

City of
Pembroke
Pines

FIRST AMENDMENT TO THE
NEIGHBORHOOD GATEHOUSE REVOCABLE LICENSE AGREEMENT

THIS AMENDMENT ("First Amendment"), dated this ____ day of _____, 2021, is entered into by and between:

THE CITY OF PEMBROKE PINES, a municipal corporation organized and operating under the laws of the State of Florida, with an address of **601 City Center Way, Pembroke Pines, FL 33025**, hereinafter referred to as "CITY",

and

PEMBROKE SHORES COMMUNITY ASSOCIATION INC., a Not-For Profit Corporation as listed with the Florida Division of Corporations, with a principal address of **_3326 NE 33rd Street, Fort Lauderdale, FL 33308**, hereinafter referred to as the "LICENSEE."

"CITY" and "ASSOCIATION" may hereinafter be referred to collectively as the "Parties" and individually as a "Party".

WHEREAS, on August 17, 1998, the Parties entered into the Neighborhood Gatehouse Revocable License Agreement ("Original Agreement") which permitted the LICENSEE to construct neighborhood gatehouses and swing gates along on 168th Drive and other public rights-of ways; and,

WHEREAS, the Parties have enjoyed a positive working relationship during the term of the Original Agreement;

WHEREAS, the Original Agreement expires on September 30, 2022; and,

WHEREAS, on November 2, 2021, the LICENSEE sent a letter to the CITY requesting that the CITY extend the Original Agreement for five (5) years, convert one gatehouse to an unstaffed gate, and consider vacating its interests in the public rights-of-way which are described in more detail within **Exhibit "A,"** (hereinafter referred to as the "ROWS").

WHEREAS, LICENSEE desires to assume ownership and control of the ROWs at the conclusion of the Original Agreement as extended; and,

WHEREAS, the CITY desires to support the LICENSEE and grant the LICENSEE's request;

WHEREAS, the Parties found the Original Agreement to be mutually beneficial to the residents of the City of Pembroke Pines and the residents of the Pembroke Shores and that the extension of the Original Agreement for an additional five (5) years will serve both the needs and interests of those residents; and,

WHEREAS, the Parties agree that a cooperative approach provides both Parties with an optimal disposition to the extension and expiration of the Original Agreement;

WHEREAS, Parties mutually agree to a one-time extension of the Original Agreement for an additional five (5) years and the Original Agreement will now terminate on September 30,

2027; and,

WHEREAS, the CITY, at its sole option, through continued mutually beneficial discussions with the LICENSEE, may consider vacating the public interest in the ROWs during this extension;

WHEREAS, the Parties agree that that no further extension of the Original Agreement or this First Amendment shall be permitted; and

WHEREAS, the LICENSEE wishes to modify the existing gatehouse and swing gates on the ROWs, specifically by converting the staffed gatehouse on SW 5th Street to an unstaffed swing gate; and,

WHEREAS, in consideration of the extension and the modifications, the LICENSEE desires and agrees to take responsibility for the maintenance the ROWs and sidewalks; and,

WHEREAS, the LICENSEE shall make all necessary arrangements to either accept responsibility for the ROWs, if vacated by the CITY, which may include a Property Owners' Association Neighborhood Improvement District, or a similar entity, as authorized by Florida law, or remove all gatehouses, swing gates, or other access restrictions on the ROWs at the conclusion of this extension; and,

WHEREAS, if the public interest in the ROWs are vacated, the CITY shall retain ownership of all water, sewer, and other utility related infrastructure and the LICENSEE shall grant the CITY all necessary maintenance easements required to maintain, service, and repair the installed utilities; and

WHEREAS, the CITY finds it in the best interests of the health, safety, and welfare of the residents of Pembroke Pines to amend and extent the Original Agreement as provided this First Amendment and **Exhibit "A."**

W I T N E S S E T H

NOW, THEREFORE, for and in consideration of the sum of the mutual covenants and other good and valuable consideration, the receipt of which are hereby acknowledged, the Parties hereto agree as set forth below:

SECTION 1. The recitations set forth in the above "WHEREAS" clauses are true and correct and incorporated herein by this reference.

SECTION 2. Section 1 of the Original Agreement entitled "DESCRIPTION OF THE LICENSEE AND PROPERTY" is hereby amended to incorporate the **Exhibit "A,"** attached to this First Amendment. The **Exhibit "A,"** attached and incorporated herein identifies the ROWs covered by this agreement, and the locations and designs of the permitted gatehouses and unmanned swing gates.

SECTION 3. Section 18 of the Original Agreement entitled "TERM" is hereby amended and **replaced** as follows:

18.1 The term of this Agreement shall run from the date of execution herein to September 30, 2027, unless terminated as provided by the Agreement. Beginning with the effective date of this Agreement and until the date of the Agreement is terminated. LICENSEE agrees to use its best efforts to promptly fulfill each of its obligations under this Agreement.

18.2 This Agreement shall not be effective until Agreement has been executed by all parties and recorded by the CITY in the Public Records of Broward County.

18.3 This Agreement shall automatically terminate upon the vacation or transfer of the City's interest in the ROWs listed in **Exhibit "A."**

SECTION 3. This Amendment hereby creates and adds Section 35, entitled "ADDITIONAL TERMS" to the Original Agreement, as follows:

35.1 **Open to the Public** – In addition to the provisions of Section 12 of this Agreement, the LICENSEE unequivocally recognizes that ROWs listed in the **Exhibit "A"** are public streets unless and until the City vacates its interest in the ROWs. The public and all City vehicles shall have unfettered access to all public streets at all times.

35.2 VACATION OF RIGHTS OF WAY.

35.2.1 The City, at its sole option, may vacate or transfer the public interest the ROWs at anytime up to September 30, 2027. The LICENSEE shall grant or the CITY shall otherwise reserve all easements necessary for the access, maintenance, repair, of all water utilities, utility meters, sewer lines, storm water facilities, and wastewater facilities.

35.2.2 On or before May 1, 2027, the LICENSEE shall:

35.2.2.1: Inform the CITY in writing that the LICENSEE has applied for the permits for the removal of all gatehouses, swing gates, and other impediments to the public access on the ROWs and the demolition of all gates shall be completed by September 30, 2027; or,

35.2.2.2: Inform the CITY in writing that the LICENSEE has formed or elected to establish and declare itself as a Property Owners' Association Neighborhood Improvement District as permitted by §163.508, Florida Statutes, or the LICENSEE may create or serve as a similar entity which may take possession of the ROWs pursuant to Florida law; or,

35.2.2.3: Inform the CITY in writing that the LICENSEE desires that the CITY vacate the public interest in the ROWs and all necessary steps to effectuate the transfer of the ROWs from the adjacent homeowners to the LICENSEE have been completed.

35.2.3 On May 1, 2027, if the CITY has not received a written notification from the LICENSEE as required by Section 35.2.2, the CITY may cause Association Licensee to initiate all actions necessary to remove all impediments to the public access of the ROWs, or vacate the public interest in the ROWs as provided in the Original Agreement. LICENSEE shall be responsible for all costs, expenditures, and attorneys' fees and costs incurred by the CITY if the LICENSEE fails to comply with this Section 35.2.

35.3 MAINTENANCE AND REPAIR OF ROADS AND SIDEWALKS

35.3.1 The LICENSEE shall be responsible for the maintenance and repair of all ROWs, which includes but is not limited to the streets, pavement, curbing, and all other appurtenance associated with the ROWs as set forth **Exhibit "A."**

35.3.2 The LICENSEE shall be responsible for the maintenance and repair of all street signs, sidewalks, or other appurtenance associated with the ROWs identified in **Exhibit "A."**

35.4 GATEHOUSE AND SWING GATES

35.3.1 The LICENSEE may convert the prior existing manned gatehouse at Dykes Road and SW 5th Avenue (aka Pembroke Shores Drive) to an unmanned swing gate, as further described in **Exhibit "B,"** which is attached hereto and incorporated herein.

35.3.2 The LICENSEE may make other modifications and improvements to the gatehouses, swing gates, and community entry systems as provided in **Exhibit "B,"** and upon written approval of the CITY provided LICENSEE maintains compliance with Sections 35.1 and 12 of the First Amendment and Original Agreement.

35.3.3 The LICENSEE shall comply with all applicable laws, ordinances, and regulations, including the Florida Building Code and its amendments, when constructing the modifications and improvements further described in **Exhibit "B."**

35.3.3 The LICENSEE shall provide the CITY's Police and Fire Departments with continuous access to the Pembroke Shores Community by permitting entry at all gatehouses, swing gates, and gates, regardless if those gates are staffed or unstaffed.

SECTION 5. The Parties agree that the First Amendment shall be effective immediately upon its execution.

SECTION 6. In the event of any conflict or ambiguity by and between the terms and provisions of this First Amendment, and the Original Agreement, the terms and provisions of this First Amendment shall control to the extent of any such conflict or ambiguity.

SECTION 7. The Parties agree that in all other respects the Original Agreement, as amended by this First Amendment, shall remain in full force and effect, except as specifically modified herein.

SECTION 8. Each exhibit referred to in the Original Agreement forms an essential part of this First Amendment. The exhibits, if not physically attached, should be treated as part of this First Amendment and are incorporated herein by reference.

SECTION 9. Each person signing this First Amendment on behalf of either Party individually warrants that he or she has full legal power to execute this First Amendment on behalf of the Party for whom he or she is signing, and to bind and obligate such Party with respect to all provisions contained in this First Amendment.

SECTION 10. This First Amendment may be executed by hand or electronically in multiple originals or counterparts, each of which shall be deemed to be an original and together shall constitute one and the same agreement. Execution and delivery of this First Amendment by the Parties shall be legally binding, valid and effective upon delivery of the executed documents to the other Party through facsimile transmission, email, or other electronic delivery.

(SIGNATURE PAGE TO FOLLOW)

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

CITY:

ATTEST:

BY: _____

MARLENE D. GRAHAM, CITY CLERK

MAYOR FRANK C. ORTIS

APPROVED AS TO FORM:

BY:

Print Name: _____

CHARLES F. DODGE, CITY MANAGER

OFFICE OF THE CITY ATTORNEY

LICENSEE:

PEMBROKE SHORES COMMUNITY ASSOCIATION INC.

Signed By: Margaret Morrell
Name: Margaret Morrell
Title: President, PSCA

STATE OF FLORIDA
COUNTY OF BROWARD

SWORN TO (or affirmed) and subscribed before me by Margaret Morrell
means of physical presence or
online notarization, this 22 day of NOV. 2020, 2021
by Margaret Morrell, in their capacity as
President, of Pembroke Shores Community
Association Inc, a State of Florida Not-for-profit corporation, on
behalf of the corporation.

Vanessa Garcia
NOTARY PUBLIC

____ Personally Known OR
X Produced Identification

FDL
Type of Identification Produced

