

AGREEMENT FOR PURCHASE AND SALE OF GOODS

Bid/Proposal No. 026-09

Contract No. _____

Project Name Purchase of Variable Frequency Drives

THIS AGREEMENT FOR PURCHASE AND SALE OF GOODS (the "Agreement") is made this 15 day of April, 2009, by and between **HD Supply Electric**, whose address is 6231 Idlewild St, Fort Myers, FL 33966 ("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 Variable Frequency Drives and Associated Equipment as 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 \$85,170.78 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, Wastewater Treatment and Reclamation Facility at 1400 3rd. Ave. North, 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 "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: A. William Moss, 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: HD Supply Electric
Address: 6231 Idlewild St.
Fort Myers, FL 33966
Ronnie Beauchesne, Outside Sales

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":
HD Supply Electric

(Corporate Seal)

(Print Name: _____)

By: _____
Authorized Representative

ATTEST:

"BUYER"

City of Naples, Florida

By: _____
Tara A. Norman, City Clerk

By: _____
A. William Moss, City Manager

Approved as to form and legal sufficiency:

By: _____
Robert D. Pritt, City Attorney

Agreement for Purchase and Sale of Goods
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INVITATION FOR BID

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

NOTIFICATION DATE: 2/25/09	TITLE: Variable Frequency Drives & Associated Equipment Wastewater Treatment Facility	NUMBER: 026-09	OPENING DATE & TIME: 3/11/09 2:00 pm
PRE-BID DATE, TIME AND LOCATION:			
HD SUPPLY ELECTRIC			
NAME OF PARTNERSHIP, CORPORATION OR INDIVIDUAL:			
MAILING ADDRESS: 8821 EN 6231 IDLEWILD ST.			
CITY-STATE-ZIP: FORT MYERS			
PH: 239-931-4400		EMAIL: ALLEN.NEITZ.HDSUPPLY.COM	
FX: 239-931-4411		WEB ADDRESS: HDSUPPLY.COM	
<p>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.</p>			
AUTHORIZED SIGNATURE 		DATE 3/9/09	PRINTED NAME/TITLE Ronnie Beauchesne (OUTSIDE SALES)
Please initial by all that apply I acknowledge receipt of the following addendum			
<input checked="" type="checkbox"/> Addendum #1 <input type="checkbox"/> Addendum #2 <input type="checkbox"/> Addendum #3 <input type="checkbox"/> 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.

NON-COLLUSION AFFIDAVIT

STATE OF FL

COUNTY OF Collier

Ronnie Beauchesne, being first duly sworn deposes and says that:

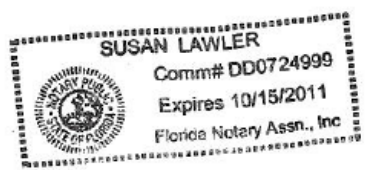
1. He (it) is the Ronnie Beauchesne, of _____, the Bidder that has submitted the attached Bid;
2. He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
3. Such Bid is genuine and is not a collusive or sham Bid;
4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affidavit, have in any way, colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted; or to refrain from bidding in connection with such Contract; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Bidder, firm, or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit, or cost elements of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Contract;
5. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any other of its agents, representatives, owners, employees or parties in interest, including this affidavit.

By [Signature]

Sworn and subscribed to before me this 11 day of MARCH, 2009 in the State of

FL, County of LEE

Susan Lawler Notary Public



My Commission Expires: _____

RETURN WITH BID
END OF SECTION - NON-COLLUSION AFFIDAVIT

BID

**VARIABLE FREQUENCY DRIVES REPLACEMENT PROJECT
WASTEWATER TREATMENT & RECLAMATION FACILITY**

Full Name of Bidder HD SUPPLY ELECTRIC
Main Business Address 6231 IDLEWILD ST. FT. MYERS FL. 33912
Billing Address 6231 IDLEWILD ST. FT. MYERS FL 33912
Telephone No. 239-931-4400 Fax No. 239-931-4411
Email Address: ALLEN.NETZ@HDSUPPLY.COM Contact Name: ALLEN NETZ
To: CITY OF NAPLES, Purchasing Division, 270 Riverside Circle, Naples, FL 34102
(hereinafter called the Owner)

Bidder agrees if this bid is accepted; Bidder will contract with the Owner in the form of the City of Naples Purchase Order for all items defined in these Bid Documents, to provide all necessary Equipment and Materials delivered to the City of Naples Wastewater Treatment & Reclamation Facility located at 1400 3rd Ave. N., Naples, Florida 34102.

NOTE: If you choose to bid, please submit in triplicate (ONE ORIGINAL and TWO COPIES) of your bid package on this form, and include the completed cover "INVITATION TO BID", "REFERENCES", and "NON-COLLUSION AFFIDAVIT".

Deliveries: All deliveries shall be to the City of Naples Wastewater Treatment and Reclamation Facility at 1400 3rd Ave. North, Naples, Florida 34102. Deliveries shall only be accepted between the hours of 7:00 am to 3:30 pm, Monday through Friday, excluding Holidays. The plant operations personnel shall be notified a minimum of 24 hours in advance of any delivery at 239-213-4745 by the carrier making the delivery.

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BID NUMBER: 026-09
BID OPEN DATE: 3/11/09
CITY PROJ. NO. 09M01

VFD & ASSOCIATED EQUIPMENT REPLACEMENT PROJECT -
NAPLES WASTEWATER TREATMENT & RECLAMATION FACILITY

BID PROPOSAL (CONTINUED)

Having become familiar with the specifications and conditions for this project, the undersigned proposes to furnish all equipment and materials described herein:

ITEM	DESCRIPTION	BRAND	PART#	QUAN	UNIT COST	EXTEND COST
1	20 HP 400-480V 3PH VFD ALTIVAR® 61	SQUARE-D	ATV61HD15N4	8	\$1175 ⁰⁰	\$9400
2	75 HP 400-480V 3PH VFD ALTIVAR® 61	SQUARE-D	ATV61HD55N4	3	\$3220 ⁰⁰	\$9660
3	125 HP 400-480V 3PH VFD ALTIVAR® 61	SQUARE-D	ATV61HD90N4	3	\$4041 ⁰⁰	\$12,123
4	600 HP 400-480V 3PH VFD ALTIVAR® 61	SQUARE-D	ATV61HC40N4	3	\$16,079 ⁰⁰	\$48,237
5	LCD GRAPHIC KEYPAD: IP54 RATING	SQUARE-D	VW3A1101	6	\$58 ¹⁸	\$349.08
6	REMOTE MOUNT. KIT: INCLUDES BEZEL & MOUNT. HARDWARE	SQUARE-D	VW3A1102	6	\$27 ⁸⁵	\$167.10
7	DOOR FOR USE WITH REMOTE MOUNT KIT	SQUARE-D	VW3A1103	6	\$22 ⁸⁰	\$136.80
8	CABLE FOR REMOTE MOUNT. LCD GRAPHIC KEYPAD: RJ-45 CONN. ON EACH END (10M)	SQUARE-D	VW3A1104R100	6	\$22 ⁸⁰	\$136.80
9	TYPE 4X ALUMINUM ENCLOSURE: 36"X30"X12"D (CONT HINGE)	E-BOX HOFFMAN (OR EQUAL)	A36H3012ALTP A363012N4X A3630P A36P30AL	3	790 ⁰⁰ 124 ⁰⁰ \$	2370.00 372.00 \$
10	TYPE 4X ALUMINUM ENCLOSURE: 30"X24"X12"D (CONT HINGE)	E-BOX (HOFFMAN (OR EQUAL)	A30H2412ALTP A302412N4X A3024P A30P24AL	1	630 ⁰⁰ 89 ⁰⁰ \$	630.00 89.00 \$
11	1 DAY (MIN. 4 FULL HOURS) ON SITE, HANDS ON, MFG REP: OPERATION, PROGRAMMING AND TROUBLE-SHOOTING TRAINING FOR A MINIMUM CITY ASSIGNED STAFF			1	\$1500	\$1500.00
All Prices Shall Include Delivery to the 1400 3rd Ave. N., Naples, FL 34102: Wastewater Treatment Plant					TOTAL COST:	\$85,170

BID (CONTINUED)

Eighty Five Thousand One Hundred Seventy
(Total bid price in words)

EQUIPMENT WILL BE SHIPPED IN 31 DAYS AFTER RECEIPT OF CITY OF NAPLES PURCHASE ORDER.

THE FOLLOWING DOCUMENTS SHOULD BE COMPLETED AND SUBMITTED WITH THE BID.

- Invitation to Bid (Front Page)
- References (Page 9)
- Non-Collusion Affidavit (Page 11)
- Bid Proposal (Pages 19 - 21)
- Specification Data Sheets are required for all Proposed Equipment/Materials

NOTE: Bid should be submitted on this form.

SERVICE AND SUPPORT CONTACT: The bidder must provide a 24/7 Manufacturer Service and Support Contact for the VFD devices being proposed in this bid. The bidder must be an authorized Square D distributor, and be available 24/7 to support City staff with these devices that operate the plants critical equipment and processes. The MFG Contact is:

NAME: SQD SERVICES VFD TITLE: VFD SERVICES
24/7 PHONE#: 1-888-778-2733 EMAIL: www.us.schneider-electric.com
ADDRESS: 1415 S. Roselle Rd. IL. 60067

MANUFACTURE REPRESENTATIVE – OPERATION, PROGRAMMING, TROUBLE-SHOOTING TRAINING: The successful Bidder shall provide a One (1) day (full 4 hour minimum) Square D Manufacturer Technical Training Seminar on site, for assigned City staff (up to 12 staff). The training will be held at the Utilities Operations Training Room located at 380 Riverside Cr., Naples, Florida 34102. The certified trainer shall provide operational mock-ups of the proposed ALTIVAR61 VFD units for training purposes. The training shall include a detailed overview of the VFD Operation; Hands-ON programming techniques/practices and trouble shooting techniques/practices. The training shall be coordinated with the Wastewater Treatment Plant Superintendent at 239-213-4732. The bidder shall provide the contact information of the proposed Square D Trainer:

NAME: John Miller TITLE: Ind. Spec.
PHONE: 813-235-3107 EMAIL: John.A.Miller@HD Supply. Com

BID NUMBER: 026-09
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VFD & ASSOCIATED EQUIPMENT REPLACEMENT PROJECT –
NAPLES WASTEWATER TREATMENT & RECLAMATION FACILITY