

AGREEMENT BETWEEN COLLIER COUNTY

AND

CITY OF NAPLES

RIVER PARK & FUN TIME IMPROVEMENTS

Catalog of Federal Domestic Assistance # 14.218

HUD Grant # B-06-UC-12-0016

THIS AGREEMENT, is entered into this _____ day of _____, 20__, by and between Collier County, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY", and "THE CITY OF NAPLES.," a private not-for-profit corporation existing under the laws of the State of Florida, having its principal office at 735 Eighth Street South Naples, Florida 34102-6796, and its Federal Tax Identification number as 59-6000382 , hereinafter referred to as "SUBRECIPIENT."

WHEREAS, the COUNTY has entered into an agreement with the United States Department of Housing and Urban Development for a grant for the execution and implementation of a Community Development Block Grant Program in certain areas of Collier County, pursuant to Title I of the Housing and Community Development Act of 1974 (as amended); and

WHEREAS, Pursuant to the aforesaid agreement COUNTY is undertaking certain activities to primarily benefit low and moderate income persons and neighborhoods and to alternatively use Community Development Block Grant (CDBG) funds for: slum or blight treatment or for an urgent community need; to improve the quality of life in Collier County by providing infrastructure improvements, public facilities, and other activities which are related to neighborhood/community improvements; to improve the condition of life for persons who require physical access or other services that meet their individual needs; and to provide for long range community improvements by assessing current conditions and planning long range improvement programs as described in the Consolidated Plan submission; and

WHEREAS, the Fiscal Year 2006-2007 Consolidated One-Year Action Plan was developed following the Collier County Consolidated Plan – Citizen Participation Plan, adopted on January 9, 2001 and April 25, 2006; and

WHEREAS, The Board of County Commissioners of Collier County approved the Collier County Consolidated Plan One-Year Action Plan for Federal Fiscal Year 2006-2007 for the CDBG Program by

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Resolution on April 25, 2006, including the use of this standard form Agreement; and

WHEREAS, the United States Department of Housing and Urban Development (HUD) has approved the County's Consolidated Plan One-Year Action Plan for Federal Fiscal Year 2006-2007 for the CDBG Program and the use of the CDBG funds for the activities identified in the Plan; and

WHEREAS, the COUNTY and the SUBRECIPIENT desire to provide the activities specified in Exhibit A of this Agreement, in accord with the approved Annual Consolidated Plan; and

WHEREAS, the COUNTY desires to engage the SUBRECIPIENT to implement such undertakings of the Community Development Block Grant (CDBG) Program as a valid and worthwhile County purposes.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is agreed by the Parties as follows:

I. DEFINITIONS

- (1) "COUNTY" means Collier County, and where applicable, it's authorized representative(s).
- (2) "CDBG" means the Community Development Block Grant Program of Collier County.
- (3) "HHS" means the Housing and Human Services Department of Collier County.
- (4) "SUBRECIPIENT" means THE CITY OF NAPLES.
- (5) "HHS Approval" means the written approval of the Housing and Human Services Department or designee.
- (6) "HUD" means the Secretary of the U.S. Department of Housing and Urban Development or a person authorized to act on its behalf.
- (7) "Low and moderate income persons" means the definition set by HUD.
- (8) "Project" means the work contemplated to be performed as set forth in Exhibit "A".

II. SCOPE OF SERVICES

The SUBRECIPIENT shall, in a satisfactory and proper manner, as determined by HHS, perform the tasks necessary to conduct the program outlined in Exhibit "A," and shall submit each request for reimbursement using Exhibit "B" along with the monthly submission of Exhibit "C," all of which are attached hereto and made a part hereof.

III. TIME OF PERFORMANCE

The effective date of this Agreement and all rights and duties designated hereunder are contingent upon the

timely release of funds for this project by HUD under Grant No. B-06-UC-12-0016. The effective date shall be the latest date of execution of this Agreement, and the services of the SUBRECIPIENT shall be undertaken and completed in light of the purposes of this Agreement. In any event, all services required hereunder shall be completed by the SUBRECIPIENT prior to June 15, 2008. Any funds not obligated by the expiration date of this Agreement shall automatically revert to the COUNTY, as set forth in Part VIII F (e), and Part VIII H below.

IV. CONSIDERATION AND LIMITATION OF COSTS

The SUBRECIPIENT shall be paid by the COUNTY for allowable costs, determined by COUNTY, in an amount not to exceed \$116,079.00 for the services described in Exhibit "A."

All improvements specified in Exhibit "A" shall be performed by SUBRECIPIENT employees, or shall be put out to competitive bidding under a procedure acceptable to the COUNTY and federal requirements. The SUBRECIPIENT shall enter into contract for improvements with the lowest responsive and responsible bidder. Contract administration shall be handled by the SUBRECIPIENT and monitored by the COUNTY, which shall have access to all records and documents related to the project.

V. NOTICES

All notices required to be given under this Agreement shall be sufficient when delivered to HHS at its office, presently located at 3050 North Horseshoe Drive, Suite 110, Naples, Florida 34104, and to the SUBRECIPIENT when delivered to its office at the address listed on page one (1) of this Agreement.

VI. SPECIAL CONDITIONS

The SUBRECIPIENT agrees to comply with the requirements of Title 24 Code of Federal Regulations, Part 570 of the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG) and all federal regulations and policies issued pursuant to these regulations. The SUBRECIPIENT further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available for specified activities.

VII. GENERAL CONDITIONS

A. IMPLEMENTATION OF PROJECT ACCORDING TO REQUIRED PROCEDURES

The SUBRECIPIENT shall implement this Agreement in accordance with applicable Federal, State, and County laws, ordinances and codes and with the procedures outlined in HHS' Policies and Procedures memoranda. The Federal, State, and County laws, ordinances and codes are minimal regulations supplemented by more restrictive guidelines set forth by HHS. No payments will be made until approved by the HHS Department or designee.

Should a project receive additional funding after the commencement of this Agreement, the SUBRECIPIENT shall notify HHS in writing within thirty (30) days of receiving notification from the funding source and submit a cost allocation plan for approval by the HHS Department or designee within forty-five (45) days of said official notification.

B. COMPLIANCE WITH LOCAL AND FEDERAL RULES, REGULATIONS AND LAWS

During the performance of the Agreement, the SUBRECIPIENT agrees to comply with any

applicable laws, regulations and orders listed below which by reference are incorporated and made a part hereof. The SUBRECIPIENT further agrees to abide by all other applicable laws,

1. **24 CFR Part 570, as amended** - The regulations governing the expenditure of Community Development Block Grant funds.
2. **24 CFR Part 58** - The regulations prescribing the Environmental Review procedure.
3. **36 CFR Part 800** - The regulations outlining the procedures for the protection of historic and cultural properties.
4. **24 CFR Part 1** - The regulations promulgated pursuant to Title VI of the 1984 Civil Rights Act.
5. **24 CFR Part 107** - The regulations issued pursuant to Executive Order 11063 which prohibits discrimination and promotes equal opportunity in housing.
6. **Executive Order 11246, as amended by Executive Orders 11375 and 12086** - which establishes hiring goals for minorities and women on projects assisted with federal funds.
7. **Title VII of the 1968 Civil Rights Act as amended by the Equal Employment Opportunity Act of 1972** - which prohibits discrimination in employment.
8. **24 CFR 135** - Regulations outlining requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended.
9. **Age Discrimination Act of 1973**
10. **National Flood Insurance Act of 1968**
11. **24 CFR Part 130** - Regulations that prohibit discrimination in employment in federally assisted construction contracts.
12. **40 CFR Part 15** - Regulations relating to the applicability of the Clean Air and Water Pollution Acts.
13. **Contract Work - Hours and Safety Standards Act**
14. **Lead Based Paint Poisoning Preventive Act**
15. **Section 504 of the Rehabilitation Act of 1973**
16. **Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**
17. **29 CFR Parts 3, 5 and 5a** - Regulations which prescribe the payment of prevailing wages and the use of apprentices and trainees on federally assisted projects as mandated

by the Davis-Bacon Act. HUD Form 4010, which describes the Davis-Bacon Act, is included as part of this agreement and must be included in all construction contracts funded by CDBG. See attachment A-3.

18. **Revised Order Number 4** - Regulations that establish guidelines for the implementation of Executive Order 11246 as amended by Executive Orders 11375 and 12086.
19. **Executive Order 11914** - Prohibits discrimination with respect to the handicapped in federally assisted projects.
20. **Executive Order 11625 and U.S. Department of Housing and Urban Development Circular Letter 79-45** - which prescribes goal percentages for participation of minority businesses in Community Development Block Grant Contracts.
21. **29 CFR Part 3** - The Copeland Anti-Kickback Act (i 8 U.S.C. 874 and 40 U.S.C. 276c), which deals with employee forfeiture of compensation by force.
22. **Florida Statutes, Chapter 112** - which deals with conflict of interest.
23. **HUD** - required reports, circulars, and procedures, such as the Grantee Performance Report.
24. **Public Law 100-430** - the Fair Housing Amendments Act of 1988.
25. **24 CFR 570, Subpart J** - regulations covering standard Grant Administration Procedures. These replace OMB Circular A-102. This subpart includes 24 CFR 570.502.
26. **OMB Circular A-133** - concerning annual audits.
27. **OMB Circular A-122** - which identifies cost principles.
28. **Section 109, Public Law 100-202** - which restricts the awarding of public works contracts to firms from foreign countries with unfair trade practices.
29. **24 CFR Part 84** - OMB Circular A-110 Codified in the Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.
30. **24 CFR Part 85**- OMB Circular A-102 Codified in the Uniform Administrative Requirements for Grants and Agreements to State and Local Governments.

C. SUBCONTRACTS

Any work or services subcontracted by the SUBRECIPIENT shall be specifically by written contract or agreement, and such subcontracts shall be subject to each provision of this

Agreement and applicable County, State, and Federal guidelines and regulations. Prior to execution by the SUBRECIPIENT of any subcontract hereunder, such subcontracts must be submitted by the SUBRECIPIENT to HHS for its review and approval, which will specifically include a determination of compliance with the terms of the attached Work Program set forth in Exhibit "A."

This review also includes ensuring that all consultant contracts and fee schedules meet the minimum standards as established by the Collier County Purchasing Department and HUD. Subcontracts for architecture, engineering, survey, and planning shall be negotiated fixed fee contracts. All additional services shall have prior written approval with support documentation detailing categories of persons performing work plus hourly rates including benefits, number of drawings required, and all items that justify the "Fixed Fee Contract." Reimbursements for such services will be made at SUBRECIPIENT cost.

None of the work or services covered by this Agreement, including but not limited to consultant work or services, shall be subcontracted by the SUBRECIPIENT or reimbursed by the COUNTY without prior written approval of HHS or his designee.

D. AMENDMENTS

The COUNTY may, at its discretion, amend this Agreement to conform to changes required by Federal, State, County, or HUD guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement and shall be subject to approval of the COUNTY. Except as otherwise provided herein, no amendment to this Agreement shall be binding on either party unless in writing, approved by the COUNTY and signed by each Party's authorized representatives.

E. INDEMNIFICATION

The SUBRECIPIENT shall protect, defend, reimburse, indemnify and hold the COUNTY, its agents, its employees and elected officers harmless from and against any and all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during the performance of the terms of this Agreement, or due to the acts or omissions of the SUBRECIPIENT.

SUBRECIPIENT's aforesaid indemnity and hold harmless obligation, or portion or applications thereof, shall apply to the fullest extent permitted by law. The SUBRECIPIENT will hold the COUNTY harmless and will indemnify the COUNTY for funds, which the COUNTY is obligated to refund the Federal Government arising out of the conduct of activities and administration of SUBRECIPIENT.

F. GRANTEE RECOGNITION

All facilities purchased or constructed pursuant to this Agreement shall be clearly identified as to funding source. The SUBRECIPIENT will include a reference to the financial support herein provided by HHS in all publications and publicity. In addition, the SUBRECIPIENT will make a good faith effort to recognize HHS support for all activities made possible with funds made available under this Agreement. The SUBRECIPIENT will mount a temporary construction sign for projects funded by HHS. This design concept is intended to disseminate key information regarding the development team as well as Equal Housing Opportunity to the general public. This signs construction utilizes a minimum conventional 4'X8" plywood back panel and other conventional construction materials and methods.

G. TERMINATION

In event of termination for any of the following reasons, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports prepared, and capital equipment secured by the SUBRECIPIENT with funds under this Agreement shall be returned to HHS or the COUNTY. In the event of termination, the SUBRECIPIENT shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of the Contract by the SUBRECIPIENT, and the COUNTY may withhold any payment to the SUBRECIPIENT for set-off purposes until such time as the exact amount of damages due to the COUNTY from the SUBRECIPIENT is determined.

1. TERMINATION FOR CAUSE

If through any cause either party shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if either party shall violate any of the covenants, agreements, or stipulations of this Agreement, either party shall thereupon have the right to terminate this Agreement in whole or part by giving written notice of such termination to the other party and specifying therein the effective date of termination.

2. TERMINATION FOR CONVENIENCE

At any time during the term of this Agreement, either party may, at its option and for any reason, terminate this Agreement upon ten (10) working days written notice to the other party. Upon termination, the COUNTY shall pay the SUBRECIPIENT for services rendered pursuant to this Agreement through and including the date of termination.

3. TERMINATION DUE TO CESSATION

In the event the grant to the COUNTY under Title I of the Housing and Community Development Act of 1974 (as amended) is suspended or terminated, this Agreement shall be suspended or terminated effective on the date that HUD specifies.

H. INSURANCE

The SUBRECIPIENT agrees this coverage shall be provided on a primary basis.

1. COMMERCIAL GENERAL LIABILITY

The SUBRECIPIENT shall agree to maintain Commercial General Liability at a limit of liability not less than \$100,000 per person and \$200,000 per accident/occurrence per Florida Statutes § 768.28 and \$2,000,000 per accident for federal and outside Florida litigation per Florida Statutes § 768.28. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted by the County's Risk Management Department. The SUBRECIPIENT agrees this coverage shall be provided on a primary basis.

2. BUSINESS AUTOMOBILE LIABILITY

The SUBRECIPIENT shall agree to maintain Business Automobile Liability at a limit of liability not less than \$100,000 per person and \$200,000 per accident/occurrence per Florida Statutes § 768.28 and \$2,000,000 per accident for federal and outside Florida litigation per Florida Statutes § 768.28 for all owned, non-owned and hired automobiles. The SUBRECIPIENT shall agree to maintain physical damage coverage for a period not less than 10 years with deductibles not exceeding \$1000 for Comprehensive and Collision. Collier

County Board of County Commissioners shall be endorsed to the policy as a Loss Payee. The SUBRECIPIENT shall agree to be fully responsible for any deductibles, self-insured retention or uncovered losses. The SUBRECIPIENT agrees this coverage shall be provided on a primary basis.

3. ADDITIONAL INSURED

The SUBRECIPIENT shall agree to endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Collier County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents, c/o Housing and Human Services Department". The SUBRECIPIENT shall agree the Additional Insured endorsements provide coverage on a primary basis.

4. CERTIFICATE OF INSURANCE

The SUBRECIPIENT shall agree to deliver to the COUNTY a certificate(s) of insurance evidencing the required insurance is in full force and effect within thirty (30) calendar days prior to the execution of this Agreement by the COUNTY. A minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage shall be included on the certificate(s).

5. RIGHT TO REVIEW AND ADJUST

The SUBRECIPIENT agrees that the COUNTY, by and through its Purchasing or Risk Management Department, in cooperation with the HHS Department, reserves the right to periodically review, modify, reject or accept any required policies of insurance, including limits, coverage's, or endorsements, herein from time to time throughout the life of this Agreement. The COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

I. INDEPENDENT AGENT AND EMPLOYEES

The SUBRECIPIENT agrees that, in all matters relating to this Agreement, it will be acting as an independent agent and that its employees are not Collier County employees and are not subject to the COUNTY provisions of the law applicable to County employees relative to employment, hours of work, rates of compensation, leave, unemployment compensation and employee benefits.

VIII. ADMINISTRATIVE REQUIREMENTS

A. FINANCIAL MANAGEMENT

The SUBRECIPIENT agrees to comply with OMB Circular A -110 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations) and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

B. DOCUMENTATION AND RECORD - KEEPING

1. The SUBRECIPIENT shall maintain all records required by the CDBG Federal Regulations.
2. All reports, plans, surveys, information, documents, maps, and other data procedures developed, prepared, assembled, or completed by the SUBRECIPIENT for the purpose of this Agreement shall be made available to the COUNTY by the SUBRECIPIENT at any time upon request by the COUNTY or HHS. Upon completion of all work contemplated under this Agreement copies of all documents and records relating to this Agreement shall be surrendered to HHS if requested. In any event the SUBRECIPIENT shall keep all documents and records for three (3) years after expiration of this Agreement.
3. The SUBRECIPIENT shall submit reports as required to assist the COUNTY in the preparation of HUD Labor Relations, WBE/MBE, Equal Opportunity Employment, and HUD Section 3 reports, pursuant to 24 CFR 570.502, 507, and 92 (3)(vi).
4. SUBRECIPIENT shall submit monthly beneficiary reports to Housing & Human Services using Exhibit "C".
5. The SUBRECIPIENT shall maintain records showing compliance with the Davis-Bacon Law, including files containing contractor payrolls, employee interviews, Davis-Bacon wage rates, and administrative cross-referencing. SUBRECIPIENT shall maintain records showing contractor compliance with the Contract Work Hours and Work Safety Law. Similarly, the SUBRECIPIENT shall maintain records showing compliance with federal purchasing requirements and with other federal requirements for grant implementation.

C. PURCHASING

All purchasing for services and goods, including capital equipment, shall be made by purchase order or by a written contract and in conformity with the procedures prescribed by the Federal Management Circulars A-110, A-122, 24 CFR Part 84, and 24 CFR Part 85, which are incorporated herein by reference.

D. REPORTS, AUDITS, AND EVALUATIONS

Reimbursement will be contingent on the timely receipt of complete and accurate reports required by this Agreement, and on the resolution of monitoring or audit findings identified pursuant to this Agreement.

E. ADDITIONAL HOUSING & HUMAN SERVICES, COUNTY, AND HUD REQUIREMENTS

HHS shall have the right under this Agreement to suspend or terminate reimbursement until the SUBRECIPIENT complies with any additional conditions that may be imposed by HHS, the COUNTY, or HUD at any time.

F. PRIOR WRITTEN APPROVALS-SUMMARY

The following activities require the prior written approval of the HHS Department or designee in order to be eligible for reimbursement.

- (a) All subcontracts and agreements proposed to be entered into by the SUBRECIPIENT pursuant to this Agreement;
- (b) All capital equipment expenditures of \$1,000 or more;
- (c) All out-of-town travel; (travel shall be reimbursed in accordance with Florida Statutes, Chapter 112.061);
- (d) All change orders; and
- (e) All requests to utilize uncommitted funds after the expiration of this agreement for programs described in Exhibit A, and
- (f) All rates of pay and pay increases paid out of CDBG funds, whether for merit or cost of living.

G. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as HHS, the COUNTY, HUD, or the Comptroller General of the United States may deem necessary, there shall be made available by the SUBRECIPIENT to HHS, the COUNTY, HUD, or the Comptroller General for examination all its records with respect to all matters covered by this Agreement.

The SUBRECIPIENT agrees to comply with the provisions of the Single Audit Act of 1984, as amended, as it pertains to this Agreement and any subcontracts entered into under this Agreement. This will require the SUBRECIPIENT to submit a single audit, including any management letter, made in accordance with the general program requirements of OMB Circulars A-110 (Uniform Administrative Requirement for Federal Grants), A-122 (Cost Principles for Non-Profit Organizations), A-133 (Audits of State, Local Governments, and Non-Profit Organizations), and other applicable regulations within one hundred and eighty (180) days after the end of any fiscal year covered by this agreement in which Federal funds from all sources are expended. Said audit shall be made by a Certified Public Accountant of the SUBRECIPIENT's choosing. The SUBRECIPIENT shall provide such audit to HHS. In the event the SUBRECIPIENT anticipates a delay in producing such audit or audited financial statements, the SUBRECIPIENT shall request an extension in advance of the deadline. The cost of said audit shall be borne by the SUBRECIPIENT. In the event the SUBRECIPIENT is exempt from having an audit conducted under A-133 (Audits of State, Local Governments, and Non-Profit Organizations), the COUNTY reserves the right to require submission of audited financial statements and/or to conduct a "limited scope audit" of the SUBRECIPIENT as defined in A-133. The COUNTY will be responsible for providing technical assistance to the SUBRECIPIENT, as deemed necessary by the COUNTY.

H. PROGRAM-GENERATED INCOME

All income earned by the SUBRECIPIENT from activities financed in whole or in part by funds provided hereunder must be reported to HHS. Such income would include, but not be limited to, income from service fees, sale of commodities, and rental or usage fees. The SUBRECIPIENT shall report its plan to utilize such income to HHS, and said plan shall require the prior written approval of the HHS Department or designee. Accounting and disbursement of such income shall comply with OMB Circular A-110 (Uniform Administrative Requirement for Federal Grants) and other applicable regulations incorporated herein by reference.

In addition to the foregoing, Program Income, as defined by 24 CFR 570.500(a) for CDBG

funds may be retained by the Agency. Program Income shall be utilized to undertake activities specified in “Exhibit A” of this Agreement, and all provisions of this Agreement shall apply to stated activities. Any Program Income on hand at or received by the SUBRECIPIENT or its sub-contractors after the expiration of this Agreement shall be returned to the COUNTY no later than thirty (30) days after such expiration, subject to any SUBRECIPIENT requests to utilize uncommitted funds.

I. GRANT CLOSEOUT PROCEDURES

SUBRECIPIENT obligation to the COUNTY shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but not limited to; making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the COUNTY), and determining the custodianship of records.

IX. OTHER PROGRAM REQUIREMENTS

A. OPPORTUNITIES FOR RESIDENTS AND CIVIL RIGHTS COMPLIANCE

The SUBRECIPIENT agrees that no person shall on the ground of race, color, disability, national origin, religion, age, familial status, or sex be excluded from the benefits of, or be subjected to, discrimination under any activity carried out by the performance of this Agreement. Upon receipt of evidence of such discrimination, the COUNTY shall have the right to terminate this Agreement.

To the greatest extent feasible, lower-income residents of the project areas shall be given opportunities for training and employment; and to the greatest feasible extent eligible business concerns located in or owned in substantial part by persons residing in the project areas shall be awarded contracts in connection with the project. The SUBRECIPIENT shall comply with the Section 3 Clause of the Housing and Community Development Act of 1968.

B. OPPORTUNITIES FOR SMALL AND MINORITY/WOMEN-OWNED BUSINESS ENTERPRISES

In the procurement of supplies, equipment, construction, or services to implement this Agreement, the SUBRECIPIENT shall make a positive effort to utilize small business and minority/women-owned business enterprises of supplies and services, and provide these sources the maximum feasible opportunity to compete for contracts to be performed pursuant to this Agreement. To the maximum extent feasible these small business and minority/women-owned business enterprises shall be located in or owned by residents of the CDBG areas designated by Collier County in the Annual Consolidated Plan approved by HUD.

C. PROGRAM BENEFICIARIES

At least fifty-one percent (51%) of the beneficiaries of a project funded through this Agreement must be low- and moderate- income persons. If the project is located in an entitlement city, as defined by HUD, or serves beneficiaries countywide, more than thirty percent (30%) of the beneficiaries directly assisted through the use of funds under this Agreement must reside in unincorporated Collier County or in municipalities participating in the County’s Urban County Qualification Program. The project funded under this Agreement shall assist beneficiaries as

defined above for the time period designated in Exhibit A of this Agreement. The SUBRECIPIENT shall provide written verification of compliance to HHS upon HHS' request.

D. EVALUATION AND MONITORING

The SUBRECIPIENT agrees that HHS will carry out periodic monitoring and evaluation activities as determined necessary by HHS or the COUNTY and that the continuation of this Agreement is dependent upon satisfactory evaluation conclusions based on the terms of this Agreement, comparisons of planned versus actual progress relating to project scheduling, budgets, audit reports, and output measures. The SUBRECIPIENT agrees to furnish upon request to HHS, the COUNTY or the COUNTY's designees and make copies or transcriptions of such records and information, as is determined necessary by HHS or the COUNTY. The SUBRECIPIENT shall, upon the request of HHS, submit information and status reports required by HHS, the COUNTY or HUD on forms approved by HHS to enable HHS to evaluate said progress and to allow for completion of reports required of HHS by HUD. The SUBRECIPIENT shall allow HHS or HUD to monitor the SUBRECIPIENT on site. Such site visits may be scheduled or unscheduled as determined by HHS or HUD.

E. CONFLICT OF INTEREST

The SUBRECIPIENT covenants that no person who presently exercises any functions or responsibilities in connection with the Project, has any personal financial interest, direct or indirect, in the target areas or any parcels therein, which would conflict in any manner or degree with the performance of this Agreement and that no person having any conflict of interest shall be employed by or subcontracted by the SUBRECIPIENT. Any possible conflict of interest on the part of the SUBRECIPIENT or its employees shall be disclosed in writing to HHS provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation of low and moderate-income residents of the project target area.

F. PUBLIC ENTITY CRIMES

As provided in F.S. 287.133 by entering into this Agreement or performing any work in furtherance hereof, the SUBRECIPIENT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133 (3)(a).

G. DRUG-FREE WORKPLACE REQUIREMENTS

The SUBRECIPIENT, as a condition of being awarded, must certify that they will provide drug-free workplaces in accordance with the Drug-Free Workplace Act of 1988 (42 U.S.C. 701) and with HUD's rules at 24 CFR Part 24, subpart F.

H. CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal

contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative Agreements) and that all SUBRECIPIENTS shall certify and disclose accordingly.

I. REAL PROPERTY

Any real property acquired by the SUBRECIPIENT for the purpose of carrying on the projects stated herein, and approved by the COUNTY in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and 49 CFR 24.101, shall be subject to the provisions of the CDBG Regulations including, but not limited to, the provisions on use and disposition of property. Any real property within the SUBRECIPIENT control, which is acquired or improved in whole or part with CDBG funds in excess of \$25,000, must adhere to the CDBG Regulations at 24 CFR 570.505.

X. ENVIRONMENTAL CONDITIONS

A. AIR AND WATER

The SUBRECIPIENT, as Subrecipient, agrees to comply with the following requirements insofar as they apply to the performance of the Contract:

1. Clean Air Act, 41 U.S.C., 7401, et seq.
2. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308 (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. FLOOD DISASTER PROTECTION

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation). If appropriate, a letter of map amendment (LOMA) may be

obtained from FEMA, which would satisfy this requirement and/or reduce the cost of said flood insurance.

C. LEAD-BASED PAINT

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, 24 CFR Part 25 and 24 CFR part 92.355. Such regulations pertain to all HUD-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures might be undertaken.

D. HISTORIC PRESERVATION

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historical Properties, insofar as they apply to the performance of the Contract. In general, concurrence from the State Historic Preservation Officer is required for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included, on a Federal, state, or local historic property list.

XI. SEVERABILITY OF PROVISIONS

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

XII. REVERSION OF ASSETS

Upon expiration of the Agreement, the SUBRECIPIENT shall transfer to the COUNTY any CDBG funds on hand at the time of expiration, any accounts receivable attributable to the use of CDBG funds, and any non-expendable personal property that was purchased with CDBG funds. Any real property under SUBRECIPIENT control that was acquired or improved in whole or in part with CDBG funds in excess of Twenty-five Thousand Dollars (\$25,000) will be covered by the regulations 24 CFR Part 570.503(B)(8).

XIII. CONDITIONS FOR RELIGIOUS ORGANIZATIONS

CDBG funds may not be used for religious activities or provided to primarily religious organizations. 24 CFR 570.200(j) specifies the limitations on CDBG funds, and is herein incorporated by reference.

XIV. COUNTERPARTS OF THE AGREEMENT

This Agreement, consisting of twenty-one (21) enumerated pages, which include the exhibits referenced herein, shall be executed in two (2) counterparts, each of which shall be deemed to be an original, and such counterparts will constitute one and the same instrument.

XV. ENTIRE UNDERSTANDING

This Agreement and its provisions merge any prior agreements, if any, between the parties hereto and constitutes the entire understanding. The parties hereby acknowledge that there have been and are no representations, warranties, covenants, or undertakings other than those expressly set forth herein.

WITNESS our Hands and Seals on this _____ day of _____, 200_____.

CITY OF NAPLES

BY:

(SUBRECIPIENT SEAL)

BILL BARNETT, MAYOR

Approved as to form and
legal sufficiency:

ROBERT D. PRITT, CITY ATTORNEY

ATTEST:

BY: _____
TARA A. NORMAN, CITY CLERK

BOARD OF COUNTY COMMISSIONERS OF
COLLIER COUNTY, FLORIDA

Approved as to form and
legal sufficiency:

JEFFREY A. KLATZKOW
ASSISTANT COUNTY ATTORNEY

BY: _____
JAMES COLETTA, CHAIRMAN

EXHIBIT “A”

SCOPE OF SERVICES

THE CITY OF NAPLES
RIVER PARK & FUN TIME IMPROVEMENTS

THE SUBRECIPIENT AGREES TO:

A. **PROJECT DESCRIPTION:**

The City of Naples proposes to: Make improvements within the Carver-River Park neighborhoods. This area falls within the census low-income census track. With this funding the City of Naples will purchase playground equipment, and install the equipment at Fun Time Early Childhood Academy’s new facility located at 102 12th Street North in the City of Naples. The second phase of this project will include the replacement, or reinforcement of rip rap as needed, along canals in the Carver/River park neighborhood. The final phase of this three phase project will be to install police surveillance equipment. This equipment will be installed in order to assist the Naples Police Department in reducing illicit drug trafficking activities in the Carver/River Park neighborhood located within the City of Naples.

B. **PROJECT SCOPE :**

The purpose of this funding: The purpose of this project is to provide improvements for the residents of the Carver/River Park neighborhoods within the City of Naples in Collier County.

The Subrecipient will be responsible for the following:

- a. Submission of statistics of crime rate prior to installation of cameras, and submission of statistics of crime in the area where cameras were installed one year later.
- b. Submission of documentation of match funds listed under Budget in Section C provided within 30 days of execution date of agreement.
- c. Posting of visible signage at the work site identifying the funding source as mentioned in section VII part F.
- d. Submission of request for payment along with supporting documentation for payment of services
- e. Shall obtain a minimum of three bids for the work to be conducted, as well as provide HHS with a copy of contracts. All RFP’s and contracts will include HUD form 4010 along with wage decision determined for projects, and comply with Davis Bacon.

NOTE 1: The SUBRECIPIENT shall submit its bid package and drawings/specifications to HHS and obtain a letter of approval prior to bidding the construction work.

NOTE 2: The SUBRECIPIENT shall prioritize the work in the Project, and shall bid such work in a manner that would allow the receipt of itemized costs from bidders, which would then allow the award

of items that can be funded by the budget.

NOTE 3: The SUBRECIPIENT shall not award the construction contract for the Project until sufficient funding is available to complete the established scope of work. The SUBRECIPIENT shall obtain HHS approval prior to awarding the construction contract to be funded through this agreement. After awarding such contract the SUBRECIPIENT shall obtain HHS' approval prior to executing any change orders to such contract.

NOTE 4: The SUBRECIPIENT shall not request advancement from HHS for materials or equipment received and stored on the project site or elsewhere. The SUBRECIPIENT shall only request advancement for materials and equipment that have been installed.

The SUBRECIPIENT further agrees that HHS, in consultation with any parties HHS deems necessary, shall be the final arbiter on the SUBRECIPIENT's compliance with the above.

C. BUDGET: *PROJECT NAME*

Line Item: Fun Time Early Childhood	CDBG Funds	Other
Academy playground equipment.	\$62,079.00	\$
River Park Canals-Rip Rap	\$24,000.00	\$
Surveillance Equipment	\$30,000.00	\$
		(Match funds from City)
	<u>\$116,079.00</u>	<u>+</u> \$10,000.00
Total	\$126,079.00	

Any indirect costs or charge must be consistent with the conditions of this Agreement. If indirect costs are charged, the SUBRECIPIENT, as SUBRECIPIENT, will develop an indirect cost allocation plan for determining the appropriate SUBRECIPIENT's share of administrative costs and shall submit such plan to HHS, on behalf of the COUNTY, as the Grantee, for HHS's approval, in a form specified by HHS. In addition, HHS may require a more detailed budget breakdown than the one contained herein, and the SUBRECIPIENT shall provide such supplementary budget information in a timely fashion in the form and content prescribed by HHS. Any amendments to this budget must be approved in writing by HHS and the SUBRECIPIENT.

D. STAFFING: Provide list of staff directly responsible for reporting and request for payment processing.

E. BONDING REQUIREMENTS: The SUBRECIPIENT shall comply with the requirements of OMB Circular A-110 (Uniform Administrative Requirement for Federal Grants) and 24 CFR Part 84 in regard to any bid guarantees, performance bonds, and payment bonds.

- F. **CONSTRUCTION PAYMENT RETAINAGE:** The SUBRECIPIENT shall apply a retainage of at least 5% on all construction draws which retainages shall be released in conjunction with the final draw upon satisfactory completion of the Project. The SUBRECIPIENT agrees not to release such retainages until it has obtained approval from the COUNTY that the contractor and subcontractors have complied with the requirements of the Davis-Bacon Act.
- G. **FORMER PROJECTS:** Failure to adequately maintain any former CDBG funded project may result in the delay of processing reimbursement requests for ongoing activities or in the forfeiture of future CDBG funds.
- H. **WORK SCHEDULE:** The time frame for completion of the outlined activities shall be:

Milestone	Deadline
50% of project complete	February 15, 2008
100% of project complete	June 15, 2008

Please note that if any of these activities exceed the timelines by two months a revised work schedule must be submitted to HHS.

- I. **REPORTS:** The SUBRECIPIENT shall submit detailed monthly progress reports to HHS outlining the status of specific activities under the project. Each report must account for the total activity for which the SUBRECIPIENT is paid with CDBG funds, in part or in whole, and which is required in fulfillment of their obligations regarding the Project. The progress reports shall be submitted on the form Exhibit "C". The progress reports shall be used as an additional basis for HHS approval of invoices, etc. for payment.
- J. **OUTCOME PERFORMANCE MEASUREMENTS:**

OBJECTIVE	OUTCOMES	ACTIVITY	INDICATORS
SUITABLE LIVING ENVIRONMENT	SUSTAINABILITY	PUBLIC FACILITY	NUMBER OF PERSONS USING FACILITY

EXHIBIT "B"
COLLIER COUNTY HOUSING AND HUMAN SERVICES
REQUEST FOR PAYMENT

SECTION I: REQUEST FOR PAYMENT

Subrecipient Name: CITY OF NAPLES

Subrecipient Address: 735 EIGHTH STREET SOUTH NAPLES, FL 34102-6796

Project Name: RIVER PARK & FUN TIME IMPROVEMENTS

Project No: _____ Payment Request # _____

Dollar Amount Requested: \$ _____

SECTION II: STATUS OF FUNDS

1. Grant Amount Awarded		\$	<u>116,079.00</u>
2. Sum of Past Claims Paid on this Account		\$	_____
3. Total Grant Amount Awarded Less Sum Of Past Claims Paid on this Account		\$	_____
4. Amount of Previous Unpaid Requests		\$	_____
5. Amount of Today's Request		\$	_____
6. Current Grant Balance (Initial Grant Amount Awarded Less Sum of <u>all</u> requests)		\$	_____
7. If applicable amount held as retainage to date by the County, if not retained by the sub-recipient		\$	_____

I certify that this request for payment has been drawn in accordance with the terms and conditions of the Agreement between the County and us as the Sub-recipient. I also certify that the amount of the Request for Payment is not in excess of current needs.

Signature Date

Title

Authorizing Grant Coordinator _____

Supervisor _____ (approval authority under \$14,999)

Dept Director _____ (approval required \$15,000 and above)

EXHIBIT "C"

CDBG MONTHLY PROGRESS REPORT

Complete form for past month and submit to Housing & Human Services staff by the 10th of the following month.

Status Report for Month of _____ Submittal Date: _____

Project Name _____

Project Number _____ Activity Number _____

Subrecipient: _____

Contact Person _____

Telephone: (239) _____ Fax: (239) _____

E-mail: _____

- 1. Activity Status/Milestones** (describe any action taken, relating to this project, during the past month):

- 2. What events/actions are scheduled for the next two months?**

- 3. Describe any affirmative marketing you have implemented regarding this project. Please list and attach any recent media coverage of your organization relating to this project.**

- 4. List any additional data relevant to the outcome measures listed on the application for this project.**

- 5. Identify any potential issues that may cause delay.**

Prepared by and Return to:
Collier County Housing & Human Services Department
3050 N. Horseshoe Drive, #110
Naples, Florida 34104

DECLARATION OF RESTRICTIONS

The City of Naples, having its principle office at 735 8th Street South Naples Fl, 34102-6796, hereinafter referred to as “Declarant,” for the property described below, in consideration of CDBG funding in the amount of One hundred sixteen thousand seventy nine dollars (\$116,079.00) to be received from Collier County does hereby grant to the County the following restrictions against the subject property described as:

Parcel 1:

Folio No. 20761600004
UNPLATTED LANDS 03 50 25 COM
INT CL FIRST AVE S WITH SLY
EXT OF E LI SEABOARD DOWNTOWN
SUB, THENCE N 785.02FT TO INT

Parcel 2:

Folio No. 1816360009
RIVER PARK EAST BLK 5 COMM
INTERSEC OF C/L OF 5TH AVE N
WITH C/L 14TH ST N 52DEG E
83.95FT ALG C/L 5TH AVE N, S

Parcel 3:

Folio 18163560000
RIVER PARK EAST BLK 5 DESC AS:
COMM INTERSEC OF CTR LI 5TH
AVE WITH CTR LI 14TH ST, N 52
DEG E 83.95FT, S 37 DEG E

1. This Declaration of Restrictions shall be deemed as covenants running with the land and are binding upon the undersigned, their heirs, executors, successors, and assigns. These restrictions can only be terminated if released by Collier County, acting through and by its Board of County Commissioners, and only when executed with the same formalities as this document, effective when recorded in the Public Records of Collier County, Florida. Collier County is specifically granted the right to enforce this Declaration using all means lawfully available, and is entitled to such costs and fees as may be required to enforce this Declaration.

2. In consideration of the County’s grant in the amount of \$116,079.00 (in CDBG funds) as provided through a grant Agreement with the County dated _____, 2007, the Declarant hereby covenants and agrees to only use the subject property as described in the Declarant’s funding application to the County, and as described in said grant Agreement, and as set forth below, for a period of five (5) years commencing with the expiration date of said grant Agreement (as the term of such Agreement may be amended from time to

time).

3. The Declarant agrees, with regard to the use of the facility/property whose acquisition or improvements were funded through the grant Agreement that for a period of five (5) years after the closing date of said project (as the term of such Agreement may be amended from time to time):

a. The Declarant may not change the use or planned use, or discontinue use, of the facility/property (including the beneficiaries of such use) from that for which the acquisition or improvements were made, unless the Declarant provides affected citizens with reasonable notice of, and opportunity to comment on, any such proposed change and either:

i) The new use of the facility/property, in the opinion of the County, qualifies as meeting one of the national objectives defined in the regulations governing the CDBG program, and is not a building for the general conduct of government; or

ii) The requirements of paragraph 3(b) of this section are met.

b. If the Declarant determines after consultation with affected citizens, that it is appropriate to change the use of the facility/property to a use which does not qualify under Paragraph 3(a)(1) of this section or discontinue use of the facility/property, it may retain or dispose of the facility for such use if the County is reimbursed in the amount of the current fair market value of the facility/property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, or improvements to the facility/property. The final determination of the amount of any such reimbursement to the County under this paragraph shall be made by the County.

c. Following the reimbursement of CDBG funds by the Declarant to the County pursuant to Paragraph 3(b) above, the facility/property will then no longer be subject to these restrictions once the County has recorded a release of these restrictions as described above.

In the event of any proposed sale, conveyance or transfer of the subject property, the Declarant must obtain approval of the County, through its Housing & Grants Section. Any approved sale or conveyance of the subject property by the Declarant will be contingent upon the receipt of the payment by the County in accordance with the provisions of Paragraph 3(b) above, or the receipt of a commitment, executed by a subsequent owner acceptable to the County, acknowledging its acquiescence to this Declaration.

4. The Declarant agrees to notify the County in writing through the Housing & Grants Section of any liens, judgments or pending foreclosure on the subject property within five (5) working days of the receipt of said notice by the Declarant.

5. Declarant shall submit to the County once each year a report detailing the Declarant's compliance with the terms of the grant Agreement and this Declaration of Restrictions.

6. Declarant relinquishes all rights to alter, amend, modify, or release the covenants set forth in this Declaration prior to the completion of the five-year period described above.

Executed this _____ day of _____, 20_____.

CITY OF NAPLES

(SUBRECIPIENT SEAL)

BY:

BILL BARNETT, MAYOR

Approved as to form and
legal sufficiency:

ROBERT D. PRITT, CITY ATTORNEY

ATTEST:

BY: _____
TARA A. NORMAN, CITY CLERK

The forgoing Agreement was acknowledged before me this _____ day
of _____, 20_____, by _____,
as _____ of, who is personally known to me or has produced
_____ as identification and who did (did not) take an
oath.
