

CITY OF FORT LAUDERDALE
CITY FACILITY USE AGREEMENT

THIS IS A FACILITY USE AGREEMENT, made and entered into on this _____day of _____, 2018 by and between:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida,
hereinafter referred to as "CITY,"

and

GOLD COAST SKI CLUB, INC., a Florida not for profit corporation,
whose principal place of business is located at 12202 NW 75th Place,
Parkland, Florida 33076, hereinafter referred to as "USER"

In consideration of good and valuable consideration, receipt of which is hereby acknowledged and the covenants expressed in this Agreement, the parties mutually agree as follows:

TERMS OF AGREEMENT

1. CITY agrees to use of the Lake by USER for the purposes and in accordance with the terms described in Exhibit A, attached hereto and made a part hereof, and for no other purpose whatsoever, without written consent of the CITY.
2. CITY hereby provides permission for the non-exclusive use of a portion a City owned facility located at Mills Pond Park (hereinafter "Park") more specifically known as the "Lake" and depicted on Exhibit B, attached hereto and made a part hereof.
3. CITY agrees to use of the Lake by USER for the purposes and in accordance with the terms described in Exhibit A, attached hereto and made a part hereof, and for no other purpose whatsoever, without written consent of the CITY.
4. The use of the facility is to .commence on April 1, 2018 and end on March 31, 2020. The dates and times agreed to by CITY and USER for use of the facility is more fully described in Exhibit A. This Agreement may be extended for up to two additional consecutive one year terms providing all terms, conditions and specifications remain the same and the extension is approved by USER and CITY.
5. USER agrees to pay \$515.87 per month, plus the current applicable Florida sales tax during the term of the Agreement and any extensions pursuant to paragraph 4 herein. Monthly fees and taxes are to be paid in full on the first of each month in advance of use of the facility identified herein.
 - CITY reserves the right to cancel, reschedule or relocate USER to another location other than the facility listed above, in the case of scheduling conflicts or for any other reason as deemed appropriate by the City Manager.

COMPLIANCE WITH LAWS, PERMITS AND FEES

6. USER is responsible for complying with all applicable local, state and federal taxes, permitting and licensing requirements. USER shall at all times comply with all federal, state, county, and municipal laws, rules, regulations and ordinances or any other governmental agency that has jurisdiction. USER shall obtain and pay for, in advance, any

permit, license and applicable fees required during USER's use of facility.

ASSIGNABILITY

7. USER shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement, whether by assignment or novation, without prior written approval of CITY.

SEVERABILITY

8. If any section, subsection, sentence, clause, provision, or portion of this Agreement shall be held invalid for any reason, the remainder of this Agreement shall not be affected thereby.

NON-WAIVER

9. Failure of the CITY to insist upon the strict performance of any of the covenants, conditions and agreements of this Agreement in any one or more instances shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions and agreements.

INSURANCE

10. USER shall purchase and maintain continuously during the term of this Agreement, comprehensive general liability insurance with minimum combined single limits of \$1,000,000.00 per occurrence and watercraft liability insurance with minimum combined single limits of \$1,000,000.00 per occurrence. CITY shall be included under said insurance policy and listed as an additional insured.
 - a. USER shall further provide proof of coverage to CITY and carry at USER's own cost and expense Workers Compensation Insurance, Employers' Liability Insurance, and unemployment insurance, as required by law.
 - b. USER shall provide proof of all required insurance coverages to CITY's Risk Manager and receive approval from Risk Manager prior to commencement of this Agreement.

INDEMNIFICATION

11. USER shall indemnify, defend save and hold CITY fully harmless from and against any and all liabilities, claims, suits, actions, demands, losses, judgments or fines of every kind and nature, including all costs, expenses, attorney's fees, arising from or related to this Agreement or arising from, related to, or caused by USER's use of, or occupancy of the property described herein, or providing of services, or acts or omissions made during the term of this Agreement, including, but not limited to bodily injury, death and property damage. USER shall be liable for all costs incurred by CITY in and about any such claim, suit, action, demand or loss for investigation of same. This indemnification shall not be limited by any insurance required under this Agreement. This indemnification shall survive the expiration or revocation of this Agreement.

NON-LIABILITY OF CITY

12. CITY shall not liable for any acts or omissions of USER for any conditions resulting from

any provision under this Agreement or other activities of USER or agents of USER or patrons of USER. CITY shall not be liable for any damage or injury that may happen to USER, USER's agents, U.SER's patrons or property from any cause whatsoever, during this Agreement.

AMENDMENT

13. No modification, amendment or alteration of terms or conditions contained herein shall be effective unless contained in a written document executed by the parties hereto, with the same formality and of equal dignity herewith. Any changes regarding the use of the facility must be mutually agreed upon by both USER and CITY and incorporated in a written amendment(s) to this Agreement.

TERMINATION

14. CITY has the unqualified and absolute right to terminate this Agreement at any time and that the permission granted by this Agreement shall immediately terminate upon exercise by CITY of such right, provided, however, that the CITY shall give notice to USER of termination at least 24 hours before the effective time of such termination.
15. CITY has right to terminate this Agreement without notice to USER if the facility or other integral parts of the facility are destroyed or damaged by any foreseen or unforeseen instance and fulfillment of the Agreement is impossible by CITY. USER shall pay rental for facility only up to the time of such termination. If the facility is so damaged as to render fulfillment of the entire Agreement impossible before the USER has used the facility, then all advance payments made by USER to CITY shall be refunded.

NOTICE

16. When either party desires to give notice unto the other, it shall be given by written notice, sent certified by U.S. Mail, return receipt requested, addressed to the party to whom it is intended, at the places last specified, and the places for giving notice shall remain such until they are changed by written notice in compliance with this subsection. For the present, the parties designate the following as respective places for giving notice, to wit:

As to City:

Parks & Recreation Department
Attn: Director of Parks & Recreation
701 South Andrews Avenue
Fort Lauderdale, Florida 33316

As to USER:

Gold Coast Ski Club, Inc.
12202 NW 75th Place
Parkland, FL 33076

DAMAGE TO FACILITY AND REIMBURSEMENT

17. USER shall not allow any injury, defacement, change, alteration or damage to the facility during its use of the facility by USER, an agent of USER or patron of USER. USER assumes all responsibility for the acts, omission to act and conduct of all persons admitted to the facility by consent of USER or with the consent of any persons acting for or on behalf of the USER.

18. USER shall reimburse CITY for all expenses incurred by CITY that CITY incurs for the restoration of the facility to its condition at the commencement of this Agreement.

NON-DISCRIMINATION

19. USER shall not in exercising any of the rights or privileges granted to USER herein on the grounds of race, color, sex, or national origin, discriminate or permit discrimination against any persons or group of persons in any manner. USER shall comply with the applicable sections of Americans with Disabilities Act of 1990 (42 USC 126), which prohibits discrimination of handicapped individuals by denying them the right to participate in or benefit from the services provided pursuant to this Agreement. USER understands that USER is responsible for compliance with this Act. To the extent that any provisions of this Agreement are inconsistent with ADA, the requirements of the ADA shall control.

MISCELLANEOUS

20. CITY, through its authorized representatives, reserves the right to enter the facility at any time. CITY, through its authorized representatives, reserves the right to eject any person(s) from facility and upon exercise of this right, USER waives any right or claim for damages against CITY.
21. CITY reserves the right to remove from facility any of USER's effects or any effects of USER's agents or patrons remaining in the facility after the time periods of the specified use of the facility described in Schedule A USER shall be responsible for any charges levied by CITY for the storage of these effects.
22. USER shall pay all reasonable attorney's fees to CITY for collection of all or any part of the terms of this agreement.
23. Pursuant to CITY Ordinance, Section 19-2, USER or USER's agents are prohibited from selling food of any kind, goods, wares or merchandise without first obtaining written approval by City Manager or by obtaining an award of an appropriate contract.

GOVERNING LAW

24. This Agreement shall be governed by the laws of the State of Florida, with venue in lying in Broward County, Florida.

EXTENT OF AGREEMENT

25. This Agreement represents the entire and integrated agreement between CITY and USER and supersedes all prior negotiations, representations or agreements, either written or oral.

[This Space Intentionally Left Blank]

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

CITY

ATTEST:

CITY OF FORT LAUDERDALE, a
municipal corporation of the State of
Florida.

JEFFREY A. MODARELLI
City Clerk
(SEAL)

LEE R. FELDMAN, City Manager

Approved as to form:
ALAIN E. BOILEAU, Interim City Attorney

By: _____
KIMBERLY CUNNINGHAM MOSLEY
Assistant City Attorney

USER

WITNESSES

GOLD COAST SKI CLUB, INC., a Florida
not for profit corporation.

[Witness type/print name]

By: _____
 RICHARD DECARLO, President

[Witness print/type name]

ATTEST:

GAYLE CARR, Secretary

(CORPORATE SEAL)

STATE OF FLORIDA:
COUNTY OF _____:

The foregoing instrument was acknowledged before me this _____ day of
_____, 2018, by _____ as _____
of GOLD COAST SKI CLUB, INC., on behalf of the corporation, who is personally known
to me or has produced _____ as identification.

(SEAL)

Notary Public, State of Florida, (Signature of
Notary)

Name of Notary Typed, Printed or Stamped

EXHIBIT A

USER is permitted to use the Lake on a non-exclusive basis during the following times: Tuesdays through Sundays, 7:30A.M. to dusk each day, for the following specified activity (activities) only:

- (a) Tournament waterski practices (slalom, jump, tricks, and special activities such as barefooting and show skiing);
- (b) Tournament skiing;
- (c) All Club sponsored activities in connection with promotion of waterskiing; and
- (d) Public waterskiing.

USER agrees to offer discount memberships to Fort Lauderdale citizens showing a need for the discount and as follows:

- (1) Fifty (50%) percent discount for those qualifying for the school reduced lunch program; and
- (2) Seventy-five (75%) percent discount if qualify for the school free lunch program; and
- (3) Discount amount as appropriate for individual's income level, and as determined by Club and Director.

During and after permitted Lake use, USER shall, at its expense, maintain the Lake in a clean, attractive and orderly condition. USER shall be responsible for the prompt removal of all trash, litter, and debris which accumulates on or about the Lake and which is attributable, directly or indirectly, to or arising out of its use, specifically including any litter left by USER members, visitors or spectators. USER shall deposit all such trash, litter and debris in the containers provided by the CITY for pick up at locations to be determined by the CITY. USER shall further be responsible for and reimburse CITY for any damage to any plants, shrubs, trees, or any CITY improvements such as sidewalks and paved surfaces in the vicinity.

USER shall be responsible to provide and pay for any required portable toilet facilities during tournaments or large club outings, until such time as permanent toilet facilities are available at the Park. All equipment and any other personal property of USER shall be protected and maintained solely by USER. USER acknowledges City assumes no responsibility whatsoever for any such item, and that the security and protection of any such item from theft, vandalism, the elements, acts of God, or any other cause, are strictly and solely the responsibility of USER. Storage of any items on or about the Lake, while the Lake is not in use, is at the sole risk of the USER.

The CITY shall be responsible for opening and closing the Park and its facilities and shall control gate admissions. Park keys will not be provided to USER's members.

USER is obligated to comply with the following conditions. USER acknowledges and agrees that breach of any such condition, or any obligation imposed under this Agreement, may result in immediate cancellation of this Agreement by City and, in such event, CITY may retain as its liquidated damages the security deposit:

- (1) No alcoholic beverage of any nature whatsoever may be distributed, consumed, possessed or kept on or about Lake.
- (2) USER agrees to comply with all federal, state, and local laws, rules, and regulations, including the Code of Ordinances of the City of Fort Lauderdale and the City of Fort Lauderdale Parks and Recreation Rules and Regulations, as may be amended.
- (3) Distribution of brochures, pamphlets, and other similar paper products are prohibited, except at tournaments, and only by the Club to promote waterskiing or the particular event being held.
- (4) USER shall not engage in any promotion, distribution, "give-away" program, advertising, or any similar activity, except that prizes for competitive activities may be awarded by USER. It is the responsibility of USER to insure that no prize is given in violation of any law.
- (5) This Agreement does not preclude the right of the CITY to grant approval to another party to operate a water sport activity in the Park. The CITY will give the USER 15 days prior notice if another party will be using the Lake to operate a water sport activity.
- (6) No broadcasting activities and no loud speakers are permitted, and no music, whether live or recorded by any means, may be played, unless such broadcasting, music or both is performed in conjunction with an activity or event approved in advance by the Director or by Event Agreement.
- (7) If USER desires capital improvements to the Lake area, all such work shall be done in accordance with proposals submitted to the CITY. All such work must be approved by the Director and meet all CITY and applicable Building Code requirements. All permitting shall be done by Club at its sole expense. No such construction shall begin prior to all required permits being obtained. USER acknowledges and agrees that the bidding requirements of the CITY apply to hiring of contractors and consultants for capital improvements.

Exhibit "B"
LOCATION MAP

