

**AGREEMENT PROVIDING FOR CITY TRAFFIC
CONTROL JURISDICTION OVER CERTAIN ROADS
WITHIN THE LINDSFORD SUBDIVISION**

This Agreement is made and entered this 1 day of February 2021 by and between the Lindsford Master Association (hereinafter referred to as "Association"), with a mailing address of Oak Creek Crossing, 11100 Bonita Beach Road #101, Bonita Springs, FL, 34145, and the City of Fort Myers, a municipal corporation (hereinafter referred to as "CITY"), with a mailing address of 2200 Second Street, Fort Myers, Florida 33901, collectively, "The Parties" hereto.

WITNESSETH

WHEREAS, all streets and roads within the Lindsford community are private roads owned and controlled by the ASSOCIATION, and neither owned nor maintained by CITY; and

WHEREAS, ASSOCIATION has requested that the Fort Myers Police Department (hereinafter referred to as "FMPD") patrol the following roadways owned and maintained by the ASSOCIATION, and exercise jurisdiction in the enforcement of state, county, and municipal traffic laws over said roadways listed on Exhibit A attached hereto and incorporated herein; and

WHEREAS, the roads described in Exhibit A have been dedicated to the ASSOCIATION as shown in Exhibit A and are currently operated and controlled by the ASSOCIATION; and

WHEREAS, Section 316.006(3)(b), Florida Statutes, authorizes a city to exercise jurisdiction over any road or roads owned or controlled by a special district or a homeowners association located within the unincorporated area within its boundaries if the city and the party or parties owning and controlling such road or roads provide by written agreement for city traffic control jurisdiction over the road or roads encompassed by such agreement; and

WHEREAS, the FMPD confirms that there is an enforcement need and has agreed to provide traffic control enforcement upon the roadways listed in Exhibit A; and

WHEREAS, the City of Fort Myers City Engineer reviewed this issue and recommends approval subject to compliance with the Manual on Uniform Traffic Control Devices (MUTCD), approved by the United States Department of Transportation, Federal Highway Administration and adopted by the State of Florida; and applicable Florida Statutes; and

WHEREAS, the Fort Myers City Council has reviewed this Agreement and determines that it is in the interest of the public's health, safety, and welfare to enter into this Agreement pursuant to Section 316.006(3)(b), Florida Statutes.

NOW THEREFORE, in consideration of the premises and the terms and conditions provided herein, the Parties agree as follows:

1. The recitals and Exhibits stated in reference herein above are hereby restated and are made a part of this Agreement.

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2. The City of Fort Myers, through its City Council, does hereby determine and hereby exercises its jurisdiction over the roads listed on Exhibit A, attached hereto and incorporated herein pursuant to this Agreement, which is pursuant to section 316.006(3)(b), Florida Statutes. Pursuant to Section 316.006(3)(b), Florida Statutes, FMPD hereby expressly waives the statutory requirement concerning the effective date of this Agreement relating to the beginning of the next City Fiscal Year, and agrees that the effective date of this Agreement is provided herein.
3. FMPD shall as of the date and thereafter, include as a part of its normal duties patrol an enforcement of all state, county, and municipal traffic control regulations and laws on and over the roads described in Exhibit A. FMPD shall comply with all applicable federal, state and local laws, rules, regulations and standards concerning the performance of such services.
4. The Parties recognize that the roads in Exhibit A are neither City owned nor City maintained, and the responsibilities for construction, maintenance, and repair, including frontage along the roadside do not legally exist with, and are not hereby contractually imposed upon the CITY or FMPD. All sign installation, repairs, maintenance, and adequacy along the roads are the sole responsibility of the ASSOCIATION or its designee(s). All signs will be maintained by the ASSOCIATION in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) and all applicable Florida Statutes.
5. The CITY shall be included as "an additional insured" on all the liability insurance policies of the ASSOCIATION, which relate to ownership, construction, maintenance, or repair of the ASSOCIATION's roads and appurtenances. The CITY is responsible for its own negligent acts. Nothing in this paragraph shall be construed to waive privileges and immunities provided for in the Florida Constitution or Florida Statute Chapter 768.
6. The Parties agree and understand that this Agreement is being made for FMPD to provide normal duties, patrol, and enforcement at the same level of service provided to other residential subdivisions and with public roads. The Parties hereby agree that for any additional or special services requested by the ASSOCIATION, that the ASSOCIATION shall enter into separate agreements for such services and any charge for the special services will be on a case by case basis depending upon the time, manner, and number of officers required to perform the additional service(s). Presently the CITY is not required to enforce traffic violations on private roads maintained by the ASSOCIATION. The CITY reserves the right to charge for these services if that becomes necessary determined by the City Council of Fort Myers. The ASSOCIATION has the option to opt out of this agreement within 30 days' written notice or pay for the relevant services.

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7. CITY agrees that it shall not assign or subcontract the services described herein, or any part thereof, without the prior written approval of the Association, which may be granted or withheld by the ASSOCIATION at its sole discretion.
8. This Agreement may only be modified through a written document executed with the same formality as this Agreement. However, this Agreement may be terminated by either party upon a thirty (30) day written notice. Written notice under this Agreement shall be deemed to have been duly given if delivered in person or sent by: (a) certified mail, return receipt requested, (b) a nationally recognized overnight courier, or (c) electronic mail followed up by one of the preceding methods, to the addresses set forth on the first page of this Agreement.
9. Notwithstanding anything appearing to the contrary in this Agreement, no direct or indirect partner, member or director of the ASSOCIATION or the CITY (or any officer, director, agent, advisor, representative, member, investor, manager, personal representative, trustee or employee of any such direct or indirect partner, member or director) shall be personally liable for the performance of the obligations of, or in respect of any claims against, the ASSOCIATION or the CITY arising under this Agreement. No personal judgment shall be sought or obtained against any of the foregoing in connection with this Agreement.
10. This Agreement may be executed in multiple counterparts, all of which taken together shall constitute one single agreement between the parties hereto. Signatures hereto may be evidenced by facsimile or electronic transmission, the same of which shall be treated as originals.

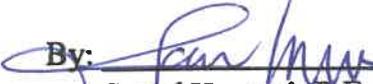
IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement on the dates shown below to be effective the day and year first shown above.

CITY OF FORT MYERS, FLORIDA
A Municipal Corporation

ATTEST:

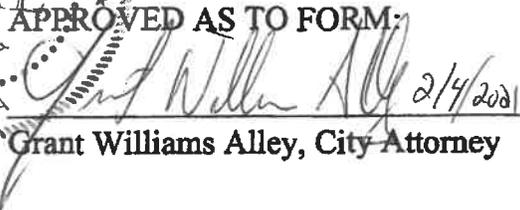
By: 
Kevin B. Anderson, Mayor

Date: 2/5/2021

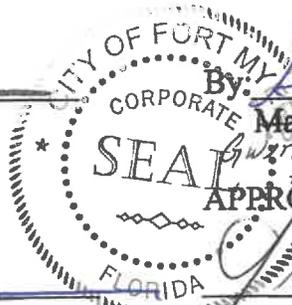
By: 
Saeed Kazemi, P.E., City Manager

Date: 2/5/2021

By: 
Marie Adams, MMC, City Clerk

By: 
Grant Williams Alley, City Attorney

APPROVED AS TO FORM: 2/4/2021



The seal is circular with the text "CITY OF FORT MYERS, FLORIDA" around the perimeter. In the center, it says "CORPORATE SEAL" and "APPROVED AS TO FORM". There are also some handwritten marks and a signature over the seal.

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LINDSFORD MASTER ASSOCIATION, INC.

ATTEST:



By: MARK TAYLOR V.P



Date: 01-13-2021

EXHIBIT "A"

[ATTACHED BELOW]

