

9. **OLD BUSINESS**

a. Water Quality Issues

2. Staff Reports

- i.. **RESOLUTION 08-041 APPROVING AN AGREEMENT FOR FUNDING BETWEEN THE CITY OF SANIBEL AND LEE COUNTY; PROVIDING FOR THE COUNTY'S FUNDING FROM THE TOURIST DEVELOPMENT TAX FOR COMPLETION OF THE NUISANCE RED DRIFT ALGAE STUDY; AND PROVIDING AN EFFECTIVE DATE**

**RESOLUTION NO. 08-041**

**A RESOLUTION APPROVING AN AGREEMENT FOR FUNDING BETWEEN THE CITY OF SANIBEL AND LEE COUNTY; PROVIDING FOR THE COUNTY'S FUNDING FROM THE TOURIST DEVELOPMENT TAX FOR COMPLETION OF THE NUISANCE RED DRIFT ALGAE STUDY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Lee County collects a Tourist Development Tax and has approved the City of Sanibel's request for funding under it's Tourist Development Tax Plan in order to fund the completion of the Nuisance Red Drift Algae Study; and

**WHEREAS**, the City and the County wish to enter into an Agreement for Funding to set forth the specifics of such funding obligation;

**NOW, THEREFORE, BE IT RESOLVED** by City Council of the City of Sanibel, Florida, that:

**SECTION 1.** The Agreement for Funding between Lee County and the City of Sanibel for the completion of the Nuisance Red Drift Algae Study, a copy of which is attached hereto and incorporated herein as Exhibit "A", is hereby approved.

**SECTION 2.** The Mayor is hereby authorized to execute said Agreement for Funding on behalf of the City.

**SECTION 3.** Effective date.

This resolution shall take effect immediately upon adoption.

**DULY PASSED AND ENACTED** by the Council of the City of Sanibel, Florida this 18th day of March, 2008.

**AUTHENTICATION:**

\_\_\_\_\_  
Mick Denham, Mayor

\_\_\_\_\_  
Pamela Smith, City Clerk

**APPROVED AS TO FORM:**

*Kenneth B. Cuyler*      3/11/08  
Kenneth B. Cuyler, City Attorney      Date

Vote of Council Members:

Denham      \_\_\_\_\_  
Johnston      \_\_\_\_\_  
Jennings      \_\_\_\_\_  
Pappas      \_\_\_\_\_  
Ruane      \_\_\_\_\_

Date filed with City Clerk: \_\_\_\_\_

## AGREEMENT FOR FUNDING

THIS AGREEMENT is entered into by and between LEE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the “**COUNTY**” and the City of Sanibel, a municipality incorporated in the State of Florida, hereinafter referred to as “**RECIPIENT**”, for funding provided by Lee County for completion of the Nuisance Red Drift Algae Study.

### WITNESSETH:

**WHEREAS**, algae blooms can cause serious negative impacts to natural resources, tourism, and navigation; and

**WHEREAS**, **COUNTY** and **RECIPIENT** desire to cooperate in the completion of a comprehensive study to understand the dynamics of harmful macroalgae blooms in Lee County; and

**WHEREAS**, pursuant to Florida Statutes §125.0104 and Lee County Ordinance No. 05-24, Lee County collects tourist development tax; and

**WHEREAS**, **COUNTY** and **RECIPIENT** acknowledges that the tourist development tax may only be spent in accordance with the Tourist Development Plan adopted by Lee County; and

**WHEREAS**, the **COUNTY** has approved the **RECIPIENT’S** request for funding under its Tourist Development Tax Plan for implementation of the following project:

NAME:        Algae Study - Sanibel

NUMBER:    402118

**WHEREAS**, additional funding is being provided via the West Coast Inland Navigation District Countywide Navigation Improvement Fund (WCIND Project L263C);

**NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

1. The **RECIPIENT** will perform the work as outlined in the project description and submit a detailed invoice to the **COUNTY**. The **COUNTY** will then reimburse the **RECIPIENT** for the amount not to exceed \$576,810.00 during the course of this project.
2. Funding is solely limited to the project as described in the forms submitted by the **RECIPIENT** to the Tourist Development Council and incorporated herein by reference. **RECIPIENT** may not make any major alterations, changes or substitutions to the project description without obtaining prior approval from the Tourist Development Council, West Coast Inland Navigation District and **COUNTY**. Minor changes, alterations and/or substitutions may be jointly approved by the Director of the Visitor Convention Bureau or her designee and the Director of the Division of Natural Resources or his designee.
4. **RECIPIENT** shall provide to **COUNTY** evidence of substantial activity within six (6) months of the effective date of this Agreement.
5. The **COUNTY** shall not reimburse the **RECIPIENT** for the purchase of any capital equipment for this project with a value in excess of \$2,000.
6. Accurate records of all expenditures shall be maintained by the **RECIPIENT**, and these records shall be made available at all reasonable times for inspection, review or audit by the **COUNTY**. This Agreement can be

unilaterally canceled by **COUNTY** should the **RECIPIENT** refuse to allow public access to all documents, papers, letters or other material made or received in conjunction with the Agreement. Records shall be kept for a period of at least three (3) years following the end of the funding period or until final resolution of any litigation, claim, or audit that started prior to the expiration of the three-year record retention period.

7. **RECIPIENT** will submit quarterly reports to the **COUNTY**. Expenditure reports must be accompanied by sufficient supporting invoices and documentation to support pre-audit and post-audit review. The sufficiency of said documentation shall be determined by the Clerk of the Circuit Court, who may seek additional information as the circumstances require.
8. The **COUNTY** shall not be liable to any person, firm or corporation that contracts with the **RECIPIENT** to provide goods and services associated with the project conducted with the funding. Nor shall the **COUNTY** be liable to any person, firm or corporation for claims against the **RECIPIENT** or debts incurred by the **RECIPIENT**.
9. The **RECIPIENT** shall reimburse the **COUNTY** for any sums adjudged by a court of competent jurisdiction to be an unauthorized expenditure.
10. The **RECIPIENT** covenants to the **COUNTY** that it has lawful authority to enter into this agreement and has authorized the execution of this agreement by its authorized representative.
11. The **RECIPIENT** agrees to indemnify, defend and hold the **COUNTY** harmless from any and all claims, suits, judgments, damages, losses and

expenses, including court costs, expert witness and professional consultation services, and attorneys' fees arising out of any errors, omissions, and/or negligence of the RECIPIENT, its employees, agents or representatives during the term of this agreement. The RECIPIENT shall not be liable to, nor be required to indemnify the COUNTY for any damages arising out of any error, omission, and/or negligence of the COUNTY, its employees, agents or representatives. This Section shall not be interpreted to be a waiver of sovereign immunity by the RECIPIENT or the COUNTY and this agreement is in accordance with the general laws of the State of Florida and subject to the limitations as set out in Section 768.28, Florida Statutes, as it may be revised or amended from time to time.

12. The **RECIPIENT** shall insure that all purchases of goods and services for the accomplishment of the project are secured in accordance with the provisions of Chapter 287 of the Florida Statutes.
13. This agreement may not be modified, amended or extended orally. This agreement may be amended only by written agreement executed by the governing bodies of both parties.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by the undersigned officials, as duly authorized this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

ATTEST:  
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS  
LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
DEPUTY CLERK

BY: \_\_\_\_\_  
CHAIRMAN

APPROVED AS TO FORM

BY: \_\_\_\_\_  
COUNTY ATTORNEY'S OFFICE

ATTEST:  
CITY CLERK

CITY OF SANIBEL, FLORIDA

BY: \_\_\_\_\_

BY: \_\_\_\_\_

APPROVED AS TO FORM

BY: *Kenneth B. [Signature]*  
CITY ATTORNEY'S OFFICE