attest:

Marlene L. Schwarz
Corporate Secretary

Marlene L. Schwarz
(Name Printed or Typed)

GRUNDFOS CHICAGO

3905 Enterprise Court
Aurora, IL 60598-0620

Telephone: (630) 236-5500
Cell: (205) 704-1466
Fax: (630) 236-5511

10/12/2016

Mr. John Carter
City of Clermont
3335 Hancock Road
Clermont, Florida 34711

Re: Grundfos Products Representation -Municipal Market

Dear Mr. Carter,

Please accept this letter as formal notification to the City of Clermont, that Tom Evans Environmental, Inc., by contract, is the sole authorized Representative/Distributor for all Grundfos products in the municipal market and for your account.

The statement above applies to ALL Grundfos product lines including, but not limited to, Chicago, Morris, Yeomans, Grundfos, PACO and Peerless Pumps. Please contact Tom Evans Environmental, Inc. for all your pumping needs which includes pumps, parts, factory reconditioning, and service.

Thank you for your consideration and continued support of Grundfos products. Please do not hesitate to call us if we may be of further service.

Respectfully Submitted,

Gary Reid

Samuel Gary Reid
District Sales Manager-Distribution
Grundfos Chicago

cc: Tom Evans Environmental, Inc.