

A FOR ENFORCEMENT OF THE TRAFFIC LAWS OF THE STATE BETWEEN THE CITY OF WESTLAKE AND THE MEADOWS OF WESTLAKE HOMEOWNERS ASSOCIATION, INC.

This Agreement for Enforcement of the Traffic Laws of the State (hereinafter “Agreement”), is made and entered into this ___ day of _____, 20___ between the **City of Westlake**, a Florida municipal corporation, by and through its City Council (hereinafter “City”) and **The Meadows of Westlake Homeowners Association, Inc.**, a Florida not for profit corporation (hereinafter “Community”) representing a private residential community located in the City of Westlake in Palm Beach County, Florida (collectively the “Parties”).

WITNESSETH:

WHEREAS, the Community owns or controls the private roadways within the private residential community known as The Meadows (Development); and

WHEREAS, Section 316.006(2)(b), Florida Statutes, provides that the City may exercise traffic control jurisdiction over private roads located within its boundaries if the municipality and the party owning or controlling such roads agree by written agreement; and

WHEREAS, Section 316.006(2)(b)(4), Florida Statutes allows the Board of Directors of a homeowner’s association by majority vote, to elect to have state traffic laws enforced by local law enforcement agencies on private roads that are controlled by the association; and

WHEREAS, the Community wishes to grant access and otherwise contract with the City for the Sheriff to provide for enforcement of the traffic laws of the State of Florida over the private roads in the Development identified on Exhibit “C”, attached hereto and incorporate herein by reference; and

WHEREAS, this agreement has been duly approved and authorized by the Community in accordance with its Articles of Incorporation, Bylaws and other applicable governing documents; and

WHEREAS, the City has an existing agreement with Palm Beach County Sheriff’s Office for law enforcement purposes entered into on or about August 12, 2019; and

WHEREAS, the Palm Beach County Sheriff’s Office (“Sheriff”) has agreed to provide law enforcement over the private roads;

NOW, THEREFORE, in consideration of the mutual representations, terms, and covenants contained herein, the Parties hereby agree to be legally bound as follows:

- 1. Recitals.** The above recitations are true and correct and are hereby incorporated herein.
- 2. Purpose and scope.** The Community desires to have the Sheriff exercise traffic control jurisdiction over its private roads by providing enforcement of the traffic laws of the State of Florida upon the Community’s roadways during normal patrol hours (hereinafter the “Services”). Should the Community desire the Sheriff to be situated in its Development at times outside of normal patrol hours, the Community understands that a separate contract shall be executed for additional services. The Community will be invoiced for such additional services by the Sheriff’s Contracts and Permits Division.
- 3. Terms and Termination.** This agreement is effective when fully executed and shall continue until terminated or canceled. This Agreement may be canceled by the City or Community for any reason after 60 days written notice has been provided to the other Party with a copy to the Sheriff to the addresses provided below.

4. **Community Responsibilities.**

a) The Community has provided the City with certification by a licensed engineer that traffic control devices within the Development are in accordance with the standards set forth in the Manual on Uniform Traffic Control Devices (hereinafter "MUTCD") and Chapter 316, Florida Statutes, a copy of which is attached as Composite Exhibit "A" and Chapter 316, Florida Statutes. Any proposed change to a traffic control device within the Development must be submitted to the City in writing for review. The City will provide the Community with written notification of its decision. The Community shall not install or modify any traffic control device within the Development unless approved by the City. If the City determines that multiparty stop signs will enhance traffic safety, the Community shall cause to be installed multiparty stop signs. Multiparty stop signs must conform to the manual and specifications of the Department of Transportation; however, minimum traffic volumes may not be required for the installation of such signage. Enforcement for the signs shall be as provided in Section 316.123, Florida Statutes.

b) **Ownership.** The Community has provided an affidavit, affirming that the Community owns or controls the roadways within the Development, a copy of which is attached hereto as Exhibit "B."

c) **Costs.** The Community shall reimburse the City for all actual costs incurred by the City related to traffic control and enforcement. This includes, but is not limited to, costs incurred to review any proposed new traffic control devices and/or a proposed change to a traffic control device submitted after the certification date set forth in Exhibit "A," and costs associated with the City inspecting traffic control devices within the Development. The City may submit to Community an invoice for the actual costs over the previous twelve months of traffic enforcement by August 31st of each year. Such invoice shall be paid by Community on or before September 30th of each year.

d) **Maintenance.** The Community shall be responsible for maintaining all traffic control devices within the Development, as directed by the City. The Community shall be responsible for regularly inspecting, identifying and replacing damaged or missing traffic control devices. The Community shall notify the City of any damaged or missing traffic control devices within 30 days of discovery. The Community shall notify the City of any repair or replacement of any traffic control device within 48 hours of the completed repair or replacement. The City shall have the right at any time, to require additional traffic control signs and other traffic control apparatus as the City may deem to be necessary for the enforcement of traffic laws. The City, in its sole discretion, shall have the discretion to deny enforcement of traffic laws over certain roads within the Development if the condition of said roads creates an unsafe or hazardous environment for the enforcement of traffic laws. The Community shall have 30 days to complete any City-requested traffic control device repair or replacement within the Development. Under no circumstances shall the City incur any cost related to installing, inspecting, or maintaining any traffic control device within the Development.

e) **Access.** The Community shall grant the City and Sheriff with access to the Development as needed in order for the City and Sheriff to fulfill their duties associated with this Agreement. Said access shall be in the form of an easement agreement for ingress and egress. The City shall exercise its their authority in the Development's geographical area pursuant to this Agreement and as granted by the laws of the State of Florida.

f) The exercise of enforcement of the traffic laws provided for herein shall be in addition to the jurisdictional authority presently exercised by the City and Sheriff under the law, and nothing in this Agreement shall be construed to limit or remove any jurisdictional authority. Such jurisdiction includes regulation of access to such road or roads by security devices or personnel. The rendition

of Services, standards of performance, discipline and other matters incident to the performance of such Services, and the control of personnel employed shall be within the sole discretion of the Sheriff. Nothing contained in this Agreement shall be deemed or construed to require minimum staffing levels or create any priority for the traffic enforcement on the private roads. The Community may not attempt to influence or otherwise control the City relating to the enforcement of traffic laws on the Community roads. All decisions regarding the level of traffic enforcement on the private roads and staffing related thereto shall be within the sole discretion of the City, as applicable. The Parties understand and agree that the City does not employ or otherwise control the Sheriff or employees of the Sheriff. Persons employed in the performance of Services provided are appointees of the Sheriff and not the City. As appointees of the Sheriff, they receive all the benefits, training, and promotion opportunities provided by the Sheriff.

g) Any proposed change to a traffic control device within the Development must be submitted to the City in writing for review. The City will provide the Community with written notification of its decision. The Community shall not install or modify any traffic control device within the Development unless approved by the City.

5. **Notices.** All notices and/or inquiries required or allowed by this Agreement shall be delivered in person or mailed by Certified Mail, Return Receipt Requested, with sufficient postage affixed, to the Party to whom such notice is to be given. Such mailed notices shall be deemed received three (3) business days following the notices being placed in the U.S. Mail. Notices are to be mailed to the following:

As to the activities of the City and the Community:

City: City Manager
City of Westlake
4001 Seminole Pratt Whitney Road
Westlake, FL 33470

With a copy to: City Attorney

Community: Meadows of Westlake Homeowners Association, Inc.
16290 Town Center Parkway North
Westlake, Florida 33470

As to the contract for the administration of Services under this Agreement:

Sheriff: Palm Beach County Sheriff's Office
Attn: Lt. _____
3228 Gun Club Road
West Palm Beach, FL 33406
(561) 687-6825

6. **Hold Harmless and indemnification.** The Community shall protect, defend, reimburse, indemnify and hold the City, its agents, employees, and elected officials harmless from and against all claims, liability, expenses, losses, costs, damages, or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a

result of its performance of the terms of this Agreement or due to the acts or omissions of the City. This indemnification shall survive the cancellation or termination of this Agreement.

7. **Sovereign Immunity.** The Parties agree that the City's liability in all instances shall be limited the monetary limits set forth in Section 768.28, Florida Statutes. Nothing contained in this Agreement or related documents shall be deemed a waiver of the City's sovereign immunity, whether by contract or by law. This provision shall survive the cancellation or termination of this Agreement.
8. The County has consulted with the Sheriff as required by 316.006(3)(b)(2), Florida Statutes, as evidenced by the Acknowledgement of Consultation attached hereto and incorporated herein as **Exhibit "D."**
9. **Severability.** In the event that any section, paragraph, sentence, clause, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.
10. **Public records.** The Parties agree that the City is a local government required to comply with the State of Florida's public records laws. Notwithstanding anything contained herein, as provided under Section 119.0701, Florida Statutes, if the Community: (i) provides a service; and (ii) acts on behalf of the City as provided under Section 119.011(2), Florida Statutes, the Community shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The Community is specifically required to:
 - A. Keep and maintain public records required by the City to perform services as provided under this Agreement.
 - B. Upon request from the City's Custodian of Public Records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law. The Community further agrees that all fees, charges, and expenses shall be determined in accordance with the City's standards.
 - C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Agreement, if the Community does not transfer the records to the public agency.
 - D. Upon completion of the Agreement, the Community shall transfer, at no cost to the City, all public records in possession of the Community unless notified by the City's representative/liaison, on behalf of the City's custodian of public records, to keep and maintain public records required by the City to perform the service. If the Community transfers all public records to the City upon completion of the Agreement, the Community shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the Community keeps and maintains public records upon completion of the Agreement, the Community shall meet all applicable requirements for retaining public records. All records stored electronically by the Community must be provided to the City, upon request of the City's Custodian of Public Records, in a format that is compatible with the information technology system of the City, at no cost to the City.

Failure of the Community to comply with the requirements of this article shall be a material breach of this Agreement. The City shall have the right to exercise any and all remedies available to it, including but not

limited to, the right to terminate for cause. The Community acknowledges that it has familiarized itself with the requirements of Chapter 119, Florida Statutes, and other requirements of state law applicable to public records not specifically set forth herein.

IF THE COMMUNITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, OR THE COMMUNITY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE CITY OF WESTLAKE OFFICES LOCATED AT 4001 SEMINOLE PRATT WHITNEY ROAD, WESTLAKE, FLORIDA 33470, OR BY TELEPHONE AT (561) 630-5880.

11. Insurance. The Community shall, at its sole expense, maintain in full force and effect at all times during the life of this Agreement, commercial general liability insurance with limits of at least \$1 million per occurrence, and include City and Sheriff as Additional Insureds on such policy. The Community shall agree to provide the City with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverage. The requirements contained herein, as well as the City's review or acceptance of insurance maintained by the Community are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Community under this Agreement. A copy of the insurance certificate is attached hereto as Exhibit E. Additionally, should Community be notified that any insurance policy be canceled or rescinded, Community shall immediately notify the City. All insurance shall be maintained during the term of this Agreement, and any extension or renewal thereof, in companies legally qualified to transact business in the State of Florida.

12. Discrimination. The Parties agree that no person shall be excluded on the grounds of race, color, sex, age, national, origin, disability, religion, ancestry, marital status, familial status, sexual orientation, gender identity and expression, or genetic information from the benefits of or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

13. Amendments. All amendments and modifications to the Agreement shall by the mutual consent of the Parties and shall be made in writing, which writing shall be executed with the same formality as the Agreement.

14. Employee Status. Persons employed by the Community in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers compensation, unemployment compensation, civil service or other employee rights or privileges granted to the City, its officers, employees by operation of law or by the City.

15. Assignment. This Agreement shall be binding on the Parties hereto and may not be assigned without prior written consent from either party.

IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement on the day and year first above written.

CITY OF WESTLAKE, a municipality duly organized
and existing by virtue of the laws of the State of Florida

ATTEST:

By: _____
Kenneth Cassel, City Manager

By: _____
Zoie Burgess, City Clerk

Approved as to Form and
Legal Sufficiency

By: _____
Pam E. Booker, City Attorney

The Meadows of Westlake Homeowners Association Inc.

By: _____
Mike Shuping, Vice President

EXHIBIT "A" Engineer's Certification Compliance with Manual on Uniform Traffic Control

EXHIBIT "B" Affidavit of Ownership (Meadows HOA)

EXHIBIT "C" Road Names: Goldfinch Circle; Hummingbird Lane; Meadowlark Court;
Wildflower Court; Jasmine Lane; Sunflower Court

EXHIBIT "D" Acknowledgement of Consultation

EXHIBIT "E" Commercial General Liability Insurance Certificate