



*Town of Windermere*

**Right-Of-Way Use Agreement**

THIS RIGHT-OF-WAY USE AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **Town of Windermere**, a Florida municipal corporation in the State of Florida (hereinafter “First Party”), and \_\_\_\_\_, their successors and/or assigns (hereinafter “Second Parties”).

**WITNESSETH:**

WHEREAS, First Party owns fee simple title to certain right-of-way property, more particularly described in Exhibit “A” attached hereto and by this reference made a part hereof; and

WHEREAS, Second Parties wish to \_\_\_\_\_ on a portion of said right-of-way as more particularly described in Exhibit “B” attached hereto and by this reference made a part hereof (hereinafter referred to as “the Property”); and

WHEREAS, Second Parties acknowledge that this agreement does not permit them to add to, modify or otherwise alter or to build or place any other item in said right-of-way encroachment; and

WHEREAS, Second Parties have agreed to assume responsibility for all maintenance and upkeep of the driveway access or said right-of-way encroachment on the Property; and

WHEREAS, Second Parties have agreed to assume liability for any and all claims arising on the Property as a result of such driveway access or said right-of-way encroachment; 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 Parties, their successors and assigns, the right to build and maintain the driveway access or said encroachment on a portion of said right-of-way as more particularly described in Exhibit “B.”

The duration of this agreement shall be perpetual, unless Second Parties terminate or abandon their use of the Property as described in this agreement or unless said Second Parties’ use, in the sole determination of First Party, becomes incompatible or inconsistent with First Party’s use of the Property as right-of-way.

This agreement specifically includes the right of Second Parties, their agents, employees, contractors, and assigns, to traverse the Property as may be reasonably necessary to perform maintenance of said driveway access or said right-of-way encroachment.

Second Parties shall save and hold First Party harmless from any and all liability for personal injury, wrongful death and property damage resulting from, or in any way connected with said driveway access or said right-of-way area, or any related facilities or any activities conducted on or located within the Property, except liability for personal injuries or property damage to the extent caused by the negligence or wrongdoing of First Party.

Second Parties shall indemnify First Party from any and all liability for personal injury, wrongful death and property damage occurring on the Property, except liability for personal injuries or property damage to the extent caused by the negligence or wrongdoing of First Party.

Second Parties shall, at all times, properly maintain the driveway access or said right-of-way encroachment and prevent the same from becoming dangerous and/or unsightly.

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 Property, 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 repair or replace said driveway access or said right-of-way area or any portion thereof as a result of any of First Party's activities on or use of the Property for any purpose.

**APPLICANT'S AFFIDAVIT:** *I certify that all the foregoing information is accurate and that all work will be done in compliance with all applicable laws regulating construction and zoning.*

Applicant's Signature \_\_\_\_\_ Applicant's Phone # \_\_\_\_\_

Applicant's Email Address \_\_\_\_\_

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The foregoing instrument was acknowledged before me this \_\_\_/\_\_\_/\_\_\_ by \_\_\_\_\_

who is personally known to me or who produced \_\_\_\_\_

as identification and who did not take an oath.

Notary as to Owner \_\_\_\_\_

State of Florida

County of Orange

(Seal)

TOWN OF WINDERMERE, FLORIDA

Attest:

By:

\_\_\_\_\_  
Dorothy Burkhalter, Town Clerk

\_\_\_\_\_  
Gary Bruhn, Mayor

STATE OF FLORIDA  
COUNTY OF ORANGE

This instrument was acknowledged before me, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by **Gary Bruhn and Dorothy Burkhalter, as Mayor and Town Clerk** of the TOWN OF WINDERMERE, FLORIDA, a Florida municipal corporation, who are both personally known to me, on behalf of the corporation.

(Seal)

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

**EXHIBIT "A"**

(Enter legal description of right-of-way from <http://www.ocpafl.org/Searches/ParcelSearch.aspx>)

**EXHIBIT "B"**  
(Site Plan)