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CITY ATTORNEYS OFFICE

MEMORANDUM OF UNDERSTANDING

AMONG

**G. SPENCER LUEDERS, JR. AND MIKE COWAN
(D/B/A CAROLINA VELODROME ASSOCIATION)**

AND

THE GREENS OF ROCK HILL

AND

THE CITY OF ROCK HILL, SOUTH CAROLINA

This non-binding Memorandum of Understanding (the "**MOU**") is made and entered into this 28th day of September, 2009 by and among G. Spencer Lueders, Jr. and Mike Cowan, d/b/a Carolina Velodrome Association ("**CCC**"), The Greens of Rock Hill, LLC ("**The Greens**") and the City of Rock Hill, South Carolina (the "**City**"), together referred to as the ("**Parties**"), and is intended to memorialize the non-binding understanding among the Parties prior to the possible execution of certain agreements to be negotiated among the Parties for financing, design, construction, maintenance and operation of bicycling facilities located within "The Cycling and Outdoor Center of the Carolinas" ("**Cycling Center**") to be located in Rock Hill, South Carolina. The Cycling Center is expected to include, among other amenities and programs, a 250-meter oval track built to Olympic level design specifications referred to as a Velodrome, mountain biking trails, trails along the Catawba River, a BMX/Supercross track built to Olympic qualifying level design specifications (or other design specifications acceptable to the City), and a dedicated road course, in addition to education and training programs for youth and competitive cycling events for same (collectively, the "Cycling Amenities"), as well as roads, sidewalks, parking and other associated public amenities, all designed to support the City's strategic plan.

RECITALS

WHEREAS, the City and The Greens have entered into a Land Development Agreement which includes a Public Amenities Plan that identifies the planned community recreational amenities of the Cycling and Outdoor Center of the Carolinas and the responsibilities of the parties; and

WHEREAS, the Parties agree that the Goals set forth below for the Cycling Center are in the best interest of each party; and

WHEREAS, the Parties agree to negotiate in good faith in order to meet the Goals set forth below; and

WHEREAS, the Parties deem it to be to their mutual benefit to execute this MOU as a general non-binding guideline for subsequent cooperation and interaction among the Parties with respect to the Cycling Amenities of the Cycling Center; and

WHEREAS, the Parties acknowledge that all of the terms and conditions of this MOU (including, without limitation, the Goals and Responsibilities set forth below) are non-binding with the exception of the Confidentiality Agreement (as defined below).

GOALS

1. The Parties agree to commit to a public – private partnership in order to design, finance, construct, manage and maintain the Cycling Center Cycling Amenities with anticipation of construction to begin as early as Spring, 2011.
2. The Parties agree to develop marketing strategies to promote the Cycling Center as a regional competitive cycling venue.
3. The Parties agree to work together to create economic impact opportunities by actively pursuing and hosting major cycling events at the Cycling Center.
4. The Parties agree to continue conducting site analysis and feasibility studies of all proposed amenities.
5. The Parties agree to promote health and wellness by creating programming and events suitable for families and ensuring accessibility of the Cycling Center to all segments of the population through education, outreach and competitive cycling programs and events.

RESPONSIBILITIES

RESPONSIBILITIES OF THE CITY

1. The City will provide \$100,000 for preliminary planning, organization and design of the Cycling Center with a primary focus on the Velodrome and associated public use areas. A conceptual plan for the remaining Cycling Amenities and associated athletic fields will also be developed. The City will work closely with The Greens and CCC to prepare preliminary engineering and pricing documents for the aforementioned Cycling Amenities for City Council's consideration by March, 2010.
2. The City and The Greens of Rock Hill have entered into a Development Agreement and Financing Agreement for construction of certain Phase I Public Amenities including amenities that will become part of the Cycling Center. The City intends to consider an allocation of Hospitality Taxes or other sources of revenue for Phase II improvements including the Cycling Amenities listed in the Public Amenities Plan approved by City council on August 24, 2009.

3. The City will work in good faith to assist CCC's efforts to attract endorsements, funding and sponsorships for the Cycling Center.
4. The City will work in good faith with CCC to assist in the development of a management agreement for the operation, maintenance and staffing of the Cycling Center that complies with applicable laws and City policies.
5. The City will identify three Board Members to serve on CCC Board and submit names in due process to Council for appointment by January, 2010.
6. In addition to a consideration of an allocation of Hospitality Tax revenues or other sources of revenue, the City will continue to identify and pursue other potential funding sources for the Cycling Center. The City shall make a progress report to Council by March, 2010.
7. The City will support the CCC in the development of a marketing plan, sponsorship packages and other promotional materials for the Cycling Center.

RESPONSIBILITIES OF CCC

1. By October, 2009, the CCC shall provide an endorsement letter from USA Cycling committing USA Cycling to hosting at least one national championship event at the Cycling Center within three years of its opening. This commitment may be contingent on many factors, including that the Velodrome is built and to certain specifications (so long as it is acceptable to the City) for hosting USA Cycling events. CCC will also seek official designation of the Cycling Center as a "USA Cycling Official Track Training Center." CCC shall assist The City and The Greens to ensure that all designs for the Cycling Center comply with any USA Cycling requirements necessary to obtain such designation.
2. CCC shall prepare a proposed list of race sponsorship levels, based on the projected races and events outlined in its business plan, by February, 2010.
3. CCC will create a new valid and legal South Carolina entity to be named "Cycling Center of the Carolinas, Inc." organized pursuant to South Carolina law and this MOU with such organization, by-laws and charter to be approved by the City. Such entity shall be entitled to be a successor in interest to CCC under this MOU and may also be referred to herein and heretofore as ("CCC") once validly created as provided herein. CCC shall identify and confirm 12 members to serve on the 15 member CCC Board (the other 3 to be appointed by City Council) by January, 2010.
4. CCC Board will hold an organizational meeting to approve bylaws, elect officers and establish an executive committee by February, 2010

5. CCC will work with the City to develop a logo for the Cycling Center. In addition, by January, 2010, CCC shall develop a marketing plan and sponsorship packages which shall be subject to approval by City Council.
6. The CCC shall complete all necessary filing documents in order to become a federally-registered 501(c)3 non-profit corporation within four months of City Council's approval to fully fund the Velodrome which is anticipated to be June 2010.
7. The CCC will work cooperatively with the City to develop a proposed management agreement for the operation, maintenance and staffing of the Cycling Center for City Council's consideration by March, 2010.
8. CCC Board will begin a fundraising campaign for capital and programming by March, 2010.
9. CCC will provide evidence of one or more corporate or individual pledges for Velodrome naming rights in a form satisfactory to the City in the minimum amount of \$250,000 by March, 2010. These pledges and the timing of funding may be conditioned on many factors, including financial commitments by the City to construct the Velodrome, review of the final development plan, and the construction schedule.
10. CCC will provide evidence of pledges for corporate and individual sponsorships in a form satisfactory to the City in the minimum amount of \$230,000 by March, 2010. These pledges and the timing of funding may be conditioned on many factors, including financial commitments by the City to construct the Velodrome, review of the final development plan, and the construction schedule.
11. CCC will provide evidence of individual and/or corporate pledges for In-Kind sponsorships for equipment (bikes, helmets, etc.) and services for programs and events in the minimum amount of \$70,000 by March, 2010. These pledges and the timing of funding may be conditioned on many factors, including financial commitments by the City to construct the Velodrome, review of the final development plan, and the construction schedule.

RESPONSIBILITIES OF THE GREENS

1. The Greens shall dedicate land for public amenities to the City in accordance with the terms and conditions outlined in the Land Development Agreement approved by City Council on August 24, 2009
2. The Greens will develop a detailed site plan for the mixed use area containing the Velodrome and associated public spaces. The Greens shall work with the City to develop conceptual plans and cost estimates for the remaining Cycling Amenities and athletic fields.

3. The Greens shall complete all site preparation for the mixed use area containing the Velodrome according to the detailed site plan simultaneously with the completion of the Velodrome
4. The Greens will propose a design and engineering team for the preliminary design and engineering of the Velodrome mixed use area and a conceptual plan for the for the remaining Cycling Amenities and athletic fields.
5. The Greens and The City will enter into a contract to undertake the preliminary design and cost estimates of the Velodrome and other public use areas described in number 3 above.

JOINT RESPONSIBILITIES

1. The City, CCC and The Greens will identify locations for a BMX/Supercross track, research land requirements, estimate economic impact, obtain cost estimates and create a conceptual design by February, 2010.
2. All Parties agree to continue to identify and secure other naming rights opportunities, i.e. playground, pavers or other features.
3. CCC will work with City staff to establish facility rental polices and fee structure in a form suitable to City on or before opening of Cycling Center.
4. CCC and City will develop membership fee structure, member entitlements and early member commitment incentives, i.e. founding members within four months of City Council's approval to fully fund the Velodrome which is anticipated to be June 2010.
5. CCC and City will develop a management agreement, job description and salary range for a cycling center professional by March, 2010, which shall be subject to City Council's approval.
6. CCC and City will develop and draft bylaws for CCC Board by February, 2010.
7. Prior to preliminary design and planning, CCC, The Greens and City shall have an "in person" meeting with USA Cycling representatives to discuss endorsement agreements and ensure the facility meets Olympic qualifying design specifications (or other design specifications acceptable to the City).
8. By March, 2010, CCC, City and The Greens shall present a progress report based upon the items detailed in this MOU. Such report shall include cost estimates for the Cycling Center, specifically detailing costs related to the Cycling Amenities and related athletic fields. In addition, the report shall include a feasibility analysis of a BMX/Supercross track.

9. All parties will participate in the planning and design of the Cycling Center. The Parties shall prepare and present all documents related to such planning and design to City Council for approval by March, 2010.

SCHEDULE

The Parties agree that the development of the Cycling Center is dependent upon future decisions by the City Council, including, without limitation, the establishment of a public/private funding plan to be approved by City Council as well as City Council's approval of all proposed agreements to be entered into by the City, CCC and The Greens, as related to the Cycling Center. A progress report and presentation based upon the responsibilities outlined in this MOU shall be presented to City Council by March, 2010. Provided the Parties have successfully complied with all responsibilities described in this MOU to the complete satisfaction of City Council, with City Council's consent, all parties will enter into a binding agreement within 60 days of presentation to City Council.

TERMS AND TERMINATION

Any party may terminate this MOU at any time. This MOU shall remain in effect for a period of one year from the date set forth on the first page of this MOU. The MOU may be amended in writing at any time by mutual agreement of the Parties. Any confidential information (i.e., any information designated "confidential" in writing when delivered to the other party) exchanged during the effective period shall remain confidential for a period of one year after its termination or expiration, except to the extent disclosure of such information is required or permitted by applicable statutory or case law (the "Confidentiality Agreement").

The Parties acknowledge that this MOU is only a general outline of some of the terms of one or more proposed agreements that may be entered into by the Parties, and that this MOU is not binding upon, nor does it create a contractual relationship among, the Parties, with the exception of the Confidentiality Agreement. Nothing in this MOU should be construed as a binding offer or other obligation on the City's part or to create any rights in favor of CCC, The Greens or any other party. Any party may terminate negotiations at any time, for any reason, by delivering written notice to all parties hereto. This MOU does not address all matters upon which agreement must be reached in order for the proposed transactions to be consummated. Neither the City, CCC nor The Greens shall have any obligation to execute any proposed agreements that may be negotiated by the Parties with respect to the subject of this MOU.

G. SPENCER LUEDERS, JR. and MIKE COWAN,
d/b/a Carolina Velodrome Association

G. Spencer Lueders, Jr.

Mike Cowan

THE GREENS OF ROCK HILL

Dave Williams

CITY OF ROCK HILL, SOUTH CAROLINA

By: _____

Name: _____

Title: _____