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NON-EXCLUSIVE ACCESS EASEMENT AGREEMENT

ACCESS EASEMENT AGREEMENT (“**Agreement**”), is made this ____ day of April, 2017, by and between **the City of Pembroke Pines, a Florida municipal corporation**, with an address of 10100 Pines Blvd., Pembroke Pines, Florida 33026 (hereinafter referred to as the “**City**” or “**Grantor**”), and **TCWT LLC, a limited liability company, whose principal address is 3535 SW 50th Avenue, , together with their** successors and assigns, with an address of _____ (hereinafter referred to as “**Grantee**”).

R E C I T A L S:

WHEREAS, City is the owner of the following described property in Broward County, Florida, as Exhibit “A” attached hereto and incorporated herein by reference (hereinafter referred to as the “**City Property**”); and,

WHEREAS, Grantee owns the property to the south of the City Property, See Exhibit “B” attached hereto and incorporated herein by reference (hereinafter referred to as the “**Benefitted Property**”); and,

WHEREAS, Grantee requested access to the City Property for the purposes of constructing a berm, installing landscaping and maintenance; and,

WHEREAS, the City has agreed to grant to Grantee a nonexclusive easement for access to the City Property for berm, landscaping and maintenance purposes only and for no other purpose (the “**Access Easement**”) benefitting the Benefitted Property, for the purpose of allowing Grantee and their invitees, agents, employees, contractors access to the City Property; and,

WHEREAS, the Grantee desires and agrees to accept a nonexclusive easement for access to the City Property for berm, landscaping and maintenance purposes only and for no other purpose to allow Grantee and their invitees, agents, employees, contractors access to the Benefitted Property for berm, landscaping and maintenance purposes only and for no other purpose; and,

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Recitals**. The above recitals are true and correct and incorporated herein by this reference.

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City of Pembroke Pines

Grantee

2. **Access Easement.** A non-exclusive easement is hereby granted, declared and reserved over the City Property more particularly described in Exhibit "A" in favor Grantee and the Benefited Property for berm, landscaping and maintenance purposes only and for no other purposes. The Grantee may clear the property for berm and landscaping purposes.
3. **Permitted Users.** Only Grantee's and his licensed and insured contractors, and licensed and insured subcontractors (collectively "Permitted Users") shall have the right to enter the City Property.
4. **Maintenance of Access Easement.** Grantee shall maintain and repair the City Property, provided and shall be solely responsible for the cost to repair, replace, and restore any damage and/or extraordinary wear and tear to any areas of the City Property. If Grantee does not repair, replace, and restore any damage and/or extraordinary wear and tear, subsequent to thirty (30) days' written notice from the Grantor, Grantee shall reimburse the City for any such expense within thirty (30) days of request for reimbursement (accompanied by invoices, receipts and alike) from Grantor
5. **Successors and Assigns.** This Access Easement Agreement shall be binding upon and shall inure to the benefit of the heirs, successors and assigns of the respective parties hereto. The terms and conditions of this Access Easement Agreement are to be construed as covenants running with the land.
6. **Indemnification.** Grantee agrees at all times to indemnify, hold harmless and, at the City's option, defend or pay for any attorney selected by the City to defend the City, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, losses, liabilities, expenditures or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the City, Grantee, or any third party arising out of, or by reason of, or resulting from the negligent acts, errors, or omissions of Grantee or his officers, agents, servants, or invitees. Nothing in this Agreement shall be considered a waiver of the City's sovereign immunity provided for in Section 768.28, Florida Statutes, as amended or succeeded.
7. **Amendment/Modification/Termination/Reservation.** This Access Easement Agreement may not be amended, modified or terminated, by the City at any time with its sole discretion, for convenience or cause. The City reserves and retains the right to use the City Property for a road, draining, or any other municipal purpose. The City shall not be responsible or liable for any additional payments, reimbursements, or damages of any kind to the Grantee under this Agreement for any reason, including but not limited to the termination, cancelation, or amendment of this Agreement. This includes, but is not limited to, any action, omission, cost, or reliance taken by Grantee under this Agreement, which includes, but is not limited to, the installation, removal, or replacement of landscaping, irrigation, or other permitted use of the Grantee on the City Property.

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8. No Waiver. No delay or omission in the exercise of any right set forth herein accruing upon any default by a party hereto shall impair such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by a party hereto of a breach of, or a default in, any of the terms and conditions of this Agreement shall not be construed to be a waiver of any subsequent breach of or default in the same or any other provision of this Access Easement Agreement.
9. No Agency. Nothing in this Access Easement Agreement shall be deemed or construed by either party or by any third person to create the relationship of principal and agent or of limited or general partners or of joint ventures or of any other association between the parties.
10. Severability. Each provision of this Access Easement Agreement is hereby declared to be independent of and severable from the remainder of this Access Easement Agreement. If any provision contained herein shall be held to be illegal, invalid or to be unenforceable or not to run with the land, such holding shall be fully severable, and this Access Easement Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Access Easement Agreement, and the remaining provisions of this Access Easement Agreement shall remain in full force and effect and shall not be affected by such illegal, valid or unenforceable provision or by its severance from this Access Easement Agreement.
11. Governing Law. The laws of the State of Florida shall govern the interpretation, validity, performance, and enforcement of this Access Easement Agreement with jurisdiction lying in Broward County, Florida.
12. Headings. All sections and descriptive headings in this Access Easement Agreement are inserted for convenience only, and shall not affect the construction or interpretation hereof.

(REMAINDER INTENTIONALLY LEFT BLANK)

Non-exclusive Access Easement Agreement
City of Pembroke Pines
Grantee

IN WITNESS WHEREOF, the parties hereto have duly executed this Access Easement Agreement, as of the day and year first above written.

WITNESSES:
a Florida municipal corporation

City of Pembroke Pines,

Print Name: _____ By: Charles F. Dodge, City Manager

Print Name: _____
ATTEST: _____

Marlene Graham, City Clerk

APPROVED AS TO FORM

City Attorney

STATE OF FLORIDA)
)
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this _____ day of April, 2017, by, Charles F. Dodge, City Manager of the City of Pembroke Pines, a Florida municipal corporation, on behalf of the City who is personally known to me or who has produced (type of identification) as identification.

NOTARY PUBLIC

Non-exclusive Access Easement Agreement
City of Pembroke Pines
Grantee

WITNESSES:

TCWT, LLC

Print Name:

By:

Title

Print Name:

STATE OF FLORIDA)
)SS
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this _____ day of April, 2017, by,
_____, _____ of the TCWT, LLC, a limited liability company, on behalf
of the TWCT, LLC, who is personally known to me or who has produced _____
(type of identification) as identification.

NOTARY PUBLIC
