

# CITY OF NAPLES, FLORIDA

## AGREEMENT (PROFESSIONAL SERVICES / CONSTRUCTION MANAGER AT-RISK)

**Bid/Proposal No. 050-10**

**Contract No.** \_\_\_\_\_

**Project Name Construction Manager-at-Risk River Park Pool**

THIS AGREEMENT (the "Agreement") is made and entered into this **7<sup>th</sup> day of December, 2011**, by and between the City of Naples, a Florida municipal corporation, (the "CITY") and **Manhattan Construction (Florida), Inc.** a Florida corporation, **3520 Kraft Road, Naples, FL 34105** (the "CONTRACTOR").

### WITNESS:

WHEREAS, the CITY desires to obtain the services of the CONTRACTOR concerning **Construction of River Park Pool** (referred to as the "Project"); and

WHEREAS, the CONTRACTOR's predecessor (**Manhattan Kraft Construction, Inc.**) has submitted a proposal for provision of those services; and

WHEREAS, the CONTRACTOR represents that it has expertise in the type of professional services that will be required for the Project.

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

### ARTICLE ONE CONTRACTOR'S RESPONSIBILITY

1.1. The Services to be performed by CONTRACTOR are generally described as **Construction of River Park Pool at 301 11<sup>th</sup> Street North, Naples, Florida 34102**, and may be more fully described in the Scope of Services, attached as Exhibit A and made a part of this Agreement.

1.2. The CONTRACTOR agrees to obtain and maintain throughout the period of this Agreement all such licenses as are required to do business in the State of Florida, the City of Naples, and in Collier County, Florida, including, but not limited to, all licenses required by the respective state boards and other governmental agencies responsible for regulating and licensing the professional services to be provided and performed by the CONTRACTOR pursuant to this Agreement.

1.3. The CONTRACTOR agrees that, when the services to be provided hereunder relate to a professional service which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, it shall employ or retain only qualified personnel to provide such services.

1.4. CONTRACTOR agrees to employ and designate, in writing, within 5 calendar days after receiving its Notice to Proceed, or other directive from the CITY, a qualified professional to serve as the CONTRACTOR's project manager (the "Project Manager"). The Project Manager shall be authorized and responsible to act on behalf of the CONTRACTOR with respect to directing, coordinating and administering all aspects of the services to be

provided and performed under this Agreement.

1.5. The CONTRACTOR has represented to the CITY that it has expertise in the type of professional services that will be required for the Project. The CONTRACTOR agrees that all services to be provided by CONTRACTOR pursuant to this Agreement shall be subject to the CITY's review and approval and shall be in accordance with the generally accepted standards of professional practice in the State of Florida, **as may be applied to the type of services to be rendered**, as well as in accordance with all published laws, statutes, ordinances, codes, rules, regulations and requirements of any governmental agencies which regulate or have jurisdiction over the Project or the services to be provided and performed by CONTRACTOR. In the event of any conflicts in these requirements, the CONTRACTOR shall notify the CITY of such conflict and utilize its best professional judgment to advise CITY regarding resolution of the conflict.

1.6. The CONTRACTOR agrees not to divulge, furnish or make available to any third person, firm or organization, without CITY's prior written consent, or unless incident to the proper performance of the CONTRACTOR's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by CONTRACTOR hereunder, and CONTRACTOR shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph. **However, the CONTRACTOR shall comply with the Florida Public Records laws.**

1.7 The CONTRACTOR agrees not to employ or offer to employ any Elected Officer or City Managerial Employee of the CITY who in any way deals with, coordinates on, or assists with, the professional services provided in this Agreement, for a period of 2 years after termination of all provisions of this Agreement. For purposes of this paragraph, the term "Elected Officer" shall mean any member of the City Council. For purposes of this paragraph, the term "City Managerial Employee" shall mean the City Manager, the Assistant City Manager, the City Clerk, and any City department head or director. If the CONTRACTOR violates the provisions of this paragraph, the CONTRACTOR shall be required to pay damages to the CITY in an amount equal to any and all compensation which is received by the former Elected Officer or City Managerial Employee of the CITY from or on behalf of the contracting person or entity, or an amount equal to the former Elected Officer's or City Managerial Employee's last 2 years of gross compensation from the CITY, whichever is greater.

1.8 The CONTRACTOR agrees not to provide services for compensation to any other party other than the CITY on the same subject matter, same project, or scope of services as set forth in this Agreement without approval from the City Council of the CITY.

1.9. Except as otherwise provided in this Agreement, the CONTRACTOR agrees not to disclose or use any information not available to members of the general public and gained by reason of the CONTRACTOR's contractual relationship with the CITY for the special gain or benefit of the CONTRACTOR or for the special gain or benefit of any other person or entity.

## **ARTICLE TWO CITY'S RESPONSIBILITIES**

2.1. The CITY shall designate in writing a project coordinator to act as the CITY's representative with respect to the services to be rendered under this Agreement (the "Project Coordinator"). The Project Coordinator shall have authority to transmit instructions, receive information, interpret and define the CITY's policies and decisions with respect to the CONTRACTOR's services for the Project. However, the Project Coordinator is not authorized to issue any verbal or written orders or instructions to the CONTRACTOR that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever:

- (a) The scope of services to be provided and performed by the CONTRACTOR;
- (b) The time the CONTRACTOR is obligated to commence and complete all such services; or

- (c) The amount of compensation the CITY is obligated or committed to pay the CONTRACTOR.

**Any such modifications or changes ((a) (b) or (c)) shall only be made by or upon the authorization of the CITY's city manager as authorized by city council in the enabling legislation or in the CITY's procurement policies.**

2.2. The Project Coordinator shall:

- (a) Review and make appropriate recommendations on all requests submitted by the CONTRACTOR for payment for services and work provided and performed in accordance with this Agreement;

- (b) Arrange for access to and make all provisions for the CONTRACTOR to enter the Project site to perform the services to be provided by the CONTRACTOR under this Agreement; and

- (c) Provide notice to the CONTRACTOR of any deficiencies or defects discovered by the CITY with respect to the services to be rendered by the CONTRACTOR hereunder.

2.3. The CONTRACTOR acknowledges that access to the Project Site, to be arranged by the CITY for the CONTRACTOR, may be provided during times that are not the normal business hours of the CONTRACTOR.

### **ARTICLE THREE TIME**

3.1. Services to be rendered by the CONTRACTOR shall be commenced subsequent to the execution of this Agreement upon written Notice to Proceed from the CITY for all or any designated portion of the Project and shall be performed and completed by **June 30, 2012**. Time is of the essence with respect to the performance of this Agreement.

3.2. Should the CONTRACTOR be obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of the CONTRACTOR, and not due to its own fault or neglect, including but not restricted to acts of God or of public enemy, acts of government or of the CITY, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then the CONTRACTOR shall notify the CITY in writing within 5 working days after commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which the CONTRACTOR may have had to request a time extension.

3.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the CONTRACTOR's services from any cause whatsoever, including those for which the CITY may be responsible in whole or in part, shall relieve the CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from the CITY. The CONTRACTOR's sole remedy against the CITY will be the right to seek an extension of time to its schedule. This paragraph shall expressly apply to claims for early completion, as well as claims based on late completion. However, if through no fault or neglect of the CONTRACTOR, the services to be provided hereunder have not been completed by the completion date in 3.1, the CONTRACTOR's compensation may be equitably adjusted, with respect to those services that have not yet been performed, to reflect the incremental increase in costs experienced by the CONTRACTOR after expiration of said 8 month period./

3.4. Should the CONTRACTOR fail to commence, provide, perform or complete any of the services to be provided hereunder in a timely and reasonable manner, in addition to any other rights or remedies available to the CITY hereunder, the CITY at its sole discretion and option may withhold to the extent necessary to protect the Owners interests payments due and owing to the CONTRACTOR until such time as the CONTRACTOR resumes performance of its obligations hereunder in such a manner so as to reasonably establish to the CITY's satisfaction that the CONTRACTOR's performance is or will shortly be back on schedule.

**ARTICLE FOUR  
COMPENSATION**

4.1. The total compensation to be paid to the CONTRACTOR by the CITY for all Services is a **4.50% Construction Management Fee with a Guaranteed Maximum Price (GMP) of \$1,500,000.00** and shall be paid in the manner set forth in the "Basis of Compensation", which is attached as **Exhibit B** and made a part of this Agreement.

**ARTICLE FIVE  
MAINTENANCE OF RECORDS**

5.1. The CONTRACTOR will keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation will be retained by the CONTRACTOR for a minimum of five 5 years from the date of termination of this Agreement or the date the Project is completed, whichever is later. The CITY, or any duly authorized agents or representatives of the CITY, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the 5 year period noted above; provided, however, such activity shall be conducted only during normal business hours. If the CONTRACTOR desires to destroy records prior to the minimum period, it shall first obtain permission from the CITY in accordance with the Florida Public Records laws.

**ARTICLE SIX  
INDEMNIFICATION**

6.1. The CONTRACTOR agrees to indemnify and hold harmless the City from liabilities, damages, losses and costs, attributable to bodily injuries or property damages, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONTRACTOR and persons employer or utilized by the CONTRACTOR in the performance of the Contract.

**ARTICLE SEVEN  
INSURANCE**

7.1. CONTRACTOR shall obtain and carry, at all times during its performance under **this Agreement**, insurance of the types and in the amounts set forth in the document titled General Insurance Requirements, which is attached as **Exhibit C and made a part of** this Agreement.

**ARTICLE EIGHT  
SERVICES BY CONTRACTOR'S OWN STAFF**

8.1. The services to be performed hereunder shall be performed by the CONTRACTOR's own staff and subcontractors, unless otherwise authorized in writing by the CITY. The employment of, contract with, or use of the services of any other person or firm by the CONTRACTOR, as independent contractor or otherwise, shall be subject to the prior written approval of the CITY. No provision of this Agreement shall, however, be construed as constituting an agreement between the CITY and any such other person or firm. Nor shall anything contained in this Agreement be deemed to give any such party or any third party any claim or right of action against the CITY beyond such as may otherwise exist without regard to this Agreement.

**ARTICLE NINE  
WAIVER OF CLAIMS**

9.1. The CONTRACTOR's acceptance of final payment shall constitute a full waiver of any and all claims, except for insurance company subrogation claims, by it against the CITY arising out of this Agreement or otherwise related to the Project, except those previously made in writing and identified by the CONTRACTOR as unsettled at

the time of the final payment. Neither the acceptance of the CONTRACTOR's services nor payment by the CITY shall be deemed to be a waiver of any of the CITY's rights against the CONTRACTOR.

**ARTICLE TEN  
TERMINATION OR SUSPENSION**

10.1. The CONTRACTOR shall be considered in material default of this Agreement and such default will be considered cause for the CITY to terminate this Agreement, in whole or in part, as further set forth in this section, for any of the following reasons: (a) failure to begin work under the Agreement within the times specified under the Notice(s) to Proceed, or (b) failure to properly and timely perform the services to be provided hereunder or as directed by the CITY, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by the CONTRACTOR or by any of the CONTRACTOR's principals, officers or directors, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) failure to perform or abide by the terms or spirit of this Agreement, or (f) for any other just cause. The CITY may so terminate this Agreement, in whole or in part, by giving the CONTRACTOR at least 3 calendar days' written notice, after a prior 7 day notice and opportunity to correct the default.

10.2. If, after notice of termination of this Agreement as provided for in paragraph 10.1 above, it is determined for any reason that the CONTRACTOR was not in default, or that its default was excusable, or that the CITY otherwise was not entitled to the remedy against the CONTRACTOR provided for in paragraph 10.1, then the notice of termination given pursuant to paragraph 10.1 shall be deemed to be the notice of termination provided for in paragraph 10.3 below and the CONTRACTOR's remedies against the CITY shall be the same as and limited to those afforded the CONTRACTOR under paragraph 10.3 below.

10.3. The CITY shall have the right to terminate this Agreement, in whole or in part, without cause upon 7 calendar day's written notice to the CONTRACTOR. In the event of such termination for convenience, the CONTRACTOR's recovery against the CITY shall be limited to that portion of the contract sum earned through the date of termination, together with any retainage withheld and any costs reasonably incurred by the CONTRACTOR that are directly attributable to the termination, but the CONTRACTOR shall not be entitled to any other or further recovery against the CITY, including, but not limited to, anticipated fees or profits on work not required to be performed.

**ARTICLE ELEVEN  
CONFLICT OF INTEREST**

11.1. The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. The CONTRACTOR further represents that no persons having any such interest shall be employed to perform those services.

**ARTICLE TWELVE  
MODIFICATION**

12.1. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

**ARTICLE THIRTEEN  
NOTICES AND ADDRESS OF RECORD**

13.1. All notices required or made pursuant to this Agreement to be given by the CONTRACTOR 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: A. William Moss, City Manager**

13.2. All notices required or made pursuant to this Agreement to be given by the CITY to the CONTRACTOR 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 CONTRACTOR's address of record:

**Manhattan Construction (Florida), Inc.**  
**3520 Kraft Road**  
**Naples, FL 34105**  
**Attn: Peter Tuffo, Vice President**

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

**ARTICLE FOURTEEN**  
**MISCELLANEOUS**

14.1. The CONTRACTOR, in representing the CITY, shall promote the best interest of the CITY and assume towards the CITY a duty of the highest trust, confidence, and fair dealing.

14.2. No modification, waiver, suspension or termination of the Agreement or of any terms thereof shall impair the rights or liabilities of either party.

14.3. This Agreement is not assignable, in whole or in part, by the CONTRACTOR without the prior written consent of the CITY.

14.4. Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

14.5. The headings of the Articles, Exhibits, Parts and Attachments as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions in such Articles, Exhibits, Parts and Attachments.

14.6. This Agreement constitutes the entire agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matter set forth herein, and any such prior agreements or understanding shall have no force or effect whatever on this Agreement.

Sec. 14. 7. The CONTRACTOR shall comply fully with all provisions of state and federal law, including without limitation all provisions of the Immigration Reform and Control Act of 1986 ("IRCA") as amended, as well as all related immigration laws, rules, and regulations pertaining to proper employee work authorization in the United States. The CONTRACTOR shall execute the Certification of Compliance with Immigration Laws, attached hereto as **Exhibit "D"**.

**ARTICLE FIFTEEN**  
**APPLICABLE LAW**

15.1. 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: \_\_\_\_\_  
A. William Moss, City Manager

Approved as to form  
and legal sufficiency:

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

**CONTRACTOR:**  
**Manhattan Construction (Florida), Inc.**  
A Florida Corporation

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

\_\_\_\_\_  
Witness

(CORPORATE SEAL)

## **EXHIBIT A**

### **SCOPE OF SERVICES**

The Services to be provided under this Agreement are those set out below.

**As outlined in the River Park Pool replacement architectural drawings provided by Borrelli and Partners, Inc. (Coral Gables, Florida) dated April 1, 2011 with the qualifications and assumptions (Exhibit A-1 through A-5) prepared by the CONTRACTOR and the field architect, incorporated into the sealed drawings.**

### **RIVER PARK POOL REPLACEMENT QUALIFICATIONS AND ASSUMPTIONS**

This preliminary pricing is based on the Design Development drawings from Borrelli & Partners dated April 1 2011, the Civil Engineering drawings from Agnoli, Barber & Brundage dated November 18 2010 and Pool plans from Aquadynamics Design Group, Inc. dated April 19, 2011.

#### **DIVISION #1 – GENERAL CONDITIONS**

##### **Includes:**

1. Office trailer on site for Kraft Construction personnel and stored materials.
2. Temporary water and power.
3. Portable toilet facilities.
4. Mobilization and demobilization cost, including transportation of office trailer, project sign, temporary construction facilities and construction fence.
5. General housekeeping which includes anticipated normal continuous clean up and dumpster cost.
6. Final cleaning.
7. Quality control.
8. Small tools and equipment.
9. Postage and fast mailing expenses.
10. Construction scheduling with periodic updates.
11. Registered surveyor to establish building control points.
12. As-built drawings, progress photos and plan reproduction.
13. Direct Material Purchase

##### **Excludes:**

1. Permit and impact fees are the responsibility of the Owner.
2. Primary utility service costs are the responsibility of the Owner.
3. Power consumption cost after issuance of Certificate of Occupancy.
4. Owner/Architect office trailers on the site.
5. Threshold Inspector services.
6. Costs for soil or density testing services.
7. Asbestos testing and abatement.
8. Builder's Risk Insurance and Deductibles associated with Builder's Risk.
9. Owner's liability insurance, Owner's protective and loss of use insurance.
10. Payment/performance bond.



11. Property Insurance for the existing facilities

DIVISION #2 – SITEWORK

**Includes:**

1. Foundation survey and elevation certificate for new buildings.
2. Stake and grade parking.
3. Provision for earthwork per civil plans.
4. Silt fence.
5. Termite soil treatment.
6. Underground utility locating services.
7. Underground utilities per civil plans.
8. Asphalt road repair and curb replacement as required.
9. Pavers at pool deck per architects detail 4/A1712.
10. Chain link perimeter fencing at North, South and West ends.

**Excludes:**

1. Ground improvements.
2. Removal and replacement of unsuitable soil
3. Removal and replacement of existing lift station

DIVISIONS #3 AND #4 – CONCRETE AND MASONRY

**Includes:**

1. Masonry piers on East side including entry.
2. Walls in pump/equipment building will be CMU, tooled joints. No furring and drywall finish is included on these walls.
3. Masonry in lieu of perimeter 8 x 24 CIP.

**Excludes:**

1. Concrete pool deck including salt finish.
2. Cast in place piers.
3. Perimeter piers on North, South and West ends.
4. Perimeter CIP walls.

#### DIVISION #5 – METALS

##### **Includes:**

1. Miscellaneous items for structure including angles, plates and connections.
2. Aluminum fencing 6 foot high with entry gate at East end with masonry piers.  
Remaining areas to receive 6' high chain link fencing and gates.

##### **Excludes:**

1. Aluminum flood panels.

#### DIVISION #6 – CARPENTRY

##### **Includes:**

1. Miscellaneous concealed blocking and backing as required.
2. Door, frame and hardware installation.
3. Solid surface countertops with supports at life guard office.

##### **Excludes:**

1. Cabinetry.

#### DIVISION #7 – THERMAL AND MOISTURE PROTECTION

##### **Includes:**

1. Sealants and caulking as required.

#### DIVISION #8 – DOORS AND WINDOWS

##### **Includes:**

1. Smoke seal at pool storage room.
2. Exterior perimeter caulking.

##### **Excludes:**

1. FPL fees.
2. Type F and F2 yet to be selected.
3. Back-up generator
4. Wiring for TV, phone, security and data
5. Fire alarm system, see alternates.
6. Lightning protection, see alternates.
7. Security System, see alternates.
8. Sound System.
9. Site lighting
10. Exterior wall sconces

1. Painting back of hollow metal frames with bituminous coating.
2. Bullet proof glazing.

#### DIVISION #9 – FINISHES

##### Includes:

1. PVC beads in lieu of zinc.
2. Stucco with trowel texture in lieu of float finish.
3. Soffit board in lieu of sto quick gold system.

##### Excludes:

1. Framing and drywall at cmu walls at bath house.
2. Wall tile.
3. Rubber base.

#### DIVISION #10 – SPECIALTIES

##### Includes:

3. Toilet accessories are included as Bradley.
4. Sloan sensor operated wall mount liquid soap dispenser per specification.
5. Bobrick 120V recessed hand dryer per specification.
6. Toilet partitions are included as floor mount, solid surface, overhead braced.
7. (1) JL Industries Cosmic 5lb ABC fire extinguisher per code requirements.
8. (1) JL Industries Cosmic 10lb ABC fire extinguisher per code requirements.
9. JL Industries Surface mounted stainless fire extinguisher cabinets per code requirements.

#### DIVISION #11 – EQUIPMENT

##### Includes:

1. No qualifications.

#### DIVISION #12 – FURNISHINGS

##### Excludes:

1. Appliances.
2. Window treatments.
3. Site furnishings

DIVISION #15 – MECHANICAL

**Includes:**

1. WC-1 Kohler K4405-0 Highline Bowl with Sloan Royal Manual Flush Valve 111-1.28 GPF
2. WC-2 Kohler K4406-0 Highline Bowl with Sloan Royal Manual Flush Valve 111-1.28 GPF
3. UR Kohler K4960 ET-0 Bardon with Sloan Royal 0.5 GPF Valve 186.
4. L-1 Kohler K2007-0 Kingston Wall Hung Lavatory with Moen M8884 single handle metering faucet ADA with Thermostatic mixing valve.
5. MS-1 Proflo 24x24 Mop Basin with Proflo PF1118 2 handle service sink faucet with SS wall guards and hardware.
6. WH State SE680DORTG45 80 Gallon 4.5KW 240V 1PH Water Heater Residential with expansion tank.
7. RCP Grundfos LF UP15 -29SU with timer and aqua stat.
8. S-1 Elkay Pacemaker PSR22193 33x19 double bowl stainless steel sink with Chicago 201AGN8AE331 2 handle wrist blade chrome faucet with side spray.
9. Wall Hydrant Woodford 24P with loose key.
10. Fire sprinkler system designed in accordance with NFPA 13 and local code enforcement.
11. Reduced number of deck drains by half due to incorporation of paver surface.

**Excludes:**

1. Test and balance

DIVISION #16 – ELECTRICAL

**Includes:**

1. Lighting fixtures.
2. Service equipment per plans.
3. Stub ups for telephone, data and cable
4. Surge protection for electrical gear.
5. Electrical for pool and equipment.
6. Ceiling fans.
7. Conduit for exterior lighting and sconces for future.

END OF EXHIBIT A

**EXHIBIT B**

**BASIS OF COMPENSATION**

As consideration for providing the Services as set forth in the Agreement, the CITY agrees to pay, and the CONTRACTOR agrees to accept payment on a percentage complete, per the following Schedule of Values basis as follows, *which is attached and made part of this Agreement*]:

<b>MANHATTAN CONSTRUCTION (FLORIDA), INC.</b>	
<b>RIVER PARK POOL</b>	
November 23, 2011	

Code	Description	11/23/2011 GMP	40,494 Gross S/F Cost	%
0	SURVEYING	2,825	0.07	0.19%
0	EARTHWORK AND PAVING	46,787	1.16	3.12%
0	LANDSCAPE AND IRRIGATION	12,469	0.31	0.83%
0	FENCING	36,640	0.90	2.44%
0	SITE UTILITIES	38,650	0.95	2.58%
0	DEMOLITION	By Owner		
0	PAVERS	50,095	1.24	3.34%
0	CONCRETE/MASONRY	271,600	6.71	18.11%
0	MISCELLANEOUS METALS	16,000	0.40	1.07%
0	ROUGH/FINISH CARPENTRY	33,812	0.83	2.25%
0	ROOFING/GUTTERS AND DOWNSPOUTS	105,831	2.61	7.06%
0	HOLLOW METAL DOORS AND FRAMES	13,330	0.33	0.89%
0	WINDOWS	12,250	0.30	0.82%
0	STUCCO	18,530	0.46	1.24%
0	METAL FRAMING AND DRYWALL	24,830	0.61	1.66%
0	CERAMIC TILE	0	0.00	0.00%
0	PAINTING	39,719	0.98	2.65%
0	FINAL CLEANING	1,047	0.03	0.07%
0	TOILET PARTITIONS	3,395	0.08	0.23%
0	FIRE EXTINGUISHERS/CABINETS	196	0.00	0.01%
0	TOILET ACCESSORIES/MIRRORS	5,023	0.12	0.33%
0	SIGNAGE	500	0.01	0.03%
0	CABINETS	5,117	0.13	0.34%
0	POOL	434,991	10.74	29.00%
0	PLUMBING	51,541	1.27	3.44%
0	HVAC	19,700	0.49	1.31%
0	FIRE SPRINKLERS	10,000	0.25	0.67%
0	ELECTRICAL	91,148	2.25	6.08%
	<b>SUB TOTAL</b>	<b>1,346,026</b>	<b>33.24</b>	<b>89.74%</b>
	BUILDERS RISK	By Owner	By Owner	By Owner
	GENERAL LIABILITY	9,681	0.24	0.65%
	IMPACT FEES & BUILDING PERMIT	By Owner	By Owner	By Owner
	DIRECT MATERIAL PURCHASE	-20,000	-0.49	-1.33%
	CONTINGENCY	0	0.00	0.00%
	GENERAL CONDITIONS	98,839	2.44	6.59%
	CONSTRUCTION MANAGER FEE	65,455	1.62	4.36%
	<b>TOTAL</b>	<b>\$1,500,000</b>	<b>37.04</b>	<b>100.00%</b>

END OF EXHIBIT B

## EXHIBIT C

### GENERAL INSURANCE REQUIREMENTS

The Contractor shall not commence work until he has obtained all the insurance required under this heading, and until such insurance has been approved by the CITY, nor shall the Contractor allow any subcontractor to commence work until all similar insurance required of the subcontractor has also been obtained and approved by the CITY.

Certificates of insurance must be issued by an authorized representative of the insurance company at the request and direction of the policyholder and must include sufficient information so as to identify the coverage and the contract for CITY's improvements for which they are issued. Certificates of insurance must be issued by a nationally recognized insurance company with a Best's Rating of no less than B+VII, satisfactory to the CITY, and duly licensed to do business in the state of said Contract.

The Contractor shall procure and maintain, during the life of this Contract, Workmen's Compensation Insurance for all of his employees to be engaged in work under this Contract, and he shall require any subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work, unless such employees are covered by the protection afforded by the Contractor's insurance. In case any employees are to be engaged in hazardous work under this Contract, and are not protected under this Workmen's Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate coverage for the protection of such employees. It is acceptable to use a State-approved Workmen's Compensation Self-Insurance fund.

The Contractor shall take out and maintain during the life of this Contract, Public Liability and Property Damage and shall include Contractual Liability, Personal Injury, Libel, Slander, False Arrest, Malicious Prosecution, Wrongful Entry or Eviction, Broad Form Property Damage, Products, Completed Operations and XCU Coverage to be included on an occurrence basis, and to the full extent of the Contract to protect him, the CITY, and any subcontractor performing work covered by this Contract from damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by himself or by a subcontractor, or by anyone directly or indirectly employed by either of them. The Contractor shall also maintain automobile liability insurance including "non-owned and hired" coverage. The entire cost of this insurance shall be borne by the Contractor.

The amount of such insurance shall be no less than \$1,000,000 annual aggregate for bodily injury and property damage combined per occurrence.

The City of Naples and their Engineer must be named as **Additional Insured** on the insurance certificate **and the following must also be stated on the certificate**. "These coverages are primary to all other coverages the City possesses for this contract only." The City of Naples shall be named as the Certificate Holder. **The Certificate Holder shall read as follows:**

**The City of Naples  
735 Eighth Street South  
Naples, Florida 34102**

No City Division, Department, or individual name should appear on the Certificate.  
No other format will be acceptable.

Thirty (30) days cancellation notice required.

The Certificate must state the bid number and title.

When using the "Accord" form of insurance certificate, please note that under the cancellation clause, the following must be deleted: "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company"

END OF EXHIBIT C

## EXHIBIT D

### CERTIFICATION OF COMPLIANCE WITH IMMIGRATION LAWS

The undersigned, is the \_\_\_\_\_ of the **Manhattan Construction (Florida), Inc.** (“the CONTRACTOR”), and hereby certifies to the following:

1. The CONTRACTOR is in full compliance with all provisions of the Immigration Reform and Control Act of 1986 (“IRCA”), as well as all related immigration laws, rules, regulations pertaining to proper employee work authorization in the United States.

2. The undersigned has verified that the CONTRACTOR has obtained and maintains on file, and will continue to obtain and maintain on file, all documentation required by law, including but not limited to, Form I-9, Employment Eligibility Verification, for all persons employed by or working for the CONTRACTOR in any capacity on any project for the City of Naples (CITY). All such persons have provided evidence of identity and eligibility to work to the CONTRACTOR in accordance with the IRCA and related law. The undersigned hereby affirms that no person has been or will be employed by the CONTRACTOR to work on projects for the CITY who is not authorized to work under law. The undersigned further affirms that the CONTRACTOR’s files will be updated by written notice any time that additional employees work on projects for the CITY.

3. The CONTRACTOR will have its contractors, subcontractors, suppliers and vendors who are involved in projects for the CITY to sign a written acknowledgment that they too are in compliance with immigration law. It is understood that failure to do so could result in the CONTRACTOR being liable for any violation of the law by such third parties.

4. The CONTRACTOR will fully cooperate with and have its contractors, subcontractors, suppliers and vendors to fully cooperate with, all inquiries and investigations conducted by any governmental agency in connection with proper compliance with the laws pertaining to appropriate work authorization in the United States.

5. The undersigned, on behalf of the CONTRACTOR, acknowledges that this Certification may be relied upon by the CITY, its officers, directors, employees, and affiliates or related persons and entities.

6. If it is found that the CONTRACTOR has not complied with the laws pertaining to proper employment authorization, and any legal and administrative action ensues against the CITY, the CONTRACTOR will indemnify, defend and hold the CITY harmless along with their officers, directors, employees, and affiliated or related persons and entities.

7. The CONTRACTOR acknowledges that the CITY by their authorized representatives shall have the right, at any time, upon 24 hours notice, to examine the CONTRACTOR’s books and records to confirm that the CONTRACTOR is in compliance with the terms of this certification.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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



**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

The Affiant, \_\_\_\_\_, is [ ] personally known to me or [ ] has produced \_\_\_\_\_ as identification, which is current or has been issued within the past five years and bears a serial number or other identifying number.

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

\_\_\_\_\_  
NOTARY PUBLIC – STATE

OF \_\_\_\_\_

Commission Number: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

(Notary Seal)