

## RIGHT-OF-WAY USE AGREEMENT

THIS RIGHT-OF-WAY USE AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between the **Town of Belleair**, a Florida municipal corporation in the State of Florida (the “First Party”), and **Pelican Golf, LLC**, a Florida limited liability company, or its successors and/or assigns (the “Second Party”).

### WITNESSETH:

WHEREAS, First Party owns fee simple title to certain street right-of-way properties, more particularly described and depicted in **Attachment “A”** and referred to herein as the “**Golfview ROW**” and in **Attachment “B”** and referred to herein as the “**Poinsettia ROW**” attached hereto and by this reference made a part hereof. The Golfview ROW and Poinsettia ROW” are collectively referred to herein as the “Properties”); and

WHEREAS, Second Party owns and operates a private golf course and clubhouse facility adjacent to the Properties; and

WHEREAS, Second Party wishes to use a portion of the Golfview ROW to locate a safety and security fence along a portion of a golf cart path ; and

WHEREAS, Second Party wishes to use a portion of the Poinsettia ROW to: (i) locate a security gate to control entrance to the golf course by unauthorized persons; and (ii) continue with the current location of the first hole tee area within the Poinsettia ROW; and

WHEREAS, Second Party acknowledges that this agreement does not permit them to add to, modify or otherwise alter the Properties or to place any item on the Properties; and

WHEREAS, Second Party has agreed to assume responsibility for all mowing and upkeep of the Properties; and

WHEREAS, the parties desire to enter into this Right-of-Way Use Agreement for their mutual benefit, protection, welfare, and necessity.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the First Party, the parties hereto agree, for themselves, their heirs, successors, and assigns, as follows:

- 1) First Party, subject to the terms and conditions hereinafter set forth, hereby grants unto the Second Party, their successors and assigns, the right to utilize the Golfview ROW to locate a golf cart path safely and security fence for the golf course, with the specific location as more particularly described and depicted in **Attachment “A”**.
- 2) First Party, subject to the terms and conditions hereinafter set forth, hereby grants unto the Second Party, its successors and assigns, the right to utilize the Poinsettia ROW to

locate a security fence for the golf course and continue with the present location of the golf course first hole tee area with the specific locations as more particularly described and depicted in **Attachment "B"**.

- 3) The duration of this Agreement and right of use shall be perpetual, unless Second Party terminates or abandons its use of the Properties as described in this Agreement or unless said Second Party's use, in the sole determination of First Party, becomes incompatible or inconsistent with First Party's use of the Properties as public rights-of-way.
- 4) In the event First Party determines it is necessary to terminate this Agreement and Second Party's right to use either of the Properties it shall provide Second Party with sixty (60) days' prior notice of such termination including directions for the removal of any structures or other improvements placed on the Properties by Second Party which Second Party acknowledges are considered temporary and subject to removal at Second Party's expense when this Agreement is no longer in effect.
- 5) This agreement specifically includes the right of Second Party, its agents, employees, contractors, and assigns, to traverse the Properties as may be reasonably necessary for the stated use of the Properties.
- 6) Second Party holds First Party harmless from any and all liability for personal injury, wrongful death and Properties damage resulting from, or in any way connected with said use as a trash and solid waste collection site, except liability for personal injuries or Properties damage caused solely by the negligence or wrongdoing of First Party.
- 7) Second Party indemnifies First Party from any and all liability for personal injury, wrongful death and Properties damage occurring on the Properties, except liability for personal injuries or Properties damage caused solely by the negligence or wrongdoing of First Party.
- 8) The parties acknowledge and agree that the right of use herein granted is non-exclusive, and First Party, its heirs, successors or assigns, shall be entitled at all times to travel over the Properties, and to conduct any and all activities which they may desire to conduct thereon. The parties further acknowledge that First Party shall have no responsibility to maintain any portion thereof as a result of any of First Party's activities on or use of the Properties for any purpose.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2019. Signed, sealed and delivered in the presence of:

**[Signature blocks on the following pages]**

Signed, sealed and delivered  
in the presence of:

**TOWN OF BELLEAIR, FLORIDA**

\_\_\_\_\_  
Attest: \_\_\_\_\_

By: \_\_\_\_\_  
Gary Katica, Mayor

\_\_\_\_\_  
Christine Torok, Town Clerk

STATE OF FLORIDA  
COUNTY OF PINELLAS

This instrument was acknowledged before me, this \_\_\_\_ day of \_\_\_\_\_,  
2019, by Gary Katica and Christine Torok, as Mayor and Town Clerk of the TOWN OF  
BELLEAIR, FLORIDA, a Florida municipal corporation, who are both personally known to me,  
on behalf of the corporation.

\_\_\_\_\_  
NOTARY PUBLIC  
State of Florida, At Large  
Expiration of Commission:

**PELICAN GOLF, LLC**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF PINELLAS

This instrument was subscribed before me, this \_\_\_\_ day of \_\_\_\_\_,  
2010, by \_\_\_\_\_, as \_\_\_\_\_ of Pelican Golf, LLC, a  
Florida limited liability company who is personally known or has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

State of Florida, At Large

Expiration of Commission:

ATTACHMENT "A"

Legal Description and Map of Golfview Right-of-Way (Golfview ROW)

Legal Description

Map of Right-of-Way



**ATTACHMENT “B”**

**Legal Description and Map of Poinsettia Right-of-Way (Poinsettia ROW)**

**Legal Description**

**Map of Right-of-Way**

