

## JOINT PROJECT AGREEMENT

THIS AGREEMENT is made and entered into this 18th day of January, 2006 by and between the CITY OF NAPLES, Florida, a municipal corporation, (hereinafter referred to as the "CITY") and FAITH LUTHERAN CHURCH OF NAPLES, INC., a Florida corporation, (hereinafter referred to as the "CHURCH").

### WITNESSETH:

WHEREAS, in conjunction with planned roadway and drainage improvements to Burning Tree Drive the CITY also desires to undertake improvements to an existing unnamed access street which borders both the CITY's water storage tank and the CHURCH property; and

WHEREAS, the CHURCH desires to accrue certain benefits as a result of the CITY's roadway and drainage improvements along Burning Tree Drive and the existing access street, with both street improvements hereinafter referred to as the "Project" as described in Exhibit "A" which is attached hereto and incorporated herein; and

WHEREAS, the parties have heretofore coordinated their respective needs and activities associated with the Project as set forth in Exhibit "A"; and

WHEREAS, the CHURCH understands and concurs with planned roadway and drainage improvements under the Project pursuant to Exhibit "A" and desires to share certain responsibilities and commitments with the CITY to effectuate its accrual of certain benefits therein.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

### ARTICLE ONE RESPONSIBILITIES OF THE CITY

- 1.1. The CITY directly and/or through assigned representatives is responsible for the functions of engineering design, land surveying, utility coordination, environmental permitting, bid stage activities and construction of roadway and drainage improvements for the Project pursuant to Exhibit "A".
- 1.2. The CITY shall manage and complete construction of the Project and forthwith will administrate dedication of the unnamed access street to the public as a public CITY street.
- 1.3. The CITY shall authorize a maximum of three (3) driveway connections to the CHURCH property along the improved access street through issuance of an approved right-of-way permit(s) with preliminary locations of the planned driveway connections as designated and set forth in Exhibit "A".
- 1.4. As part of construction activities for the Project the CITY shall provide the CHURCH with right-of-way access by permit to existing or proposed public domestic water and sanitary sewer facilities as set forth in Exhibit "A" with the cost and management of engineering design, permitting and construction of utility service connections being the responsibility of the CHURCH.
- 1.5. As part of construction activities for the Project the CITY shall provide the CHURCH with right-of-

way access by permit to existing or proposed public stormwater drainage connections along Burning Tree Drive as set forth in Exhibit "A" with the cost and management of engineering design, permitting and construction of initial public drainage structures being the responsibility of the CITY and the cost and management of engineering design, permitting and construction of stormwater drainage connections and associated work being the responsibility of the CHURCH.

- 1.6. As stated in Exhibit "A" and as part of construction activities for the Project the CITY shall remove required portions of the CHURCH's existing driveway which connects onto Burning Tree Drive to effectuate operation of a new driveway connection along the improved access street with the scope of work including removal of pavement materials, conflicting trees, conflicting irrigation and conflicting lighting.
- 1.7. As part of construction activities for the Project the CITY shall provide street lighting and landscaping long the improved access street as set forth in Exhibit "A".
- 1.8. As part of construction activities for the Project the CITY shall provide the CHURCH with right-of-way access by permit to existing or proposed Florida Power and Light underground and/or surface power facilities at the intersection of Burning Tree Drive and the improved access street with the cost and management of engineering design, permitting and construction of electrical power cable work and connections being the responsibility of the CHURCH.
- 1.9. The CITY shall assign a Project Manager to the Project with responsibilities of such person or entity including communication and coordination of Project activities with the CHURCH on an on-going basis and distribution of written status reports as may be necessary. The CITY's Project Manager for the Project shall have full authority to render technical and management decisions, to transmit instructions, to receive information, to interpret and define CITY policies and to perform associated duties with respect to and in fulfillment of obligations under this agreement.

## **ARTICLE TWO RESPONSIBILITIES OF THE CHURCH**

- 2.1. The CHURCH shall review and approve the engineering design and location of CHURCH related improvements that are set forth in Exhibit "A" in a timely manner so as not to delay the City's Project.
- 2.2. The CHURCH shall provide the City with legal right of entry and with easements in essentially the format attached hereto as Exhibit "B", subject to the CITY's final legal review.
- 2.3. The CHURCH shall assign a Project Representative to the Project with responsibilities of such person or entity including communication and coordination of Project activities with the CITY on an on-going basis as necessary. The CHURCH's Project Representative for the Project shall have full authority to render technical and management decisions, to transmit instructions, to receive information, to interpret and define CHURCH policies and to perform associated duties with respect to and in fulfillment of obligations under this agreement.
- 2.4. The CHURCH herein authorizes the CITY to grant conditional approval to the Country Club of Naples for operation and maintenance of the east and south side of the lake property located immediately east of the CITY's water storage tank site.

**ARTICLE THREE  
TIME**

- 3.1. Services to be rendered by CITY and by the CHURCH shall be performed and completed in accordance with the Project Schedule attached hereto and made a part hereof as Exhibit "C".  
Time is of the essence with respect to the performance of this Agreement.
- 3.2. Should CITY and/or CHURCH be obstructed or delayed in the prosecution or completion of their respective services as a result of unforeseeable causes beyond the control of the CITY and/or CHURCH, and not due to fault or neglect of either party, including but not restricted to acts of God or of public enemy, acts of government, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then CITY and CHURCH shall revise Exhibit "C" to reflect such delay.

**ARTICLE FOUR  
INDEMNIFICATION**

- 4.1. CITY acknowledges that the general conditions of any construction contract shall include language, satisfactory to the CITY's attorney, in which the contractor agrees to hold harmless and to defend CITY and CHURCH, its agents and employees from all suits and actions, including attorney's fees, and all costs of litigation and judgments of any name and description arising out of or incidental to the performance of the construction contract or work performed thereunder.

**ARTICLE FIVE  
NOTICES AND ADDRESS OF RECORD**

- 5.1. All notices required or made pursuant to this Agreement to be given by the CHURCH to the CITY shall be in writing and shall be delivered by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following

CITY's address of record:  
City of Naples  
735 Eighth Street South  
Naples, Florida 34102-3796  
Attention: City Manager

- 5.2. All notices required or made pursuant to this Agreement to be given by the CITY to the CHURCH shall be made in writing and shall be delivered by hand or by the United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following CHURCH's address of record:

CHURCH's address of record:  
Faith Lutheran Church of Naples  
4150 Goodlette-Frank Road

Naples, Florida 34103  
Attention: Mr. Mike Werner

- 5.3. Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

**ARTICLE SIX  
APPLICABLE LAW**

- 6.1. Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, and by the laws, rules and regulations of the United States when providing services funded by the United States government. Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate Florida state court in Collier County, Florida.

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

ATTEST:

CITY:  
CITY OF NAPLES, FLORIDA,  
A MUNICIPAL CORPORATION

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

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

Approved as to form and  
legal sufficiency:

\_\_\_\_\_  
Robert Pritt, City Attorney

CHURCH:  
Faith Lutheran Church of Naples, Inc.

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

# EXHIBIT A

## ATTACHMENTS:

1. Design Criteria (Attachment #1)
2. Conceptual location sketches and preliminary design information for the new CITY access street, as depicted in Attachment #2, show the following elements with final location/position and features of improvements subject to final engineering designs:
  - a) Street alignment.
  - b) Three driveway connections (two aligned with existing parking aisles/one future).
  - c) Provisions for maintaining access during construction.
  - d) Drainage routing.
  - e) Location of 3-3" conduits for access to FPL pad-mounted transformer.
3. Burning Tree Drive plan sheet (Attachment #3) showing the following elements:
  - a) Access from Burning Tree (Note: final access subject to Collier County approval at the time of development).
  - b) Drainage yard drains along Burning Tree to serve the Church property.
  - c) Utility connections (6" Stub-out with valving for future water service and 6" Stub-out with valving for future sewer).
4. Easement location sketch (Attachment #4) for street and drainage
  - a) Easement for entrance
  - b) Easement for drainage
5. Landscaping, Lighting and Fencing location sketch (Attachment #5):
  - a) Tree removal/replacement (1\*)
  - b) Fence removal/replacement (1\*)
  - c) Restoration area using sod
  - d) Street lighting to include fixture placement at the identified driveway connections (1\*)

Note: (1\*) Preliminary plans to be provided to the Church for comment prior to final approval by the City.