

AGREEMENT FOR PURCHASE AND SALE OF GOODS

THIS AGREEMENT FOR PURCHASE AND SALE OF GOODS (the "Agreement") is made this **3rd day of October, 2007**, by and between **Lesco, Inc., whose address is 1301 East 9th St, Suite 1300, Cleveland, OH 44114** ("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 a total not-to-exceed **\$50,000.00** in a one year period 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 to the following sites: **Parks & Parkway Division 270 Riverside Circle, Naples, Florida 34102, Fleischmann Park, 1300 Fleischmann Boulevard, Naples, Florida 34102 and Cambier Park, 755 8th Avenue South, Naples FL 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 "B" 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:

Lesco, Inc.
1301 East 9th Street
Suite 1300
Cleveland, OH 44114
Keith O. McGinty, Director of bids, Pricing, & Research

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 is an annual Agreement ending September 30, 2008, with the option of two additional one-year renewals.

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

ATTEST:

(Print Name: _____)

"SELLER":

Lesco, 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

City of Naples



INVITATION TO BID

**CITY OF NAPLES
PURCHASING DIVISION
270 RIVERSIDE CIRCLE
NAPLES, FL 34102**

PH: 239-213-7101 FX: 239-213-7105

AUG 03 2007

MAILING DATE: 08/02/07	TITLE: Purchase and Delivery of Fertilizer	NUMBER: 110-07	OPENING DATE & TIME: 2:00PM 08/23/07
PRE-BID DATE, TIME AND LOCATION:			

NAME OF PARTNERSHIP, CORPORATION OR INDIVIDUAL: LESSCO	
MAILING ADDRESS: 1301 East 9th St. Suite 1300	
CITY-STATE-ZIP: Cleveland, Ohio 44114	
PH: 800-321-5325 ex: 4550	EMAIL: bids@lesco.com
FX: 216-706-1412	WEB ADDRESS: www.lesco.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 the City tenders final payment to the bidder.

AUTHORIZED SIGNATURE 	DATE 8/17/07	PRINTED NAME/TITLE Keith O. McGinty, Director of Bids, Pricing, Research
Please initial by all that apply I acknowledge receipt of the following addendum		
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

LESCO Item #	Item & Description	Est. Usage	Per 50 lb Bag	Bid Price Total
089103	8-4-12 Fertilizer ^{8-2-12 Palm + Tropical Ornamental Fert.}	1,500 Bags	\$ 15.00 per bag	\$ 22,500.00 *
089124	12-4-8 Fertilizer ^{12-4-8 40% PPSU 4MB 1.5MN 1FE}	800 Bags	\$ 11.00 per bag	\$ 8,800.00 *
088410	15-1-15 Fertilizer ^{15-0-15 40% PPSU 307 AS 1FE .4MN}	720 Bags	\$ 8.38 per bag	\$ 6,033.60 *
068404	8-4-10 Fertilizer ^{8-4-10 25% PPSU 2FE 1MN 1MG}	400 Bags	\$ 7.72 per bag	\$ 3,088.00 *
001586	0-0-50 Fertilizer 0-0-50 SOP	400 Bags	\$ 11.10 per bag	\$ 4,440.00
089110	0-0-20 Fertilizer ^{0-0-24 SOP 1FE 334 2MG 2MN}	400 Bags	\$ 9.56 per bag	\$ 3,193.04 *
007724	8-4-12 Stake ^{8-10-10 LESCO Palm Stakes}	400 Bags 4416 Boxes	\$ 51.88 per 44lb box	\$ 20,152.00 *
TOTAL:				\$ 68,809.64

Delivery can be accomplished within 7-10 calendar days ARO

Prompt Payment Terms: 0 % NET 30 days

State your minimum order: None lbs or \$ None

Additional Items

Please price (per 50/lb bag) the following items:

090557	15-1-15 Fertilizer with Talstar ^{Talstar .69% 130-13 30% PPSU 3FE 2MN}	\$ 14.33 /per 50 lb bag *
—	15-1-15 Fertilizer with Topchoice	\$ <u>NO BID</u> /per 50 lb bag
090551	15-1-15 Fertilizer with Merit ^{Merit 2% 14-0-14 100% PPSU}	\$ 31.96 /per 50 lb bag *
089155	15-1-15 Fertilizer with Clothianidin ^{Alleptus .18% 18-0-9 50% PPSU 3% FE}	\$ 27.39 /per 50 lb bag *

* Specifications enclosed or visit: WWW.LESCO.COM
ORDER PLACEMENT
PRODUCT INFORMATION
- 24 - LABELS, MSDS

Bid Number: 110-07
Opening Date: 08/23/07