

AGREEMENT FOR EASEMENT

This Agreement For Easement (“**Agreement**”) is entered into this ___ day of _____, 2011 by and between **Bear’s Paw Country Club, Inc., a Florida not-for-profit corporation**, whose post office address is 2500 Golden Gate Parkway, Naples, Florida 34105 (hereinafter referred to as “**Bear’s Paw**”), and **the City of Naples, a municipal corporation of the State of Florida**, whose post office address is 735 8th Street South, Naples, Florida 34102 (hereinafter referred to as “**City**”).

WHEREAS, City has requested Bear’s Paw to grant and convey various easements to the City over various portions of property owned by Bear’s Paw and as otherwise more particularly set forth herein; and

WHEREAS, Bear’s Paw has agreed to grant and convey said easements to the City in consideration of the City’s agreement to construct certain improvements as more particularly set forth herein; and

WHEREAS, the parties wish to memorialize their agreement and understanding pursuant to the terms hereof.

NOW, THEREFORE, in consideration of the sum of Ten and 00/100ths Dollars (\$10.00) and other good and valuable consideration including the mutual covenants and agreements hereinafter contained, the parties do hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and are hereby incorporated by reference as if fully set forth herein.

2. Easement Grants.

a) Perpetual Intake Structure, Waterline and Transmission Main Easement. Simultaneously with the execution of this Agreement, Bear’s Paw shall execute and deliver to City a Perpetual Intake Structure, Waterline and Transmission Main Easement (the “Waterline Easement”) in the form previously agreed to by the parties.

b) Temporary Construction Easement. Simultaneously with the execution of this Agreement, Bear’s Paw shall execute and deliver to City a Temporary Construction Easement (the “Temporary Easement”) in the form previously agreed to by the parties.

c) Agreement to Grant Additional Temporary Construction Easement. Bear’s Paw acknowledges and agrees that the City will have a need for an additional 1,325’ x 60’ temporary construction easement in the area generally depicted (by way of cross-hatching) on **Exhibit “A”** attached hereto and made a part hereof. Bear’s Paw shall have the right to specify the final location of this additional temporary construction easement. The term of this additional easement shall be May 1, 2012 to July 1, 2012. Bear’s Paw shall execute and deliver this easement to City (in substantially the same form and content as the Temporary Easement referenced in subsection (b) above) no later than five (5) business days following the City’s request. The Waterline Easement and Temporary Easements collectively referred to as the “Easements”.

3. Compensation. In consideration of Bear’s Paw conveyance of the easements referenced in Section 2 above (collectively, the “Easements”), the City will pay to Bear’s Paw

the sum of Two Thousand and 00/100ths Dollars (\$2,000.00) per year (the “Base Compensation”) for fifty (50) years. The first payment shall be made to Bear’s Paw within fifteen (15) days following the recording of the Waterline Easement in the Public Records of Collier County, Florida. Each subsequent annual installment shall be made on the same day provided, however, the City shall not be in default of its obligations hereunder unless and until thirty (30) days have elapsed following written notice of default from Bear’s Paw to the City.

Commencing one (1) year following the first annual payment (as set forth in the immediately preceding paragraph), and for each subsequent year thereafter, the Base Compensation shall be subject to increase (but not decrease) equal to increases in the Index. For purposes of this Agreement, “Index” shall mean and refer to a percentage represented by the increase (if any) in the Florida Public Service Commission Deflator Index issued by the Florida Public Service Commission. The percentage representing the increase in the Index shall be calculated by creating a fraction, the numerator of which shall be the Index for the last month of the immediately preceding year and the denominator of which shall be the Index for the month which is one year prior to the last month of the immediately preceding year. In no event will the Base Compensation ever decrease from the amount payable during any preceding year.

4. City Covenants.

a) Construction of Wall Around Pump Station. The City will construct a wall around the pump station being installed within the Waterline Easement. The foregoing wall shall be designed and constructed so as to match the existing wall located on the southeast portion of the Bear’s Paw property, and shall be subject to the reasonable approval of Bear’s Paw prior to commencement of construction of the wall..

b) Maintenance Road. The City and Bear’s Paw acknowledge that the City’s activities within the property encumbered by the Easements will require the destruction of the existing approximately one-half (½) mile maintenance road located on the southeast portion of the Bear’s Paw property (the “Maintenance Road”). Following the City’s completion of its construction activities including, without limitation, the installation of the transmission main, the City will replace the maintenance roadway to substantially the same condition (including, length, width and location) as it existed prior to destruction. In addition, the City will install a 2” conduit under the maintenance road (from Airport Road) for a future Comcast line.

c) Clearing of Exotics, Etc. In connection with its activities within the areas encumbered by the Waterline Easement and the Temporary Easements, the City will clear all exotic vegetation within said areas at the City’s sole cost and expense.

d) Paving of Staging Area Within Temporary Construction Easement. Following the City’s use of the portion of the Temporary Easement located directly adjacent to the Maintenance Road, the City will pave the Staging Area (as defined in the Temporary Easement) for the benefit of Bear’s Paw, at the City’s sole cost and expense.

5. Time of the Essence. Time is of the essence with regard to this Agreement.

6. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Florida, exclusive of choice of law rules. Venue for any dispute hereunder shall lie in Collier County, Florida.

7. Attorney's Fees. In the event of a dispute regarding this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs (including paralegal fees), at all levels, including appeals.

8. Counterparts; Facsimile or Electronic Transmission of Signatures. This Agreement may be executed in one or more counterparts each of which shall be deemed an original but all of which, when compiled together, shall constitute one instrument binding upon the parties. Signatures transmitted by facsimile, email or other electronic means shall be binding upon the parties as originals.

IN WITNESS WHEREOF, this Agreement has been executed by the parties on the day and year above written.

Witnesses:

BEAR'S PAW:

Bear's Paw Country Club, Inc.,
a Florida not-for-profit corporation

Name: _____

By: _____

Print Name: _____

Its: President

Name: _____

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2011, by _____, in their capacity as President, of Bear's Paw Country Club, Inc., a Florida not-for-profit corporation, who [] is personally known to me or [] has produced _____ as identification.

Seal

Notary Name: _____

My Commission Expires: _____

Witnesses:

CITY:

City of Naples

Name: _____

By: _____

Bill Barnett, Mayor

Name: _____

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by Bill Barnett, Mayor of the City of Naples, who [] is personally known to me or [] has produced _____ as identification.

Seal

Notary Name: _____

My Commission Expires: _____

647115 v_05 \ 016763.0199

Exhibit "A"

Sketch for Additional Temporary Construction Easement



Legend
City of Naples



Figure 1
Bears Paw HOA Easement 1
CDM