

## AGREEMENT FOR PURCHASE AND SALE OF GOODS

**THIS AGREEMENT FOR PURCHASE AND SALE OF GOODS (the "Agreement")** is made this **20<sup>th</sup> day of October, 2004**, by and between **Evans Oil Co., Inc., whose address is P.O. Box 856, Naples, FL 34106** (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 annual amount not-to-exceed of \$476,835.00** 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 370 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. **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:

**Evans Oil Co., Inc.**  
**Attn: Peter M. Johnson**  
**P.O. Box 856**  
**Naples, FL 34106**

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, and shall expire on September 30, 2005, with the option of two one-year renewals if possible.

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

ATTEST:

"SELLER":

**Evans Oil Co., Inc.**

(Corporate Seal)

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

\_\_\_\_\_  
Witness

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

RE: **BID No. 03-3527 -- "Gasoline & Diesel Fuel"**

Dear Commissioners:

The undersigned, as bidder, hereby declares that he has examined the specifications and informed himself fully in regard to all conditions pertaining to furnishing and delivering Gasoline & Diesel Fuel per the attached specifications. The Bidder further declares that the only persons, company or parties interested in this Proposal or the Contract to be entered into as principals are named herein; that this Proposal is made without connection with any other person, company or companies submitting a Bid or Proposal; and it is all respects fair and in good faith, without collusion or fraud.

The Bidder proposes and agrees, if this Proposal is accepted, to contract with the County to furnish work in full, in complete accordance with the attached specifications, according to the following unit prices:

Product Type	Order Quantity	Port Location	Vendor Markup or Discount* Amount
Unleaded Regular 87 AKI	Transport		\$ .0250
Unleaded Midgrade 89 AKI	Transport		\$ .0175
Unleaded Premium 93 AKI	Transport		\$ .0100
Unleaded Regular 87 AKI	Tank Wagon		\$ .0800
Unleaded Midgrade 89 AKI	Tank Wagon		\$ .0800
Unleaded Premium 93 AKI	Tank Wagon		\$ .0800
Combined ** Regular 87 AKI/Diesel	Transport		\$ .0250
Combined ** Midgrade 89 AKI/Diesel	Transport		\$ .0175

Combined ** Premium 93 AKI/Diesel	Transport		\$ .0100
Diesel #2 Low Sulfur	Transport		\$ .0300
Diesel #2 High Sulfur	Transport		\$ .0300
Diesel #2 Low Sulfur	Tank Wagon		\$ .0800
Diesel #2 High Sulfur	Tank Wagon		\$ .0800

\*Discounts are to be indicated by use of parenthesis (.xxx).

\*\*Transports carrying both Unleaded and Diesel Fuel.

Any discounts or terms must be shown on the Proposal Form. Such discounts, if any, will be considered and computed in the tabulation of the bids. In no instance should terms for less than fifteen (15) days payment be offered.

Prompt Payment Terms:      %      Days; Net 30 Days

Addenda received (if applicable): #1  #2  #3