

AGREEMENT FOR PURCHASE AND SALE OF GOODS

THIS AGREEMENT FOR PURCHASE AND SALE OF GOODS (the "Agreement") is made this 17th day of September, 2003, by and between **Florida Can, Inc., whose address is 600 N. Prairie Industrial Parkway, Mulberry, FL 33860**, ("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: \$50,000 annually for the first 12 months**, with an allowable annual adjustment equal to the percentage, if any, by which the then most recently published CPI (as hereinafter defined) figure shall have increased over the CPI figure for the month occurring 1 year prior to the most recently published CPI figure. For purposes of this agreement, the term "CPI" shall refer to the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers (CPI-U), 1982-84=100) U.S. City Average.

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, 50 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 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. **Bid Documents.** The terms and conditions of the Invitation to Bid attached hereto and made a part hereof as Exhibit "A" shall be incorporated herein as a part of this Agreement.

14. **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:

Florida Can, Inc.
Attention: Anthony Martorana, President
600 N. Prairie Industrial Parkway
Mulberry, FL 33860

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

15. **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 whose signature appears thereon and all of which shall together constitute one and the same instrument.

16. **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:

"SELLER":
Florida Can, Inc.

(Corporate Seal)

(Print Name: _____)

By: _____
Authorized Representative

ATTEST:

"BUYER"

City of Naples, Florida

By: _____
Tara A. Norman, City Clerk

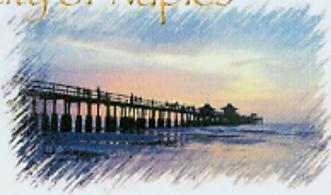
By: _____
Dr. Robert E. Lee, City Manager

Approved as to form and legal sufficiency:

By: _____
Robert D. Pritt, City Attorney

Agreement for Purchase and Sale of Goods
358322_1 97853_2

City of Naples



INVITATION TO BID

CITY OF NAPLES
PURCHASING DIVISION
280 RIVERSIDE CIRCLE
NAPLES, FLORIDA 34102
PH: 239-213-7100 FX: 239-213-7105

MAILING DATE: 6/26/03	TITLE: SOLID WASTE REFUSE CONTAINERS (ANNUAL CONTRACT)	NUMBER: 005-04	OPENING DATE & TIME: 2:00PM, 07/30/03
PRE-BID DATE, TIME AND LOCATION: N/A			

NAME OF PARTNERSHIP, CORPORATION OR INDIVIDUAL Florida Can, Inc.	IF SUBMITTING "NO BID", STATE REASON IN THIS SPACE:
BIDDER'S MAILING ADDRESS: 600 N. Prairie Ind. Parkway	
CITY-STATE-ZIP: Mulberry, FL 33860	
PH: (863)869-9339	EMAIL: floridacan@hotmail.com
FX: (863)869-8566	WEB SITE ADDRESS: www.floridacan1.com

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. In submitting a bid to the City of Naples the bidder offers and agrees that if the bid is accepted, the bidder will convey, sell, assign or transfer to the City of Naples all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of FL for price fixing relating to the particular commodities or services purchased or acquired by the City of Naples. At the City's discretion, such assignment shall be made and become effective at the time of City tenders final payment to the bidder.

AUTHORIZED SIGNATURE: 	DATE: 7/28/03	TYPED OR PRINTED NAME AND TITLE: Anthony Martorana , President
I acknowledge receipt of the following addendum (please initial by all that apply):		
_____ Addendum #1	_____ Addendum #2	_____ Addendum #3
_____ Addendum #4		

PLEASE NOTE THE FOLLOWING:

- > This page must be completed and returned with your bid.
- > Bids must be submitted in a sealed envelope, marked with bid number & closing date.
- > Bids received after the above closing date and time will not be accepted.
- > If you do not have an email address and you want a copy of the Bid Tab, please enclose a stamped, self-addressed envelope with your bid.

BID SCHEDULE I**STEEL CONTAINERS**

<u>ITEM</u>	<u>UNIT COST</u>
1. 10 Yd ³ Containers:	
A. Plastic side doors, flat top	\$ <u>625.00</u>
B. Steel side doors, flat top	\$ <u>615.00</u>
2. 8 yd ³ Containers	
A. Plastic side doors, flat top	\$ <u>515.00</u>
B. Steel side doors, flat top	\$ <u>507.00</u>
C. Plastic side doors, slant top	\$ <u>515.00</u>
D. Steel side doors, slant top	\$ <u>507.00</u>
E. No Side doors - slant top	\$475.00
3. 6 yd ³ Containers	
A. Plastic side doors, flat top	\$ <u>439.00</u>
B. Steel side doors, flat top	\$ <u>424.00</u>
C. Plastic side doors, slant top	\$ <u>439.00</u>
D. Steel side doors, slant top	\$ <u>424.00</u>
E. No Side doors - slant top	\$410.00
4. 4 yd ³ Containers	
A. Plastic side doors, flat top	\$ <u>314.00</u>
B. Steel side doors, flat top	\$ <u>304.00</u>
C. No Side doors - slant top	\$289.00

BID SCHEDULE I (CONTINUED)

5.	3 yd ³ Containers	
	A. Slant top-no casters	\$ <u>259.00</u>
	B. Flat top-no casters	\$ <u>259.00</u>
6.	2 yd ³ Containers	
	A. Flat top-no casters	\$ <u>203.00</u>
7.1	1 yd ³ Containers	
	A. Flat top-no casters	\$ <u>189.00</u>

BID SCHEDULE I TOTAL \$ 7712.00

State Minimum Order: ~~Truckload Quantities~~

Delivery can be accomplished within 30 calendar days after receipt of Purchase Order.

*Customer can order in truckload quantities as needed throughout the year.

Prompt Pay Terms: 1 % 10 Days

BID SCHEDULE II

PLASTIC CONTAINERS

	<u>ITEM</u>	<u>UNIT COST</u>
1.	3 yd ³ Containers	
	A. No casters	\$ <u>No Bid</u>
	B. With Casters	\$ <u> </u>
2.	2 yd ³ Containers	
	A. No casters	\$ <u>380.00</u>
	B. With casters	\$ <u>399.00</u>
3.	1 yd ³ Containers	
	A. No casters	\$ <u>No</u>
	B. With casters	\$ <u>Bid</u>

BID SCHEDULE II TOTAL \$ 779.00

State Minimum Order: 20 units

Delivery can be accomplished within 60 calendar days after receipt of Purchase Order.

Prompt Pay Terms: 1 % 10 Days