

**INTER-LOCAL SETTLEMENT AGREEMENT AND MUTUAL RELEASE BETWEEN
COLLIER COUNTY WITH THE CITY OF NAPLES**

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (hereinafter referred to as the "Agreement and Release") is entered into and made on the date when it has been executed by the last of the parties to sign it, by and between Collier County (hereinafter referred to as "the County"), a political subdivision of the State of Florida and the City of Naples, a Florida municipal corporation, (hereinafter referred to as "the City").

W I T N E S S E T H:

WHEREAS, the County filed a Petition for formal administrative hearing with the Florida Department of Administrative Hearings, Case No.04-1048GM, alleging that the City is not in compliance with Florida Statutes, Chapter 163, (thereupon the "Case"); and

WHEREAS, the County has also filed an appeal with the Second District Court of Appeal in Lakeland, Florida, Case No. 2DCA# 2D05-392 in said Case; and,

WHEREAS, the County and the City, without any of them admitting any liability or fault, desire to settle the dispute and any and all disputes or claims that arise from, relate or refer in any way, whether directly or indirectly, to the Case; and,

WHEREAS, the County and the City desire to reduce their settlement to a writing so that it shall be binding upon them as well as their respective owners, principals, elected officials, officers, employees, ex-employees, agents, attorneys, representatives, insurers, spouses, successors, assigns, heirs grantees and affiliates.

NOW, THEREFORE, in consideration of the mutual covenants, promises and consideration set forth in this Agreement and Release, and with the intent to be legally bound, the County and the City agree as follows:

1. Collier County, as part of its Goodlette-Frank Project from Golden Gate Parkway to south of Pine Ridge Road, will provide all needed transportation improvements on Burning Tree Road to add a three-lane section extending 300 feet east of Goodlette – Frank Road.

2. The County further agrees to provide funding in the amount of \$100,000.00 to assist the City in the completion of the City’s Burning Tree Road Project. This funding will be paid to the City within 15 days after the Board of County Commissioners approves the agreement.

3. The City will withdraw its motion for attorney fees in this Case.

4. Collier County will dismiss its appeal of the decision rendered in the Case.

5. In consideration of the resolution of this dispute, and for other good and valuable consideration as enumerated in this Agreement, the receipt and adequacy of which is hereby acknowledged, the County and the City, on behalf of themselves, as well as on behalf of their attorneys, agents, representatives, and assigns, hereby expressly release and forever discharge among themselves and each other, as well as their officers, employees, ex-employees, agents, attorneys, representatives, successors, assigns, insurers and affiliates from any and all claims, demands, causes of actions, damages, costs, attorney’s fees, expenses and obligations of any kind or nature whatsoever that they have asserted or could have asserted against any other of them that arise from or relate to or refer to in any way to the Case, whether directly or indirectly, with the express exception of an action to enforce this Agreement and/or the terms contained herein.

6. The County and the City acknowledge and agree that this Agreement and Release is intended to and shall be binding upon their respective owners, principals, officials, officers, employees, ex-employees, agents, attorneys, representatives, insurers, successors, assigns, spouses, heirs and affiliates.

7. The County and the City recognize and acknowledge that this Agreement and Release memorializes and states a settlement of disputed claims and nothing in this Agreement and Release shall be construed to be an admission of any kind, whether of fault, liability, or of a particular policy or procedure, on the part of the County or the City.

8. The County and the City acknowledge and agree that this Agreement and Release is the product of mutual negotiation and no doubtful or ambiguous language or provision in this Agreement and Release is to be construed against any party based upon a claim that the party drafted the ambiguous provision or language or that the party was intended to be benefited by the ambiguous provision or language.

9. This Agreement and Release may be amended only by a written instrument specifically referring to this Agreement and Release and executed with the same formalities as this Agreement and Release.

10. In the event of an alleged breach of this Agreement and Release, the County and the City agree that all underlying causes of action or claims of the County and the City have been mutually extinguished, among and between each of them, by this Agreement and Release and that the sole remedy for breach of this Agreement and Mutual Release shall be for specific performance of its terms and conditions; or for any damages arising from the breach. In this regard, the County and the City further agree that the sole venue for any such action shall be in the Twentieth Judicial Circuit Court of Florida, or, if that Court refuses to accept jurisdiction thereover, a Court of competent jurisdiction.

11. The laws of the State of Florida shall govern this Agreement and Release.

12. If any action or proceeding is commenced with regard to the subject matter of this Settlement Agreement and Mutual Release, then the prevailing party in such action or

proceeding shall be entitled to have its reasonable attorney's fees and costs incurred in said action or proceeding promptly reimbursed by the non-prevailing party.

13. The parties further agree that time is of the essence in all respects regarding this Settlement Agreement and Mutual Release.

14. The parties agree that this Settlement Agreement and Mutual Release and any and all other documents in connection with the settlement of this matter may be executed in counterparts, each of which shall be deemed an original but all of which taken together shall constitute but one and the same instrument. Furthermore, the parties agree that a facsimile copy of a party's signature shall be deemed the equivalent of an original.

IN WITNESS WHEREOF, the County and the City have signed and sealed this Settlement Agreement and Mutual Release as set forth below:

CITY OF NAPLES:

Witnesses:

(Signature)

(Print)

(Signature)

(Print)

Date: _____

Approved as to form and legal sufficiency:

Robert G. Menzies, Esquire

By: _____
BILL BARNETT, Mayor

COLLIER COUNTY:

ATTEST:
DWIGHT E. BROCK, Clerk of
Courts of Collier County, Florida

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
FRED W. COYLE, Chairman

Date: _____

Date: _____

Approved as to form and legal sufficiency:

Jacqueline Williams Hubbard
Assistant County Attorney