

**FIRST AMENDMENT  
TO AGREEMENT**

**THIS FIRST AMENDMENT** (the "First Amendment") to the Construction Management Agreement is made and entered into this **4th day of February, 2004** by and between the CITY OF NAPLES, a Florida Municipal Corporation (the "City"), and **O-A-K/Florida, Inc., dba Owen-Ames-Kimball Company**. (the "Contractor").

**WITNESSETH**

**WHEREAS**, the City and the Contractor entered into that certain Construction Management Agreement, **dated February 19, 2003** (the "Original Agreement") for **the Lowdermilk Park Pavilion Project** ('Project'); and

**WHEREAS**, the parties desire to amend the Original Agreement by this First Amendment to provide for additional payment to the Contractor for additional construction services not initially identified, pursuant to the terms and conditions contained herein.

**NOW, THEREFORE**, for good and valuable consideration, the receipt of which is hereby acknowledged, and in consideration of the mutual covenants, promises and conditions herein set forth, it is hereby acknowledged and agreed as follows:

1. The above recitals are true and correct and are incorporated herein by this Reference.
2. The scope of services shall be amended in accordance with Exhibit "A" attached hereto and incorporated herein for the provision of **additional construction services, in an additional amount of \$33,451.45, for a total of \$369,568.45.**
3. The terms of this First Amendment shall control and take precedence over any and all terms, provisions and conditions of Original Agreement which might vary, contradict or otherwise be inconsistent with the terms and conditions hereof. All of the other terms, provisions and conditions of Original Agreement, except as expressly amended and modified by this Second Amendment, shall remain unchanged and are hereby ratified and confirmed and shall remain in full force and effect.
4. This First Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original as against any part whose signature appears thereon and all of which shall together constitute one and the same instrument.

**IN WITNESS WHEREOF**, the City and the Contractor have caused this First Amendment to be duly executed by their duly authorized officers, all as of the day and year first above written.

**CITY:**

**ATTEST:**

**CITY OF NAPLES, FLORIDA**

By: \_\_\_\_\_  
Tara Norman, City Clerk

By: \_\_\_\_\_  
Dr. Robert E. Lee, City Manager

Approved as to form and legal sufficiency:

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

**O-A-K/FLORIDA, INC.**  
**dba Owen-Ames Kimball Company**

\_\_\_\_\_  
witness

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Amendment to agreement