

AMENDMENT OF USE AGREEMENT

This USE AGREEMENT AMENDMENT (the "AMENDMENT"), made this 14th day of November 2007, is a modification of the USE AGREEMENT entered into and made effective the 23rd day of January 2002 as amended on the 28th day of June 2005, between THE ROWING ASSOCIATION OF NAPLES, INC., (the "RAN"), a Florida non-profit corporation, the address of which is 8555 Danbury Blvd. Unit #205, Naples, FL 34120 and THE CITY OF NAPLES, a Florida municipal corporation (the "CITY").

WITNESSETH:

WHEREAS, the CITY and RAN have previously determined that it is in their best interests to establish a use space for RAN on the CITY's Property and signed on January 23, 2002, a USE AGREEMENT, a copy of which is attached as Exhibit A; and

WHEREAS, the CITY and RAN amended that USE AGREEMENT on the 28th day of June 2005, a copy of which is attached as Exhibit B; and

WHEREAS, such use would benefit the citizens of both the CITY and the County by providing increased and easier access to the services provided by RAN; and

WHEREAS, the CITY is willing to amend the USE AGREEMENT, but expects to place the Property under construction in the near future.

NOW, THEREFORE, based upon the mutual covenants and premises provided herein, and other valuable consideration, the parties hereby agree as follows:

1. Premises: The CITY agrees to permit RAN to temporarily move from its current location to the CITY-owned property conveyed to the City by Warranty Deed on May 19, 1995, and recorded at OR: 2063 PG 0383, Folio Number # 20767004002, which is just north of RAN's current location. Specific use will include temporary permission for the use of an access road to the CITY's property and a defined area located north of the entrance access road approaching a designated grass area directly above the peninsula that protrudes into the Gordon River and also temporary use of the peninsula (hereafter the "PROPERTY"). See Exhibit C map attached.
2. Term: The term of this AMENDMENT shall continue on a month by month basis.
3. New Agreement: The possibility of a new agreement will be jointly reviewed by the CITY and RAN during future site development considerations and subsequent construction of the PROPERTY, out of which new terms and conditions may be made by City Council.

4. Fees and Charges: RAN shall pay \$10.00 per month to the CITY for use of the PROPERTY during the period of this AMENDMENT. The fee due to the CITY shall be paid on the FIRST day of each month. The fee is considered late if not paid by the 10th day of each month. Checks should be made payable to the City of Naples and mailed to: The Community Services Department, 280 Riverside Circle, Naples, FL 34102.
5. Relocation: RAN agrees to find an alternate location for its ROWING FACILITIES upon request during any approved site development and construction phase of the PROPERTY solely at RAN'S expense.
6. Termination: At any time during the term of this AMENDMENT, either party may terminate this AMENDMENT by delivering thirty (30) days written notice of termination to the other party without liability to the other. Upon termination, RAN shall be responsible for removing the ROWING FACILITIES and the costs associated with the same.
7. Effective Date: This AMENDMENT shall take effect immediately on the day of execution by the authorized CITY representative.
8. Authority to Execute: The terms of this AMENDMENT have been duly approved by the Board of RAN. A true and correct copy of the Resolution (if required) authorizing entry into this AMENDMENT, and authorizing the current RAN President to execute this AMENDMENT, is attached hereto as Exhibit D.
9. Coverage: Any provisions not covered in this AMENDMENT shall be governed by the previous USE AGREEMENT, entered into and made effective the 23rd day of January 2002, as amended on the 28th day of June 2005, which, unless amended herein by the AMENDMENT, remains in full force and effect.
10. Casualty and Liability Insurance: RAN shall maintain in effect during the term of this use, at RAN's expense, a policy of casualty and liability insurance insuring the Property against loss by fire and other casualty in the replacement cost thereof, and with liability coverage in such amounts and with such coverages as may be determined by the CITY. RAN shall maintain in effect during the term of this use a policy of general liability insurance covering acts of RAN, its members, guests and invitees, occurring at the Property in an amount of not less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence. The CITY shall be named as an additional insured on the RAN liability policy.
11. Waiver of Subrogation: To the extent obtainable, all insurance policies required hereunder shall contain waiver of subrogation clauses whereby the insurer waives all rights to recover from the CITY, whether by subrogation or otherwise, for any loss paid by such insurer. The CITY shall not be responsible for any actual or perceived loss, damage and/or injury that may occur on the Property.

12. Notices and Address Record: All notices required or made pursuant to this AMENDMENT to be given by RAN to the CITY shall be in writing and shall be delivered by hand or by United States Postal Services Department, first class mail services, postage prepaid, return receipt requested, addressed to the following:

City of Naples Community Services Department
280 Riverside Circle
Naples, Florida 34102

All notices required or made pursuant to this AMENDMENT to be given by the CITY to RAN shall be made in writing and shall be delivered by hand or by United States Postal Services Department, first class mail services, postage prepaid, return receipt requested, addressed to the following:

Rowing Association of Naples
8555 Danbury Blvd. Unit #205
Naples, FL 34120

IN WITNESS WHEREOF, the parties hereto have executed this AMENDMENT as of the date first above written.

ROWING ASSOCIATION OF NAPLES, INC.
A Florida Not for Profit Corporation

By: _____
Print Name

Title

Signature

ATTEST:

CITY OF NAPLES, FLORIDA

By: _____
Tara A. Norman, City Clerk

By: _____
Chet Hunt, Interim City Manager

Approved as to form and legal sufficiency:

By: _____
Robert D. Pritt, City Attorney

Exhibit "C"



Riverside Circle – Northern parcel adjacent to and north of Pulling Site
Property recommended for temporary use by Rowing Association of Naples (RAN) highlighted
and shaded in yellow per terms and conditions of Temporary Use Agreement.