

AGREEMENT FOR PURCHASE AND SALE OF GOODS

Bid/Proposal No. 055-12

Contract No. 12-00062

Project Name Purchase of Wood Mulch

THIS AGREEMENT FOR PURCHASE AND SALE OF GOODS (the "Agreement") is made this 3rd day of October, 2012, by and between **Forestry Resources, Inc**, whose address is **4353 Michigan Link, Fort Myers, FL 33916** ("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 the annual sum of **\$100,000** 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, Community Services Department, 280 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 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
735 Eighth Street South
Naples, Florida 34102-3796
Attention: A. William Moss, City Manager

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:
Forestry Resources, Inc
4353 Michigan Link
Fort Myers, FL 33916
Attention: Robert Olinger, Vice President

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 one-year agreement shall commence on **October 3, 2012** and expire **October 3, 2013** with the City's option to renew for two additional one-year periods.

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

ATTEST:

Robert Olmeyer
(Print Name: Robert Olmeyer)

SELLER:
Forestry Resources, Inc

(Corporate Seal)
By: Kristine Magee
Authorized Representative

ATTEST:

By: Jessica R. Rosenby for
Patricia L Rambosk, City Clerk

BUYER

City of Naples, Florida
By: A. William Moss
A. William Moss, City Manager

Approved as to form and legal sufficiency:

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

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EXHIBIT A

SPECIFICATIONS

1. DELIVERY

12 deliveries annually will be delivered to sites designated by a City representative. Delivery sites shall be within the City of Naples. Deliveries must be made within 3 days of request. Pallets are 40x48 and shall be shrink-wrapped. All shrink-wrap contains UV inhibitors. Pallet caps if required due to weather conditions will contain UV inhibitors.

2. MULCH SPECIFICATIONS

Playground Mulch / FloriMulch ® Play-Safe Engineered Wood Fiber or an exact comparable.

- 1) Playground Mulch / FloriMulch ® Play-Safe Engineered Wood Fiber is a mix of random-size virgin melaleuca wood fiber. Chips shall range from three quarter inch in diameter to one and a half inch in length. No more than 5% fines. Fines are defined materials less than one quarter inch in diameter.
- 2) Engineered wood fiber cannot contain twigs, bark, leaf debris or other organic material incorporated within such as soil, sand or gravel. Material can be manufactured from chips, end trimmings, or cut-offs. No pallets, crates or recycled wood. No painted ends; no contamination from other mulch.
- 3) In order to promote the environmental value of melaleuca bark from native Florida wetlands, the only species of wood to be used is melaleuca. No other species of tree or mixed blends of other fiber are allowed.
- 4) The particles are generally longer than they are wide. Due to the unique aspects of melaleuca bark, many of the secondary chips will have whisker strands, soft contorted shapes and layer papery bark. Hardly any two particles are identical in all dimensions and appearance.
- 5) In order to maintain the FloriMulch trademark, the mulch shall be made entirely from above ground portion wood and bark of the Melaleuca tree. It shall not contain more than 27% bark by volume, and no root or root pieces. Mulch must be free of weed seeds, soil and other organic or inorganic materials.
- 6) During processing, raw material shall be stacked and stored in curing piles for a period of no less than 120 days. Prior to final processing as FloriMulch ® Play-Safe Engineered Wood Fiber, the mulch will have been inspected and certified by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry as free of burrowing nematodes. All proofs of delivery shall bear the official State of Florida stamp of inspection and verification.
- 7) In order to sustain a consistent grade and restrict contamination caused by environment factors associated with wind, rain, below grade organics, and the daily transport of unrelated raw materials, FloriMulch ® Play-Safe Engineered Wood Fiber will be stored on concrete pads with side retention walls and a nylon cover. This same method of containment will be used on all color variations of this product. (As an option to a concrete pad, the base on which Play-Safe materials will be held will be required a minimum of 3-feet of pure FloriMulch ® Play-Safe Engineered Wood Fiber material.)

- 8) No chemical treatment of additives so that the material is non-toxic. The use of a non-toxic biodegradable colorant shall be utilized on Color Play-Safe material. MSDS specification sheet will be presented upon request.
- 9) Guidelines for gradated for natural FloriMulch ® Play-Safe Engineered Wood Fiber will be presented upon request.
- 10) Must pass evaluation for Shock Absorbing Properties in accordance with the procedures outlined in ASTM F-1292-99, as well as evaluation for Wheelchair Accessibility in accordance with the procedures outlined in ASTM 1951-99 Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment.

Landscaping Mulch

1. Mulch is evenly textures containing an absolute minimum of contaminants.
2. All natural wood fiber, Contains no reconstituted dimensional or pressure treated lumber.
3. Material is to go through a screening process to reduce soil content. It will next be ground to a minus 3.5 inch in size, and will be free from any contamination.
4. The wood is harvested from local South Florida sources.
5. The manufacturing process “cures” the mulch and prohibits seed germination of weeds and invasive plant species.

BID SCHEDULE

✓ **Playground Mulch / FloriMulch ® Play-Safe Engineered Wood Fiber or an exact comparable.**

Price: \$ 2.84 Per Bag

Bag Size: 2 Cubic Feet

COST PER CUBIC FOOT DELIVERED \$ 1.42

Landscaping Mulch (Vita Mulch)

Price: \$ 1.58 Per Bag

Bag Size: 2 Cubic Feet

COST PER CUBIC FOOT DELIVERED \$.79

Joe Basaglia is Contact person

Color Options for Landscaping Wood Mulch

Please provide pricing for your mulch options to include color.

MULCH NAME	COLOR	COST PER BAG	BAG SIZE IN CUBIC FEET	TOTAL COST PER CUBIC FOOT
Specialty Shredded	Red	\$ 2.09	2	\$ 1.04
Specialty Shredded	Gold	\$ 2.09	2	\$ 1.04

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Pro-Euc	Burnt Orange	\$ 2.19	2	\$ 1.09
Premium A-Brown	Brown	\$ 1.79	2	\$.89
Pro-cypress	Natural	\$ 1.75	2	\$.88
Florimulch 100% Metaleuca	Natural	# 1.65	2	.83