

## AGREEMENT FOR PURCHASE AND SALE OF GOODS

**THIS AGREEMENT FOR PURCHASE AND SALE OF GOODS (the "Agreement")** is made this 18<sup>th</sup> day of August, 2004, by and between **Eaton Electrical Inc.**, whose address is **1700 S. Powerline Road, Suite J, Deerfield Beach, FL 33442** ("Seller") and THE CITY OF NAPLES, a Florida municipal corporation, the address of which is 735 Eighth Street South, Naples, Florida 34102 ("Buyer"). In consideration of the mutual covenants and agreements hereinafter set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Buyer and Seller agree as follows:

1. **Description of Goods; Sale and Delivery.** Seller shall sell, transfer, and deliver to Buyer the goods described on the Description/Proposal attached hereto and made a part of as Exhibit "A" subject to such terms as are set forth in the Description/Proposal and in this Agreement.

2. **Acceptance; Purchase.** Buyer shall accept the goods and pay **an amount not-to-exceed: \$27, 400.00** for the goods in accordance with the terms of this Agreement.

3. **Identification of Goods.** Identification of the goods shall not be deemed to have been made until both Buyer and Seller have agreed that the goods in question are to be appropriate to the performance of this Agreement.

4. **Rate and Time of Payment.** Unless otherwise specified, Buyer shall make payment to Seller for the goods within 30 days after the goods are received by Buyer.

5. **Receipt of Goods.** The goods shall be deemed received by Buyer when delivered to Buyer at City of Naples, **380 Riverside Circle Naples, Florida 34102**. Delivery of the goods to Buyer shall occur on a business day and shall not occur after 3:15 p.m. on the delivery day.

6. **Risk of Loss.** The risk of loss from any casualty to the goods, regardless of the cause, shall be on Seller up to the time of receipt of the goods by Buyer at the place of delivery, but only after any proper inspection has been completed without rejection of the goods. Thereafter, such risk shall be on Buyer, including any goods thereafter returned to Seller until their receipt by Seller.

7. **Warranty Against Encumbrances.** Seller warrants that the goods are now free, and at the time of delivery shall be free, from any security interest or other lien or encumbrance.

8. **Warranty of Title.** Seller warrants that at the time of signing this Agreement, Seller neither knows, nor has reason to know, of the existence of any outstanding title or claim of title hostile to the rights of Seller in the goods.

9. **Product Warranty.** Seller provides general warranties of fitness and general warranties, attached hereto and made a part of as Exhibit "B", that the goods are free from defects, for 1 year from acceptance of the goods, except as may otherwise be set forth in the Description/Proposal, or other attached warranty.

10. **Right of Inspection.** Buyer shall have the right to inspect the goods at the time and place of delivery, and within 5 business days after delivery, Buyer must give notice to Seller of any claim for damages on account of the condition, quality, or grade of the goods, and Buyer must specify in detail the

basis of such claim. The failure of Buyer to comply with these conditions shall constitute irrevocable acceptance of the goods by Buyer.

11. **Procedure as to Rejected Goods.** On receipt of notification of rejection, Seller will immediately arrange to receive back the goods for shipment and return. However, within 5 days, Seller may have an agent inspect such goods for nonconformity; otherwise, such inspection will be made on return to Seller's storage facility. When such goods are confirmed or acquiesced in as nonconforming, Seller will ship conforming goods within 30 days of the notice of rejection unless Buyer earlier notifies Seller to forgo such shipment.

12. **Governing Law.** The parties acknowledge that the transaction that is the subject matter of this Agreement bears a reasonable relation to the State of Florida and agree that the law of the State of Florida will govern their rights and duties. The parties specifically intend that the provisions of Article 2 of the Florida Uniform Commercial Code will control as to all aspects of this Agreement and its interpretation, and that all the definitions contained therein will be applicable to this Agreement except where this Agreement may expressly provide otherwise.

13. **Notices and Address of Record.** All notices required or made pursuant to this Agreement to be given by Seller to Buyer shall be in writing and shall be delivered by overnight courier, by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following:

To Buyer:

City of Naples  
Attention: Dr. Robert E. Lee, City Manager  
735 Eighth Street South  
Naples, Florida 34102-3796

All notices required or made pursuant to this Agreement to be given by Buyer to Seller shall be made in writing and shall be delivered by overnight courier, by hand or by the United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following:

To Seller:

**Eaton Electrical Inc.**  
**1700 S. Powerline Road**  
**Suite J**  
**Deerfield Beach, FL 33442**

Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

14. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party who signature appears thereon and all of which shall together constitute one and the same instrument.

15. **Effective Date.** This Agreement shall take effect on the day of execution by the last party to execute this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first written above.

ATTEST:

\_\_\_\_\_  
(Print Name: \_\_\_\_\_)

"SELLER":

**Eaton Electrical Inc.**

(Corporate Seal)

By: \_\_\_\_\_  
Authorized Representative

ATTEST:

By: \_\_\_\_\_  
Tara A. Norman, City Clerk

"BUYER"

City of Naples, Florida

By: \_\_\_\_\_  
Dr. Robert E. Lee, City Manager

Approved as to form and legal sufficiency:

By: \_\_\_\_\_  
Robert D. Pritt, City Attorney



Eaton Electrical Inc.  
Eaton Electrical Services & Systems  
1700 S. Powerline Road  
Suite J  
Deerfield Beach, FL 33442  
Ph. (954) 571-8282  
Fax (954) 419-9881

Neg. #

1249MIK1D419 Rev. 1

May 4, 2004

City of Naples – WWTP  
Dept. of Public Works  
Utilities- Wastewater Treatment  
1400 3<sup>rd</sup>. Ave North  
Naples, FL 34102

Attn: Ken Kemlage

**Subject: Replacement of Variable Frequency Drive at the City of Naples WWTP  
Price reduction**

**Reference: EESS Neg. # 1249MIK1D419 Rev.1**

Dear Mr. Kemlege,

Eaton Electrical Services and Systems ( EESS ) formally Cutler-Hammer S&S is pleased to provide the following proposal for your review and consideration.  
Please note that there is an increase in the scope of supply for 3 each output filters. Price also reflects an increase in drive prices for 2004.

**1A. Scope of work: Replacement of 3 existing variable frequency drives.**

3 each:

SV9 Oversized NEMA 1, 20 HP Rating, Variable Torque, 440V to 500V  
5 digital inputs, relay output, thermistor input, 4-20ma input  
Speed Potentiometer  
Manual HOA, Bypass Contactor and Controller  
Time Delay Relay for start  
Elapse Time Meter  
Pushbuttons  
Push to Test Pilot Lights or Switch

3 each

Output Filters KLCUL

**1B. Scope of Work Option: Replacement of 1 existing variable frequency drive.**

1 each:

SV9 Oversized NEMA 1, 20 HP Rating, Variable Torque, 440V to 500V  
5 digital inputs, relay output, thermistor input, 4-20ma input  
Speed Potentiometer  
Manual HOA, Bypass Contactor and Controller  
Time Delay Relay for start  
Elapse Time Meter  
Pushbuttons  
Push to Test Pilot Lights or Switch

1 each

Output Filters KLCUL

**2. Scopes includes:**

**Startup & commissioning, setting drive(s) parameters, programming control as necessary.**

It is the customers responsibility to remove existing drives & to install/mount/cable new drives.

Travel time and local expenses.

**3. Price for 1A: Replacement of 3 existing variable frequency drives has been quantity discounted for purchase of 3 each drives**

The investment for 1A scope of work is: ----- \$ 27,400.00

Delivery is 4 to 6 weeks after receipt of order.

**4. Price for 1B Option: Replacement of 1 existing variable frequency drive.**

The investment for 1B scope of work is: ----- \$ 10,700.00

Delivery is 4 to 6 weeks after receipt of order.

This proposal is subject to Eaton Electrical's Selling Policy 25-000 attached. The following terms and conditions will apply to this proposal.

Taxes and fees are not included in this proposal.

This quotation is valid for 30 days from date of issue.

Price is based on customer providing ready access to the equipment for continuous, uninterrupted work. Any unusual delays not caused by EESS will be billed at the applicable regular or overtime rates.

Price is based on an 8-hour day Monday through Friday, holidays, hours in excess of an eight-hour day and weekend time will be billed at the applicable rates.

Customer provides tag out of the equipment and performs all switching or plant reconfiguration.  
Single-phase 115vac 20amp electrical power will be supplied by the customer.  
Offloading and storage of equipment provided by the customer.  
Welding, burning or cutting of equipment or interference's is the responsibility of the customer  
Applicable work permits gas free certificates, etc. are the responsibility of the customer.  
Customer is to provide and accurate and up to date electrical one-line diagram.  
Any equipment found to be defective would require customer approval prior to repair or replacement.  
Three-phase 480vac 150amp power is to be provided by the customer.  
Disposal of trash, oil or hazardous material is the responsibility of the customer.  
Customer provides written notification of any site specific safety practices prior to start of work. In the absence of site-specific safety practices, EESS personnel will follow the safety procedures in the EESS Safety Manual.  
Customer is to arrange and pay for any necessary utility outage.  
Customer is to provide lighting in any work area.  
Customer is to provide a System coordination study for setting of breaker trips. In absence of study EESS will set trip setting at minimum.  
Customer is to provide three (3) weeks of notification prior to start of proposed work.  
Customer is to provide written notification of insurance requirements three (3) weeks prior to start of work.  
Cancellation charge may apply is work if cancelled without sufficient notice.

We appreciate this opportunity to be of service to you. If you have any questions or comments please feel free to contact us at any time.

Respectfully,

*Robert A. Miller*

**Robert A. Miller**  
Senior Sales Engineer - South Florida & Caribbean  
Eaton Electrical Services & Systems ( EESS )  
Ph: 954-571-8282  
Fax: 954-419-9881  
Email: robertamiller@eaton.com

**WARRANTY****Warranty For Products**

Seller warrants that the Products manufactured by it will conform to Seller's applicable specifications and be free from failure due to defects in workmanship and material for one (1) year from the date of installation of the Product or eighteen (18) months from the date of shipment of the Product, whichever occurs first.

In the event any Product fails to comply with the foregoing warranty Seller will, at its option, either (a) repair or replace the defective Product, or defective part or component thereof, F.O.B. Seller's facility freight prepaid, or (b) credit Buyer for the purchase price of the Product. All warranty claims shall be made in writing. Seller requires all non-conforming Products be returned at Seller's expense for evaluation unless specifically stated otherwise in writing by Seller.

This warranty does not cover failure or damage due to storage, installation, operation or maintenance not in conformance with Seller's recommendations and industry standard practice or due to accident, misuse, abuse or negligence. This warranty does not cover reimbursement for labor, gaining access, removal, installation, temporary power or any other expenses which may be incurred in connection with repair or replacement.

This warranty does not apply to equipment not manufactured by Seller. Seller limits itself to extending the same warranty it receives from the supplier.

**Extended Warranty for Products**

If requested by the Buyer and specifically accepted in writing by Seller, the foregoing standard warranty for Products will be extended from the date of shipment for the period and price indicated below:

24 months – 2% of Contract Price  
30 months – 3% of Contract Price  
36 months – 4% of Contract Price

**Special Warranty (In and Out) for Products**

If requested by the Buyer and specifically accepted in writing by Seller, Seller will, during the warranty period for Products, at an additional cost of 2% of the contract price, be responsible for the direct cost of: