

**AGREEMENT FOR AN ANNUAL PAYMENT FROM THE CITY OF KELLER
TOWARDS THE COST OF MAINTAINING LANDSCAPE MEDIANS ON PUBLIC
ROADWAYS WITHIN THE HIDDEN LAKES HOMEOWNERS ASSOCIATION**

THE STATE OF TEXAS)(

COUNTY OF TARRANT)(

This ("AGREEMENT"), is made and entered into by the CITY OF KELLER, TEXAS, a Home Rule municipal corporation, and the Hidden Lakes Homeowners Association of Keller, Texas ("The Association").

W I T N E S S E T H:

WHEREAS, the developer of the Hidden Lakes Residential Sub-division entered into a verbal agreement in 1997 with the City of Keller not to separate the irrigation meters for the parkways (common association entrance ways) and the medians, thus saving the water impact fees and in doing so agreed to have the Association assume the responsibility and costs of irrigating and maintaining (lawn cutting and fertilization) of the medians along Bear Creek Parkway, a public street owned and maintained by the City of Keller; and

WHEREAS, the developer desired an enhanced level of maintenance to the medians above the City of Keller's established maintenance standards and worked the costs of the maintenance and irrigation into the annual operations of the budget of the homeowners association; and

WHEREAS, the Association has been maintaining the irrigation system and has continuously paid for the water and irrigation costs and has contracted with lawn maintenance companies for over 20 years to perform the median maintenance; and

WHEREAS, the Association has appeared before the City Council on numerous occasions asking the City of Keller to assist the Association with an annual payment towards the maintenance and irrigation costs for the medians within the public street citing the Unified Development Code that delegates those maintenance costs to the City of Keller; and

WHEREAS, the majority of the elected City Council wishes to terminate the verbal agreement between the City of Keller and the Association delegating the costs to irrigate and maintain the medians solely to the Association, and replace it with this Agreement that will provide an annual monetary payment by the City of Keller to the Association towards the median maintenance costs.

**NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES AND
CONSIDERATION PROVIDED FOR HEREIN, THE RECEIPT AND SUFFICIENCY OF
WHICH ARE HEREBY CONFIRMED, THE CITY OF KELLER AND THE HIDDEN
LAKES HOMEOWNERS ASSOCIATION HEREBY AGREE TO THE FOLLOWING:**

- Section 1. **Recitals.** All matters stated above are found to be true and correct and are incorporated herein by reference as if copied in their entirety.
- Section 2. **Term.** This Agreement shall become effective immediately upon all signatures and continue until such time as the City of Keller wishes to terminate under the cancellation provision below.
- Section 3. **Hidden Lakes Homeowners Association Obligations.** Hidden Lakes Homeowners Association hereby agrees to perform the following:
- a. Hidden Lakes Homeowners Association will be responsible for maintaining the medians in the center of the public city owned roadways within the Association. The maintenance shall include the costs of irrigation, grass cutting, fertilization, pest and weed control of the grass, and the trimming of any plants or trees in the medians.
 - b. **Hidden Lakes Homeowners Association shall** submit to the City of Keller the cost paid by the association of maintaining the medians in the center of the public city owned roadways for the preceding twelve months and submit a request on October 1 of each year for the payment.
 - c. Hidden Lakes Homeowners Association agrees to perform all services under this agreement in a good and workmanlike manner, and in accordance with all applicable laws and regulations.
- Section 4. **City of Keller Obligations.** City of Keller agrees to perform the following:
- a. The City of Keller upon receipt of the payment request shall make the payment to the Association within 30 days towards the cost of maintaining the medians in the center of the public city owned roadways within the Hidden Lakes Homeowners Association. The amount of the payment will be based on the per acre average cost of maintaining the medians on Rufe Snow Drive and North Tarrant Parkway as determined by the City of Keller. The first payment of this agreement will be based on a \$6,887.22 per acre charge at 3.25 acres (acreage of the medians within the Association) for a total payment of \$22,383.47. Should at any time during this agreement the annual dollar amount paid for the maintenance of the medians, which includes irrigation, grass cutting, fertilization, pest and weed control, and the trimming of any plants or trees within the medians paid by the Hidden Lakes Homeowners Association be less than the per acre average cost paid by the City of Keller for the maintenance of the medians on Rufe Snow Drive and North Tarrant Parkway, the City of Keller is only responsible for paying the lessor amount.
- Section 5. **Cancellation.**
- a. The City of Keller shall have the right to terminate, based on the provisions of this Agreement, if the Hidden Lakes Homeowners Association breaches any of its terms or fails to perform any of the obligations, and then fails to cure the breach or failure within thirty (30) days following receipt of written notice.

Section 6. **Notices.** All notices required or provided for in this Agreement shall be sent to the following parties by certified mail – return receipt requested:

KELLER

Hidden Lakes Homeowners Association

**Mark Hafner, City Manager
City of Keller
P.O. Box 770
Keller, TX 76244**

**Paula Scott, General Manager

2700 Bear Creek Parkway
Keller, Texas 76248**

Section 7. **Indemnity.**

- a. To the extent allowed by law, the Hidden Lakes Homeowners Association hereby agrees to indemnify and otherwise hold harmless the City of Keller, its officers, agents and employees in both public and private capacity against all liability claims, suits, demands, losses, damages, attorney fees, including all expense of litigation or settlement, or causes of action of any kind which may arise by reason of injury to or death of any person or for a loss of, damage to, or loss of the use of any property arising out of or in any way connected to the maintenance of the medians by the sub-contractors, selected, hired, and paid by the Association to perform the services under this agreement.

IN WITNESS WHEREOF, we have hereunto set our hands this the ____ day of _____, 2019, in duplicate originals.

CITY OF KELLER, TEXAS

HIDDEN LAKES HOMEOWNERS ASSOCIATION

By: Mark R. Hafner, City Manager

By: Todd Almand, President

ATTEST:

ATTEST:

**By: KELLY BALLARD
City Secretary**

**By: Paula Scott
General Manager**

APPROVED AS TO FORM:

By: L. Stanton Lowry, City Attorney