

**AGREEMENT FOR ENFORCEMENT OF THE TRAFFIC CONTROL JURISDICTION
LAWS OF THE STATE BETWEEN THE CITY OF WESTLAKE AND THE MEADOWS OF
WESTLAKE HOMEOWNERS ASSOCIATION, INC.**

This Agreement for Enforcement of the Traffic Control Jurisdiction Laws of the State (hereinafter “Agreement”), is made and entered into this ____ day of _____, 2021 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 “Association,” and together with the City, the “Parties”) which is responsible for the operation and management of a private residential community located in the City of Westlake in Palm Beach County, Florida known as the Meadows (the “Development”).

WITNESSETH:

WHEREAS, the Association owns or controls the private roads within the 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 homeowner’s association; and

WHEREAS, the Association wishes to grant access and otherwise contract with the City for the Palm Beach County Sheriff’s Office (“PBSO”) to provide for enforcement of the traffic laws of the State of Florida over the private roads in the Development identified on Exhibit “A”, attached hereto and incorporated herein by reference; and

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

WHEREAS, the City has an existing agreement with PBSO for law enforcement purposes, including enforcement of state traffic laws within the City, entered into on or about August 12, 2019 (the “PBSO Agreement”); and

WHEREAS, PBSO has agreed to provide law enforcement over the private roads within the Development identified on the attached Exhibit “A” (the “Private Roads”) and the Parties acknowledge that they have consulted with PBSO regarding this Agreement;

NOW, THEREFORE, in consideration of the mutual representations, terms, and covenants contained herein, and for other good and valuable consideration, the mutual receipt and legal sufficiency of which is acknowledged, the Parties agree to be legally bound as follows:

1. **Recitals.** The above recitations are true and correct and are incorporated into and form a part of this Agreement.
2. **Purpose and Scope.** The Association desires to have PBSO exercise traffic control jurisdiction over the Private Roads including providing traffic control and enforcement of the traffic laws of the State of Florida upon the Private Roads during normal patrol hours (hereinafter the “Services”). For purposes of this Agreement, “normal patrol hours” means those hours in which the PBSO provides law enforcement

services to the City pursuant to the PBSO Agreement, as the same may be amended from time to time. Should the Association desire PBSO to provide Services in the Development at times outside of normal patrol hours (“Additional Services”), the Association understands that a separate contract for Additional Services must be entered into by the Parties, and the Association will be invoiced for such Additional Services by PBSO’s Contracts and Permits Division.

3. **Terms and Termination.** This Agreement is effective and the Services will commence on the date when the Agreement is fully executed and shall continue until terminated or canceled. This Agreement may be terminated or canceled at any time and for any reason by the City or Association upon the giving of not less than sixty (60) days prior written notice (“Termination Notice”) to the other Party, with a copy of the Termination Notice provided to PBSO, at the addresses set forth in Section 5 below.

4. **Association Responsibilities.**

(a) **Certification.** The Association has provided the City with a certification by a licensed engineer indicating 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 certification is attached as Exhibit “B.” Any proposed change to a traffic control device within the Development, including installation or modification of any traffic control device within the Development, must be submitted to the City in writing for review and approval, which approval shall not be unreasonably withheld, conditioned or delayed. The City will provide the Association with written notification of its decision relating to modification of any traffic control device in the Development within sixty (60) days of receipt of the written request . If the City determines that multiparty stop signs will enhance traffic safety within the Development, the City shall provide the Association with written notice of such determination, after which the Association shall install or cause to be installed multiparty stop signs at the locations within the Development as determined by the City. Multiparty stop signs must conform to the MUTCD and specifications of the Florida Department of Transportation; provided, however, minimum traffic volumes may not be required for the installation of such signage. Enforcement of multiparty stop signs shall be included as part of the Services and shall be as provided in Section 316.123, Florida Statutes.

(b) **Ownership.** The Association has provided an affidavit affirming that the Association owns or controls the Private Roads, a copy of which affidavit is attached hereto as Exhibit “C.” The Association has provided the City with a Resolution of the Association attached as Exhibit “D,” evidencing the Association’s desire for City’s services hereunder and authorizing the Association to enter into this Agreement.

(c) **Costs.** The Association shall reimburse the City for all actual costs incurred by the City in providing the Services, including, but not limited to, costs incurred to review any proposed new traffic control devices and/or a proposed change to a traffic control device submitted by the Association after the certification date set forth in Exhibit “B.” The City shall provide the Association with written notice prior to incurring any costs for which it will seek reimbursement from the Association pursuant to this Section 4(c). The Association shall notify the City of any objection to the proposed costs within thirty (30) days of receipt of written notice from the City. If the Association has not objected within that timeframe, the City may incur the cost and invoice the Association as set forth in this Section 4(c). If the Association objects to the costs, and agreement among the Parties cannot be reached, the City may terminate this Agreement. The City shall submit to Association an invoice for the actual costs over the previous twelve (12) months of traffic enforcement by July 31st of each year. Such invoice shall be paid by Association on or before September 30th of each year.

(d) **Maintenance.** The Association shall be responsible for maintaining all traffic control devices within the Development, consistent with the requirements of Florida law including, without limitation, Chapter 316, Florida Statutes, and the MUTCD. The Association shall be responsible for regularly inspecting, identifying and replacing damaged or missing traffic control devices. The Association shall notify the City of any damaged or missing traffic control devices within thirty (30) days of discovery. The Association shall notify the City of any repair or replacement of any traffic control device within forty-eight (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 within the Development. 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 Association shall have thirty (30) days after receipt of a written request from the City 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 which is not subject to reimbursement as set forth in this Agreement.

(e) **Access.** As set forth in Section XXX of the Declaration for the Meadows recorded in Official Records Book XXXX, Page XXX of the Public Records of Palm Beach County, Florida (as amended from time to time, the "Declaration"), the City and PBSO have an easement of ingress and egress over and across the Development in order for the City and PBSO to fulfill their duties as set forth in this Agreement. The City shall exercise its authority in the Development pursuant to this Agreement and as granted by the laws of the State of Florida.

(f) **Notice and Authority.** The enforcement of the traffic laws as provided for in this Agreement shall be in addition to the jurisdictional authority presently exercised by the City and PBSO under applicable law, and nothing in this Agreement shall be construed to limit or remove any jurisdictional authority of the City or PBSO. 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 by PBSO shall be within the sole discretion of PBSO; provided, however, Services shall be provided and performed consistent with the requirements of this Agreement and Florida law including, without limitation, Chapter 316, Florida Statutes. Nothing contained in this Agreement shall be deemed or construed to require minimum staffing levels or create any priority for traffic enforcement on the Private Roads. The Association may not attempt to influence or otherwise control the City relating to the enforcement of traffic laws on the Private 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; provided, however, Services shall be provided and performed consistent with the requirements of this Agreement and Florida law including, without limitation, Chapter 316, Florida Statutes. The Parties understand and agree that the City does not employ or otherwise control PBSO or employees of PBSO. Persons employed in the performance of Services provided are employees of PBSO and not the City. As employees or appointees of PBSO, they receive all the benefits, training, and promotion opportunities provided by PBSO.

5. **Notices.** All notices, requests, consents, communications, and/or inquiries required or allowed by this Agreement shall be in writing and shall be (as elected by the person giving such notice) (i) hand-delivered by messenger or nationally recognized overnight courier service, (ii) mailed by Certified Mail, Return Receipt Requested, with sufficient postage affixed, or (iii) sent by electronic transmission (i.e. e-mail), and addressed to the Party to whom such notice is to be given as set forth below or to such other addresses any Party may designate by notice complying with the terms of this Section 5.

If to City: City Manager
City of Westlake
4001 Seminole Pratt Whitney Road
Westlake, FL 33470
E-mail: _____

With a copy to: City Attorney
City of Westlake
4001 Seminole Pratt Whitney Road
Westlake, FL 33470

If to the Association: Meadows of Westlake Homeowners Association, Inc.
16290 Town Center Parkway North
Westlake, FL Florida 33470
Attn:
Email:

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

PBSO: Palm Beach County Sheriff's Office
Attn: _____
3228 Gun Club Road
West Palm Beach, FL 33406
E-mail: _____

6. **Indemnification.** The Association 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, to the extent actually incurred, 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 except as provided herein. This indemnification shall include the PBSO, its agents and employees. This indemnification shall survive the cancellation or termination of this Agreement. This paragraph shall not be construed to require the Association to indemnify the City or PBSO for the negligence or intentional acts of the City or PBSO, its agents, officers or employees. Each party assumes the risk of personal injury and property damage resulting from or attributable to the acts or omissions of that party and its agents, officers and employees.

7. **Sovereign Immunity.** The Parties agree that the City's and PBSO's liability in all instances shall be limited in accordance with 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 or PBSO's sovereign immunity, whether by contract or by law; provided, however, the City agrees to incorporate by reference into this Agreement the provisions of Section 768.28(9)(a), Florida Statutes. This provision shall survive the cancellation or termination of this Agreement.

8. **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 section, paragraph, sentence, clause or provision shall be given its nearest legal meaning or stricken from and construed for all purposes not to constitute a part of this Agreement, and the remaining portions of this Agreement shall remain in full force and effect and shall, for all purposes, constitute the entire agreement.

9. **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 Association: (i) provides a service; and (ii) acts on behalf of the City as provided under Section 119.011(2), Florida Statutes, the Association shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The Association is specifically required to:

(a) Keep and maintain public records required by the City to perform the 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 Association 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 Association does not transfer the records to the public agency.

(d) Upon completion of the Agreement, the Association shall transfer, at no cost to the City, all public records in possession of the Association 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 Association transfers all public records to the City upon completion of the Agreement, the Association shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the Association keeps and maintains public records upon completion of the Agreement, the Association shall meet all applicable requirements for retaining public records. All records stored electronically by the Association 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 Association 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 this Agreement. The Association 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 ASSOCIATION HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, OR THE ASSOCIATION'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.

10. **Insurance.** The Association 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 PBSO as Additional Insureds on such policy. The Association 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 Association are not intended to and shall not in any

manner limit or qualify the liabilities and obligations assumed by the Association under this Agreement. A copy of the insurance certificate is attached hereto as Exhibit "E." Additionally, should Association be notified that such insurance policy will be canceled or rescinded, Association shall immediately notify the City. All insurance shall be maintained during the term of this Agreement, and any extension or renewal thereof, with companies legally qualified to transact business in the State of Florida.

11. **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.

12. **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.

13. **Complete Agreement.** This Agreement constitutes the complete understanding and entire agreement of the Parties with respect to the matters addressed in this Agreement and there are no other agreements, representations, or warranties other than as set forth in this Agreement. No agreement or representation, unless set forth in this Agreement, shall bind any of the parties to this Agreement.

14. **Employee Status.** Persons employed by the Association 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.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK. ADDITIONAL TEXT AND SIGNATURES APPEAR ON FOLLOWING PAGE.]

16. **Counterparts and Facsimile and E-Mail Signatures.** This Agreement may be executed in any number of counterparts, each of which shall be considered an original and a complete set of which taken together shall constitute one and the same agreement. The parties agree and intend that a signature by facsimile or by electronic transmission (i.e. e-mail) of a “.pdf” data file shall bind the party so signing with the same effect as though the signature was an original.

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

By: _____
Name: Kenneth Cassel
Title: City Manager

ATTEST:

By: _____
Zoie Burgess, City Clerk

Approved as to Form and Legal Sufficiency

By: _____
_____, City Attorney

The Meadows of Westlake Homeowners Association Inc.

By: _____
Mike Shuping, Vice President

EXHIBIT “A”

Private Roads within the Meadows and Traffic Control Locations

- Goldfinch Circle
- Hummingbird Lane
- Meadowlark Court
- Wildflower Court
- Jasmine Lane
- Sunflower Court

EXHIBIT "B"

Engineer's Certification of Compliance with the Manual on Uniform Traffic Control

EXHIBIT "C"

Affidavit of Ownership (Meadows HOA)

EXHIBIT "D"

Resolution of the Association evidencing the Association's desire for City's services hereunder and authorizing the Association to enter into this Agreement.

EXHIBIT "E"

Commercial General Liability Insurance Certificate