

2010 TOURISM AGREEMENT BETWEEN COLLIER COUNTY
AND THE CITY OF NAPLES FOR FY 10 CATEGORY "A" CITY OF
NAPLES PROJECTS.

THIS AGREEMENT is made and entered into this ____ day of _____, 2009, by and between the City of Naples, hereinafter referred to as "GRANTEE" and Collier County, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY".

RECITALS:

WHEREAS, CITY has submitted applications for Category "A" Tourist Development Tax Funds in the aggregate amount of \$128,460.00 for the City of Naples Projects for fiscal year 2009-2010 as described in Exhibit A to this Agreement (the "Projects"); and

WHEREAS, the COUNTY desires to fund the Projects as a valid and worthwhile public purpose.

NOW, THEREFORE, BASED UPON THE MUTUAL COVENANTS AND PREMISES PROVIDED HEREIN AND OTHER VALUABLE CONSIDERATION, IT IS MUTUALLY AGREED AS FOLLOWS:

1. SCOPE OF WORK. GRANTEE prepared detailed applications and proposals outlining the Project to be accomplished, along with a project budget, as part of the grant application process, hereinafter referred to as "Proposal," attached as Exhibit "A". GRANTEE shall provide the project activities outlined in the Proposal within the budgeted amounts provided in the Proposal. GRANTEE shall not be reimbursed for any expenditures not included in the Proposal nor be reimbursed for amounts in excess of those provided in the Proposal unless an amendment to this Agreement is entered into by GRANTEE and COUNTY.
2. PAYMENT AND REIMBURSEMENT. The aggregate maximum reimbursement under this Agreement shall be One Hundred Twenty Eight Thousand Four Hundred Sixty and No/100

(\$128,460.00). GRANTEE shall be paid in accordance with the fiscal procedures of COUNTY upon submittal of an invoice and upon verification that the services described in the invoice are completed or that goods have been received.

GRANTEE shall determine that the goods and services have been properly provided and shall submit invoices to the County Manager or his designee. The County Manager, or his designee, shall determine that the invoice payments are authorized and the goods or services covered by such invoice have been provided or performed in accordance with such authorization. The budget for each project, attached as Exhibit "A," shall constitute authorization of the expenditure described in the invoices provided that such expenditure is made in accordance with this Agreement.

Each invoice submitted by GRANTEE shall be itemized in sufficient detail for audit thereof and shall be supported by copies of corresponding vendor invoices and proof of receipt of goods or performance of the services invoiced. GRANTEE shall certify in writing that all subcontractors and vendors have been paid for work and materials from previous payments received prior to receipt of any further payments. COUNTY shall not pay GRANTEE until the Clerk of the Board of County Commissioners pre-audits payment invoices in accordance with the law.

GRANTEE shall be paid for its actual cost not to exceed the maximum amount budgeted pursuant to the attached Exhibit "A".

3. ELIGIBLE EXPENDITURES. Only eligible expenditures described in Section 1 will be paid by COUNTY. Any expenditures paid by COUNTY which are later deemed to be ineligible expenditures shall be repaid to COUNTY within thirty (30) days of COUNTY'S written request

to repay said funds. COUNTY may request repayment of funds for a period of up to one (1) year after termination of this Agreement or any extension or renewal thereof.

4. PAYMENT REQUESTS. Payment requests for interim draws and final payment must be submitted to the County in the form of the Request for Funds form attached to this Agreement as Exhibit "B". All payments are on a reimbursement basis only after proof of paid invoices are presented to the County. County may withhold any interim draw for failure to provide the interim status report, and County shall withhold final payment until receipt of the final status report or other final report acceptable to County. All invoices and requests for payment including the final payment must be received within sixty 60 days of termination of this Agreement. Any invoices of requests not received in this time frame shall be returned to the Grantee and rejected for payment.

5. INSURANCE. GRANTEE is required to submit a Certificate of Insurance naming Collier County, and its Board of County Commissioners and the Tourist Development Council as additionally insured. The certificate must be valid for the duration of this Agreement and be issued by a company licensed in the State of Florida and provide General Liability Insurance for no less than the following amounts:

- Bodily Injury Liability - \$300,000 each claim per person
- Property Damage Liability - \$300,000 each claim per person
- Personal Injury Liability - \$300,000 each claim per person
- Worker's Compensation and Employer's Liability – Statutory

The Certificate of Insurance must be delivered to the County Manager, or his designee, within ten (10) days of execution of this Agreement by COUNTY. GRANTEE shall not commence activities which are to be funded pursuant to this Agreement until COUNTY has received the Certificate of Insurance.

6. CHOICE OF VENDORS AND FAIR DEALING. GRANTEE may select vendors or subcontractors to provide services as described in Section 1. COUNTY shall not be responsible for paying vendors and shall not be involved in the selection of subcontractors or vendors. GRANTEE agrees to disclose any relationship between GRANTEE and subcontractors and/or vendors, including, but not limited to, similar or related employees, agents, officers, directors and/or shareholders. COUNTY may, in its discretion, object to the reasonableness of the expenditures and require repayment if invoices have been paid under this Agreement for unreasonable expenditures. The reasonableness of the expenditures shall be based on industry standards.

7. INDEMNIFICATION. To the extent permitted by law, GRANTEE shall hold harmless and defend COUNTY, and its agents and employees, from any and 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 this Agreement or work performed thereunder. This provision shall also pertain to any claims brought against the COUNTY by any employee of the named GRANTEE, any subcontractor, or anyone directly or indirectly employed or authorized to perform work by any of them. GRANTEE'S obligation under this provision shall not be limited in any way by the agreed upon Agreement price as shown in this Agreement or GRANTEE'S limit of, or lack of, sufficient insurance protection.

8. NOTICES. All notices from COUNTY to GRANTEE shall be in writing and deemed duly served if mailed by registered or certified mail to GRANTEE at the following address:

Dr. Michael Bauer
City of Naples
280 Riverside Circle
Naples, Florida 34102

All notices from GRANTEE to COUNTY shall be in writing and deemed duly served if mailed by registered or certified mail to COUNTY at the following address:

Gary McAlpin, Director
Coastal Zone Management
W. Harmon Turner Bldg, Suite 103
3301 East Tamiami Trail
Naples, Florida 34112

GRANTEE and COUNTY may change their above mailing address at any time upon giving the other party written notification pursuant to this section.

9. NO PARTNERSHIP. Nothing herein contained shall be construed as creating a partnership between COUNTY and GRANTEE, or its vendor or subcontractor, or to constitute GRANTEE, or its vendor or subcontractor, as an agent or employee of COUNTY.

10. TERMINATION. COUNTY or GRANTEE may cancel this Agreement with or without cause by giving thirty (30) days advance written notice of such termination pursuant to Section 7 and specifying the effective date of termination. If COUNTY terminates this Agreement, COUNTY will pay GRANTEE for all expenditures incurred, or contractual obligations incurred with subcontractors and vendors, by GRANTEE up to the effective date of the termination so long as such expenses are eligible.

11. GENERAL ACCOUNTING. GRANTEE is required to maintain complete and accurate accounting records and keep tourism tourist development tax funds in a separate checking account. All revenue related to the Agreement should be recorded, and all expenditures must be incurred within the terms of this Agreement.

12. AVAILABILITY OF RECORDS. GRANTEE shall maintain records, books, documents, papers and financial information pertaining to work performed under this Agreement. GRANTEE agrees that COUNTY, or any of its duly authorized representatives, shall, until the

expiration of three (3) years after final payment under this Agreement, have access to, and the right to examine and photocopy any pertinent books, documents, papers, and records of GRANTEE involving transactions related to this Agreement.

13. PROHIBITION OF ASSIGNMENT. GRANTEE shall not assign, convey, or transfer in whole or in part its interest in this Agreement without the prior written consent of COUNTY.

14. TERM. This Agreement shall become effective on October 1, 2009, and shall remain effective until sixty (60) days after completion of the Project described in Exhibit "A", but no later than September 30, 2010.

15. AMENDMENTS. This Agreement may only be amended in writing by mutual agreement of the parties and after recommendation by the Tourist Development Council.

16. REQUEST FOR EXTENSION. Any request for additional time to complete the project described herein or any request for additional tourist development tax funds must be made in writing and received by the County Manager or designee at least thirty 30 days prior to the end date of this Agreement as provided in Section 14, TERM.

17. RECORDATION. This Agreement shall be recorded in the public records of Collier County, Florida.

IN WITNESS WHEREOF, GRANTEE and COUNTY have each respectively, by an authorized person or agent, hereunder set their hands and seals on the date and year first above written.

DATED:
ATTEST:
DWIGHT E. BROCK, Clerk

BOARD OF COUNTY COMMISSIONERS
COLLIER COUNTY, FLORIDA

, Deputy Clerk

By: _____
DONNA FIALA, Chairman

Approved as to form and
legal sufficiency:

Colleen M. Greene
Assistant County Attorney

ATTEST:

TARA NORMAN, City Clerk

Approved as to form and
legal sufficiency:

ROBERT D. PRITT, City Attorney

(corporate seal)

GRANTEE
CITY OF NAPLES

By: _____
BILL BARNETT, Mayor

WITNESSES:

(1) _____
signature

Printed/Typed Name

(2) _____
signature

Printed/Typed Name

EXHIBIT "A"

BUDGET – CITY OF NAPLES

| | |
|---|--------------|
| Beach Maintenance | \$73,460.00 |
| Naples Pier Annualized Repair and Maintenance | \$55,000.00 |
| | <hr/> |
| AGGREGATE TOTAL | \$128,460.00 |