

**AGREEMENT BETWEEN COLLIER COUNTY
AND
CITY OF NAPLES
PARK CREATION**

Catalog of Federal Domestic Assistance # 14.218
HUD Grant # B-09-UC-12-0016

THIS AGREEMENT is made and entered into by and between Collier County, a political subdivision of the State of Florida, ("COUNTY"), and the "City of Naples," a municipality existing under the laws of the State of Florida, having its principal office at 735 8th Street South Naples, FL 34102, and its Federal Tax Identification number as 59-6000-382, ("SUBRECIPIENT").

WHEREAS, the COUNTY has entered into an agreement with the United States Department of Housing and Urban Development (HUD) 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 Board of County Commissioners of Collier County approved the Collier County Consolidated Plan - One-Year Action Plan for Federal Fiscal Year 2009-2010 for the CDBG Program for April 28, 2009-Agenda Item 16D3; and

WHEREAS, Resolution 08-121 was developed following the Collier County Consolidated Plan – Citizen Participation Plan, adopted on January 9, 2001 with Resolution 01-02; and

WHEREAS, HUD has approved the County's Consolidated Plan One-Year Action Plan for Federal Fiscal Year 2009-2010 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 Consolidated Plan; and

WHEREAS, the COUNTY desires to engage the SUBRECIPIENT to implement such undertakings of the CDBG Program as a valid and worthwhile County purpose.

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

I. DEFINITIONS

- (A) "COUNTY" means Collier County, and where applicable, it's authorized representative(s).
- (B) "CDBG" means the Community Development Block Grant Program.
- (C) "HHS" means Collier County Department of Housing and Human Services.
- (D) "HHS's Approval" means the written approval of the Department of Housing and Human Services or designee.
- (E) "SUBRECIPIENT" means the City of Naples.
- (F) "HUD" means the U.S. Department of Housing and Urban Development or a person authorized to act on its behalf.
- (G) "Low and moderate income persons" means the definition set by HUD.
- (H) "Project" means the work 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."

III. TIME OF PERFORMANCE

The effective date of the Agreement between HUD and Collier County shall be July 1, 2009. Subrecipients are authorized to incur eligible expenses after that date and prior to execution of this Agreement subject to HHS prior written approval. 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, 2010. Any funds not obligated by the expiration date of this Agreement shall automatically revert to the COUNTY, as set forth in Part IX (H), and Part VIII (H) below.

IV. CONSIDERATION AND LIMITATION OF COSTS

The SUBRECIPIENT shall be reimbursed by the COUNTY using HUD funding for allowable costs, determined by COUNTY, in an amount not to exceed One hundred ten thousand dollars (\$110,000.00) 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 qualified bidder. Contract administration shall be handled by the SUBRECIPIENT and monitored by HHS, which shall have access to all records and documents related to the project.

The County shall reimburse the SUBRECIPIENT for the performance of this Agreement upon completion or partial completion of the work tasks as accepted and approved by HHS pursuant to the submittal of monthly progress reports. Payments shall be made to the SUBRECIPIENT when requested as work progresses but not more frequently than once per month. Payment will be made upon receipt of a proper invoice and in compliance with § 218.70, *Fla. Stat.*, otherwise known as the “Local Government Prompt Payment Act.” No payment will be made until approved by HHS.

V. NOTICES

All notices required to be given under this Agreement shall be sufficient when delivered to HHS at its office, presently located at 3301 E Tamiami Trail, Bldg H, Suite 211, Naples, Florida 34112, and to the SUBRECIPIENT when delivered to its office at the address listed on page one (1) of this Agreement.

VI. GENERAL CONDITIONS

A. IMPLEMENTATION OF PROJECT

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.

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 HHS or its designee within forty-five (45) days of said official notification.

B. DEBARMENT

The SUBRECIPIENT certifies that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal Department or agency; and, that the SUBRECIPIENT shall not knowingly enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction.

C. LOCAL AND FEDERAL RULES, REGULATIONS AND LAWS

The SUBRECIPIENT agrees to comply with any applicable laws, ordinances, regulations and orders of the State, local and Federal governments, including, but not limited to:

1. 24 CFR 583, as amended - The regulations governing the Supportive Housing Program.
2. 24 CFR 58 - The regulations prescribing the Environmental Review procedure.

3. Title VI of the 1984 Civil Rights Act, 42 USC § 2000d, *et. seq.*
4. 24 CFR 107 - The regulations issued pursuant to Executive Order 11063 which prohibits discrimination and promotes equal opportunity in housing.
5. Executive Order 11246 (“Equal Employment Opportunity”), as amended by Executive Orders 11375 and 12086 - which establishes hiring goals for minorities and women on projects assisted with federal funds.
6. Title VII of the 1968 Civil Rights Act as amended by the Equal Employment Opportunity Act of 1972, 42 USC § 2000e, *et. seq.*
7. 24 CFR 135 – Regulations outlining requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended.
8. Age Discrimination Act of 1975.
9. Contract Work Hours and Safety Standards Act, 40 USC 327-332.
10. Section 504 of the Rehabilitation Act of 1973, 29 USC 776(b)(5).
11. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
12. 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 Poisoning Prevention Act found at 24 CFR 583.330(d).
13. In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4002), 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. 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.
14. Executive Order 11914 - Prohibits discrimination with respect to the handicapped in federally assisted projects.
15. 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.
16. Public Law 100-430 - the Fair Housing Amendments Act of 1988.
17. OMB Circular A-133 - concerning annual audits.

18. OMB Circular A-122 - which identifies cost principles.
19. 24 CFR 84 - Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.
20. 24 CFR 85- Uniform Administrative Requirements for Grants and Agreements to State and Local Governments.
21. Immigration Reform and Control Act of 1986 as located at 8 USC 1324, *et seq.* and regulations relating thereto. Failure by the SUBRECIPIENT to comply with the laws referenced herein shall constitute a breach of this agreement, and the County shall have the discretion to unilaterally terminate this agreement immediately.
22. Chapter 112, *Florida Statutes*.
23. Prohibition Of Gifts To County Employees - No organization or individual shall offer or give, either directly or indirectly, any favor, gift, loan, fee, service or other item of value to any County employee, as set forth in Chapter 112, Part III, *Florida Statutes*, Collier County Ethics Ordinance No. 2004-05, as amended, and County Administrative Procedure 5311.
24. Order of Precedence - In the event of any conflict between or among the terms of any of the Contract Documents, the terms of the Agreement shall take precedence over the terms of all other Contract Documents, except the terms of any Supplemental Conditions shall take precedence over the Agreement. To the extent any conflict in the terms of the Contract Documents cannot be resolved by application of the Supplemental Conditions, if any, or the Agreement, the conflict shall be resolved by imposing the more strict or costly obligation under the Contract Documents upon the Contractor at Owner's discretion.
25. Venue - 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 federal or state courts in Collier County, Florida, which courts have sole and exclusive jurisdiction on all such matters.
26. Dispute Resolution - Prior to the initiation of any action or proceeding permitted by this Agreement to resolve disputes between the parties, the parties shall make a good faith effort to resolve any such disputes by negotiation. The negotiation shall be attended by representatives of SUBRECIPIENT with full decision-making authority and by COUNTY'S staff person who would make the presentation of any settlement reached during negotiations to COUNTY for approval. Failing resolution, and prior to the commencement of depositions in any litigation between the parties arising out of this Agreement, the parties shall attempt to resolve the dispute through Mediation before an agreed-upon Circuit Court Mediator certified by the State of Florida. The mediation shall be attended

by representatives of SUBRECIPIENT with full decision-making authority and by COUNTY'S staff person who would make the presentation of any settlement reached at mediation to COUNTY'S board for approval. Should either party fail to submit to mediation as required hereunder, the other party may obtain a court order requiring mediation under § 44.102, *Fla. Stat.*

D. 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 Scope of Services 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, Florida Statutes and HUD. 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 the HHS or its designee.

E. AMENDMENTS

This Agreement, and any exhibit or attachment, may be amended only by written agreement executed by the governing boards of both parties, except that County representative(s) may approve adjustments between line item amounts, scope clarifications, or an extension of time and schedule that do not change the project, or exceed the amount funded by the County, as stated herein. Any modifications to this contract shall be in compliance with the County Purchasing Policy and Administrative Procedures in effect at the time such modifications are authorized.

F. INDEMNIFICATION

To the maximum extent permitted by Florida law, the SUBRECIPIENT shall indemnify and hold harmless Collier County, its officers and employees from any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the SUBRECIPIENT or anyone employed or utilized by the SUBRECIPIENT in the performance of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph. This section does not pertain to any incident arising from the sole negligence of Collier County. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in Section 768.28, *Florida Statutes*.

G. 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. The construction sign shall comply with applicable County codes.

H. TERMINATION

In event of termination for any of the reasons identified in sub-sections 1-3 as follows, 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. (*See 24 CFR 85.43.*)

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. (*See 24 CFR 85.44.*)

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.

I. INSURANCE

SUBRECIPIENT shall obtain and carry, at all times during its performance under the Contract Documents, insurance of the types and in the amounts described herein and further set forth in Exhibit “D” to this Agreement.

J. SUBRECIPIENT LIABILITY OBLIGATION

Compliance with the insurance requirements in Exhibit “B” shall not relieve the SUBRECIPIENT of its liability and obligation under this subsection or under any subsection of this contract. The contract is contingent upon receipt of the insurance documents within fifteen (15) calendar days after the Board of County Commissioners’ approval. If the Insurance certificate is received within the specified period, but not in the manner prescribed in these requirements, the SUBRECIPIENT shall be verbally notified of the deficiency and shall have an additional five (5) calendar days to submit a corrected Certificate to the County.

If the SUBRECIPIENT fails to submit the required insurance documents in the manner prescribed in these requirements within twenty (20) calendar days after the Board of County Commissioners’ approval, the SUBRECIPIENT shall be in default of the terms and conditions of the contract.

K. INDEPENDENT AGENT AND EMPLOYEES

The SUBRECIPIENT agrees that 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 law applicable to County employees relative to employments, hours of work, rates of compensation, leave, unemployment and employee benefits.

VII. 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 RECORDKEEPING

1. The SUBRECIPIENT shall maintain all records required by CDBG.
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. 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 "D," Schedule "D-2."
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.
6. If indirect costs are charged, the SUBRECIPIENT will develop an indirect cost allocation plan for determining the appropriate SUBRECIPIENT'S share of administrative costs and shall submit such plan to the COUNTY for approval, in a form specified by the COUNTY.
7. 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.
8. The SUBRECIPIENT will be responsible for the creation and maintenance of income eligible files on clients served and documentation that all households are eligible under HUD Income Guidelines.
9. The SUBRECIPIENT further agrees that HHS shall be the final arbiter on the SUBRECIPIENT's compliance with the above.

C. 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.

The SUBRECIPIENT agrees that HHS will carry out periodic monitoring and evaluation activities as determined necessary. The continuation of this Agreement is dependent upon satisfactory evaluations. The SUBRECIPIENT shall, upon the request of HHS, submit information and status reports required by HHS or HUD to enable HHS to evaluate said progress and to allow for completion of reports required. 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.

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

The SUBRECIPIENT agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available for specified activities.

E. PRIOR WRITTEN APPROVALS

- (1) All subcontracts and agreements proposed to be entered into by the SUBRECIPIENT pursuant to this Agreement;
- (2) All capital equipment expenditures of \$1,000 or more;
- (3) All out-of-town travel (travel shall be reimbursed in accordance with Chapter 112, *Fla. Stat.* unless otherwise required by CDBG);
- (4) All change orders;
- (5) All requests to utilize uncommitted funds after the expiration of this agreement for programs described in Exhibit "A"; and
- (6) All rates of pay and pay increases paid out of CDBG funds, whether for merit or cost of living.

F. 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.

G. AUDITS AND INSPECTIONS

1. Non-profit organizations that expend \$500,000 or more annually in federal awards shall have a single or program-specific audit conducted for that year in accordance with OMB A-133. Non-profit organizations expending federal awards of \$500,000 or more under only one federal program may elect to have a program-specific audit performed in accordance with OMB A-133.
2. Non-profit organizations that expend less than \$500,000 annually in federal awards shall be exempt from an audit conducted in accordance with OMB A-133, although their records must be available for review (e.g., inspections, evaluations). These agencies are required by HHS to

submit “Reduced Scope” audits (e.g., financial audit, performance audits). They may choose, instead of a Reduced Scope Audit, to have a program audit conducted for each federal award in accordance with federal laws and regulations governing the program in which they participate.

3. When the requirements of OMB A-133 apply, or when the SUBRECIPIENT elects to comply with OMB A-133, an audit shall be conducted for each fiscal year for which federal awards attributable to this contract have been received by the SUBRECIPIENT. A copy of the audit report must be received by HHS no later than six months following the end of the SUBRECIPIENT’s fiscal year.
4. If an audit is required by Section G of this contract, but the requirements of OMB A-133 do not apply or are not elected, the SUBRECIPIENT may choose to have an audit performed either on the basis of the SUBRECIPIENT’s fiscal year or on the basis of the period during which HHS-federal assistance has been received. In either case, each audit shall cover a time period of not more than twelve months and an audit shall be submitted covering each assisted period until all the assistance received from this contract has been reported. Each audit shall adhere to all other audit standards of OMB A-133, as these may be limited to cover only those services undertaken pursuant to the terms of this contract. A copy of the audit report must be received by HHS no later than six months following each audit period.
5. The SUBRECIPIENT shall maintain all contract records in accordance with generally accepted accounting principles, procedures, and practices which shall sufficiently and properly reflect all revenues and expenditures of funds provided directly or indirectly by the County pursuant to the terms of this Agreement.
6. The SUBRECIPIENT shall include in all HHS approved subcontracts each of the recordkeeping and audit requirements detailed in this contract.

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 HHS or its 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.

Program Income, as defined by 24 CFR 570.500(a), may be retained by the COUNTY. 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 received by the SUBRECIPIENT or its sub-contractors shall be returned to the COUNTY unless the SUBRECIPIENT requests and is authorized by HHS to utilize uncommitted funds.

I. GRANT CLOSEOUT PROCEDURES

SUBRECIPIENT's obligation to the COUNTY shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but not be 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.

VIII. OTHER PROGRAM REQUIREMENTS

A. OPPORTUNITIES FOR RESIDENTS AND CIVIL RIGHTS COMPLIANCE

The SUBRECIPIENT agrees that no person shall be excluded from the benefits of, or be subjected to, discrimination under any activity carried out by the performance of this Agreement on the basis of race, color, disability, national origin, religion, age, familial status, or sex. 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 Section 3 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, 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 under this Agreement must reside in unincorporated

Collier County or in municipalities participating in the County's Urban County Qualification Program. The project shall assist beneficiaries as defined above for the time period designated in Exhibit "A" of this Agreement.

D. 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.

E. PUBLIC ENTITY CRIMES

As provided in § 287.133, *Fla. Stat.* 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 § 287.133 (3)(a), *Fla. Stat.*

F. DRUG-FREE WORKPLACE REQUIREMENTS

The SUBRECIPIENT must certify that it will provide drug-free workplaces in accordance with the Drug-Free Workplace Act of 1988 (41 USC 701).

G. 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 sub-awards at all tiers (including subcontracts, sub-grants, 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 CDBG 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.

IX. ENVIRONMENTAL CONDITIONS

A. AIR AND WATER

The SUBRECIPIENT agrees to comply with the following requirements:

1. Clean Air Act, 41 USC 7401, *et seq.*
2. Federal Water Pollution Control Act, 33 USC 1251, *et seq.*, as amended.

B. FLOOD DISASTER PROTECTION

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 USC 4002), 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. 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 Poisoning Prevention Act found at 24 CFR 570.608.

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 USC 470) and the

procedures set forth in 36 CFR 800, Advisory Council on Historic Preservation Procedures for Protection of Historical Properties.

X. CONDITIONS FOR RELIGIOUS ORGANIZATIONS

CDBG funds may not be used for religious activities or provided to primarily religious organizations. Section 24 CFR 570.200(j) specifies the limitations on CDBG funds.

XI. 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 will be covered by the regulations 24 CFR 570.503(B)(8).

XII. SEVERABILITY

Should any provision of the Agreement be determined to be unenforceable or invalid, such a determination shall not affect the validity or enforceability of any other section or part thereof.

XIII. COUNTERPARTS OF THE AGREEMENT

This Agreement, consisting of twenty-nine (29) 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.

XIV. ENTIRE UNDERSTANDING

This Agreement and its provisions merge any prior agreements, if any, between the parties 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.

IN WITNESS WHEREOF, the Subrecipient and the County, have each, respectively, by an authorized person or agent, hereunder set their hands and seals on this September 15, 2009.

ATTEST:
DWIGHT E. BROCK, CLERK

BOARD OF COUNTY COMMISSIONERS OF
COLLIER COUNTY, FLORIDA

By: _____
CHAIRMAN

Dated: _____
(SEAL)

First Witness

City of Naples

By: _____
Subrecipient Signature

Type/print witness name

Type/print Subrecipient name and title

Second Witness

Type/print witness name

Approved as to form and legal sufficiency:

Colleen M. Greene
Assistant County Attorney

EXHIBIT "A"

SCOPE OF SERVICES

**CITY OF NAPLES
PARK CREATION**

THE SUBRECIPIENT AGREES TO:

A. PROJECT SCOPE:

The City of Naples proposes to create a neighborhood park located on 10th Street North and 5th Avenue North in the River Park Community. These CDBG funds will support using this parcel to create a passive community park adjacent to the Carver Apartments in the River Park Community within the City of Naples. Through this neighborhood enhancement project this park will benefit low and moderate income families.

Collier County Housing and Human Services is using CDBG funds in the amount of ONE HUNDRED TEN THOUSAND DOLLARS (\$110,000.00) for this Public Facilities project.

B. BUDGET – Park Creation

Line Item:	CDBG Funds
Design	\$ 6,000.00
Construction Contract	
Irrigation elements	\$ 580.00
Lighting elements	\$19,900.00
Landscaping elements	\$27,660.00
Structural elements	\$11,060.00
Hard Surface/Paver elements	\$44,800.00
Total	\$110,000.00

Clarifications to the quantity and types of work to be conducted under Exhibit A will be made upon receipt of bids by the SUBCONTRACTOR and review by HHS. All clarifications to the budget line items will be processed by a Change by Letter, Exhibit A-1, and made an integral component of this Agreement.

C. PROJECT MILESTONE SCHEDULE

The time frame for completion of the outlined activities shall be:

MILESTONE/TASK	START DATE	END DATE
Bid Preparation	July 1,2009	October, 2009
Select Vendors	July 1,2009	November, 2009
Permits	July 1,2009	December, 2009
Design	July 1,2009	December, 2009
Construction	July 1,2009	June, 2010
Inspection	July 1,2009	June, 2010
Close-Out	July 1,2009	June 15, 2010

NOTE: Performance milestones are in effect for program monitoring requirements only, and as such, are used by HUD and other grantor agencies as general target goals rather than strict performance requirements.

This agreement shall allow reimbursement of expenses for all eligible costs associated with the agreement and does not require the completion of all agreement milestones for reimbursement to be paid.

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

E. OUTCOME PERFORMANCE MEASUREMENTS:

OBJECTIVE	OUTCOMES	ACTIVITY	INDICATORS
SUITABLE LIVING ENVIRONMENT	Sustainability through the creation of a public park with this public facilities project which will enhance the neighborhood	Creation of a passive neighborhood vest-pocket park through this Public Facilities project	One public park neighborhood public facility

EXHIBIT "A-1"
CHANGE BY LETTER



COLLIER COUNTY GOVERNMENT

Collier County Housing & Human Services
Public Services Division

User Name
Address

NAPLES, FLORIDA Zip code
PHONE: (239) Phone #
FAX (239) Fax #

Date

Contact Name
Name of Firm
Address

RE: Zero Dollar Contract Change Notification
Re: Contract # and Title of Contract
Project #
Purchase Order #

Dear Contact Name:

By copy of this letter, the above referenced contract is being issued a zero dollar (\$0.00) change as indicated below:

The above referenced contract time is hereby extended by **Number of days** calendar days. The new completion date shall be on or before **month and date, Year**.

By extending this contract, the County is not relieving your firm of its obligations to perform work in a timely and satisfactory manner or any consequences resulting from failing to do so. Collier County hereby reserves all legal rights, including, but not limited to, rights to terminate, suspend or elect any other appropriate course(s) of action should circumstances warrant with regard to the referenced contract.

Additional Staffing Categories Professional Position(s) Hourly Rate(s)

Draw against Allowance (specify allowance item and identify specific items and quantities)

Other: Scope Clarifications as indentified in Schedule B-1, "Clarifications in Scope", (attached).

Sincerely,

Your name
Title

cc: Contract Specialist Name Contract Specialist, Purchasing Department
Suzanne Boothby, Clerk's Grants Department

EXHIBIT “B”

INSURANCE REQUIREMENTS

The SUBRECIPIENT shall furnish to Collier County, c/o Housing and Human Services Department, 3301 E Tamiami Trail, Bldg H Suite 211, Naples, Florida 34112, Certificate(s) of Insurance evidencing insurance coverage that meets the requirements as outlined below:

1. Workers’ Compensation as required by Chapter 440, *Florida Statutes*.
2. Public Liability Insurance on a comprehensive basis in an amount no less than \$300,000 per occurrence for combined Bodily Injury and Property Damage. Collier County must be shown as an additional insured with respect to this coverage.
3. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with this contract in an amount not less than \$300,000 per occurrence for combined Bodily Injury and Property Damage.

DESIGN STAGE (IF APPLICABLE)

In addition to the insurance required in 1 – 3 above, a Certificate of Insurance must be provided as follows:

4. Professional Liability Insurance in the name of the SUBRECIPIENT or the licensed design professional employed by the SUBRECIPIENT in an amount not less than \$300,000 per occurrence providing for all sums which the SUBRECIPIENT and/or the design professional shall become legally obligated to pay as damages fro claims arising out of the services performed by the SUBRECIPIENT or any person employed by the SUBRECIPIENT in connection with this contract. This insurance shall be maintained for a period of two (2) years after the certificate of Occupancy is issued.

CONSTRUCTION PHASE (IF APPLICABLE)

In addition to the insurance required in 1 – 4 above, the SUBRECIPEINT shall provide or cause its Subcontractors to provide original policies indicating the following types of insurance coverage prior to any construction:

5. Completed Value Builder’s Risk Insurance on an “All Risk” basis in an amount not less than one hundred (100%) percent of the insurable value of the building(s) or structure(s). The policy shall be in the name of Collier County and the SUBRECIPIENT.
6. Flood Insurance shall be provided for those properties found to be within a flood hazard zone, in an amount not less than the full replace values of the completed structure(s) or the maximum amount of coverage available through the National Flood Insurance Program (NFIP), whichever is greater. The policy will show Collier County as a Loss Payee A.T.I.M.A. This policy will be provided as such time that he buildings’ walls and roof exist.

OPERATION/MANAGEMENT PHASE (IF APPLICABLE)

After the Construction Phase is completed and occupancy begins, the following insurance must be kept in force throughout the duration of the loan and/or Contract:

7. Public Liability coverage in an amount not less than \$1,000,000 per occurrence for combined Bodily Injury and Property damage. Collier County must be shown as an additional insured with respect to this coverage.

8. Property Insurance coverage on an "All Risk" basis in an amount not less than one hundred (100%) of the replacement cost of the property. Collier County must be shown as a Loss payee with respect to this coverage A.T.I.M.A.

9. Flood Insurance coverage for those properties found to be within a flood hazard zone for the full replacement values of the structure(s) or the maximum amount of coverage available through the National Flood Insurance Program (NFIP). The policy must show Collier County as a Loss Payee A.T.I.M.A.

EXHIBIT “C”

ADDITIONAL CDBG GRANT REQUIREMENTS

Enter additional requirements here, IF NONE EXIST, state “There are no additional grant requirements.”

EXHIBIT “D”

REQUIRED SUBMITTALS

- D-1 Request for Payment**
- D-1a Release and Affidavit Form**
- D-2 CDBG Monthly Progress Report**

SCHEDULE "D-1"
COLLIER COUNTY HOUSING AND HUMAN SERVICES
REQUEST FOR PAYMENT

SECTION I: REQUEST FOR PAYMENT

Subrecipient Name: City of Naples

Subrecipient Address: 735 8th Street South Naples FL, 34102

Project Name: Park Creation

Project No: CD-09-02 Payment Request #

Dollar Amount Requested: \$

SECTION II: STATUS OF FUNDS

1. Grant Amount Awarded	\$	<u>110,000.00</u>
2. Sum of Past Claims Paid on this Account	\$	<u></u>
3. Total Grant Amount Awarded Less Sum Of Past Claims Paid on this Account	\$	<u></u>
4. Amount of Previous Unpaid Requests	\$	<u></u>
5. Amount of Today's Request	\$	<u></u>
6. Current Grant Balance (Initial Grant Amount Awarded Less Sum of <u>all</u> requests)	\$	<u></u>

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 SUBRECIPIENT. I also certify that the amount of the Request for Payment is not in excess of current needs.

<u></u> Signature	<u></u> Date
<u></u> Title	

Authorizing Grant Coordinator

Supervisor (approval authority under \$14,999)

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

SCHEDULE "D-1a"

RELEASE AND AFFIDAVIT FORM

The SUBRECIPIENT certifies for itself and its subcontractors, material-men, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which COUNTY might be sued or for which a lien or a demand against any payment bond might be filed, have been satisfied and paid.

This Release and Affidavit is given in connection with the SUBRECIPIENT's (monthly/final) Request for Payment.

SUBRECIPIENT

Witness:

BY: _____

BY: _____

ITS: _____ President

DATE: _____

Print name and title

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by _____, as _____ of _____. A Choose Not-For-Profit, or Corporation or Municipality on behalf of Choose Not-For-Profit, Corporation or Municipality. He/She is personally known to me OR has produced _____ as identification and who did (did not) take an oath.

My Commission Expires: _____

(Signature)

Name: _____

(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of: _____

Commission No.: _____

SCHEDULE "D-2"

CDBG MONTHLY PROGRESS REPORT

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

Status Report for Month of _____ Submittal Date: _____

Project Name _____ Park Creation

Project Number CD-09-02 Activity Number _____

Subrecipient: _____ City of Naples

Contact Person Greg Givens

Telephone: (239) 213-1811 Fax: (239) 213-1033

E-mail: ggivens@naplesgov.com

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.

New contracts executed this month (if applicable):

Name of Contractor or Subcontractor, Address & Phone Number	Amount of Contract	Contractor Federal ID Number	Race (see definitions on following)	Ethnicity (see definitions on following)
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			page)	page)

For projects that serve a particular clientele, please complete the following information by entering the appropriate number in the blank spaces and in the chart below. Complete the below chart for **NEW** clients served this month. **DO NOT DUPLICATE** clients served in previous months. You may provide data by either households or persons served. However, if one person received **TWO** services this counts as **TWO SERVICE UNITS**:

TOTAL BENEFICIARIES

This project benefits _____ **households** or **persons**. Please circle one category (either “households” or “persons”). *Enter the number of beneficiaries in the blank space and in Box 1.*

INCOME

Of the households or persons assisted, _____ are extremely low-income income (0-30%) of the current Median Family Income (MFI). *Enter this number in Box “2.”*

Of the households or persons assisted, _____ are very low-income (31-50%) of the current Median Family Income (MFI). *Enter this number in Box “3.”*

Of these households or persons assisted, _____ are low-income (51-80%) of the current Median Family Income (MFI). *Enter this number in Box “4.”*

NOTE: The total of Boxes 2, 3 and 4 should equal the number in Box 1.

FEMALE HEAD OF HOUSEHOLD

This project assisted _____ Female Head of Households **REGARDLESS** of income. *Enter this number in box “5” below.*

BOX 1	BOX 2	BOX 3	BOX 4	BOX 5
Total Number of Households or Persons Assisted	Extremely Low Income (0-30%)	Very Low Income (31-50%)	Low Income (51-80%)	Female Head of Household

Subrecipient’s must indicate total beneficiaries for Race AND Ethnicity

Definitions of Race:

White: A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

Black or African-American: A person having origins in any of the black racial groups of Africa.

Asian: A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

American Indian or Alaska Native: A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

Native Hawaiian or Other Pacific Islander: A person having origins in any of the original people of Hawaii, Guam, Samoa, or other Pacific Islands.

Definitions of Ethnicity:

Hispanic or Latino: A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, **regardless of race.**

Tabulation Table of Race and Ethnicity Beneficiaries

Race	# Total	# Hispanic
White		
Black or African American		
Asian		
American Indian or Alaskan Native		
Native Hawaiian or Other Pacific Islander		
American Indian/Alaska Native <i>and</i> White		
Asian <i>and</i> White		
Black/African American <i>and</i> White		
American Indian/Alaskan Native <i>and</i> Black/African American		
Other Multi-Racial		
TOTAL:		