

**THIRD AMENDMENT TO JOINT USE AND MAINTENANCE AGREEMENT
BETWEEN BELVEDERE MUNICIPAL UTILITY DISTRICT AND BELVEDERE
HOMEOWNERS ASSOCIATION**

This THIRD AMENDMENT TO JOINT USE AND MAINTENANCE AGREEMENT (“*Third Amendment*”) is made and entered into as of the date last signed, to be effective May 20, 2024 (the “*Third Amendment Effective Date*”), by and between Belvedere Municipal Utility District (the “*District*”), a municipal utility district operating pursuant to Chapters 49 and 54 of the Texas Water Code, and Belvedere Homeowners Association (the “*HOA*”), a Texas non-profit corporation. The District and the HOA are each a “*Party*” and collectively, the “*Parties*.”

RECITALS

WHEREAS, the District and HOA are parties to that certain Joint Use and Maintenance Agreement, dated July 1, 2018, which provides for the funding, operation, and joint maintenance of the Belvedere Amenity Center, trail system, landscaping, and related facilities;

WHEREAS, the Parties entered into that certain First Amendment to Joint Use and Maintenance Agreement on October 15, 2019;

WHEREAS, the Parties entered into that certain Second Amendment to Joint Use and Maintenance Agreement on January 1, 2022 (the Joint Use and Maintenance Agreement, as amended by the First and Second Amendments to Joint Use and Maintenance Agreement, is the “*Agreement*”); and

WHEREAS, the Parties now desire to further amend multiple provisions of the Agreement regarding the roles and responsibilities of the Parties concerning maintenance issues, as set forth herein.

NOW, THEREFORE, for and in consideration of the mutual promises and other good and valuable consideration contained herein, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

AMENDMENT

1. **Recitals**. The above recitals are true and correct and incorporated into this Third Amendment for all purposes.
2. **Defined Terms**. The defined terms in the Agreement shall have the same meaning in this Third Amendment, except as otherwise provided in this Third Amendment.
3. **Payment for Facilities, Operations, Maintenance, Repairs, and Improvements**. The Agreement is hereby amended by modifying Item 4A as follows:

The listed line items:

- “1. Amenity Center Electrical Service
2. Amenity Center Phone Service
3. Amenity Center Internet Service
4. Amenity Center Cable Service
5. 50% of Common Area Landscape Maintenance
6. Trail Trash pickup
7. Amenity Center Cleaning
8. Amenity Center Supplies
9. Amenity Center Propane
10. Miscellaneous Facilities Maintenance”

shall be replaced in their entirety with:

- “1. Amenity Center Electrical Service
2. Amenity Center Phone Service
3. Amenity Center Internet Service
4. Amenity Center Cable Service
5. 50% of Common Area Mowing
6. 50% of Amenity Center Lot Landscape Maintenance
7. Amenity Center Pest Control
8. Amenity Center Propane
9. Miscellaneous Facilities Maintenance/Repairs greater than \$100.00”
10. Expenses associated with Playscape
11. Expenses associated with Sports Court
12. Expenses associated with Mail Kiosk

4. Prior Approval. Item 6 of the Agreement is hereby deleted in its entirety and shall be replaced with the following:

“**Prior Approval**. The Parties acknowledge that the District is subject to state laws regarding the bidding and contracting for certain projects. The HOA will execute all contracts initiated by the HOA in carrying out its duties under this Agreement in the name of the HOA; provided, however, that if any planned expenditure is expected to exceed \$20,000, or any emergency expenditure is expected to exceed \$10,000 ("Large Expenditure"), then (i) the HOA shall not make the Large Expenditure without prior approval from the District, and (ii) the District have the right to bid and contract with the third party for the work directly. In the event that the HOA becomes aware that a Large Expenditure may be necessary, then it will provide written notice of the potential Large Expenditure to the District immediately so that the District can evaluate such Large Expenditure. The District is not obligated to participate in funding outside of the District Allocation for a Large Expenditure where the HOA did not provide prior notice to the District.”

5. Assessed Fees. The Agreement is hereby amended by modifying Item 7 as follows:

Item 7 of the Agreement is deleted in its entirety and shall be replaced with the following:

“In return for the HOA retaining fees assessed for the use of the Amenity Center, the HOA will be responsible for all supplies and cleaning costs associated with such use.”

6. Effect of this Third Amendment. Except as set forth in this Third Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. In the event of any inconsistency or conflict between the provisions of the Agreement and this Third Amendment, the provisions of this Third Amendment will prevail and govern. All references to the Agreement or in any exhibit or schedule thereto shall hereinafter refer to the Agreement as amended by this Third Amendment.
7. Binding Effect. The Agreement, as amended hereby, shall inure to the benefit of, be binding upon, and be enforceable against each Party and their respective permitted successors, assigns, transferees and delegates.
8. Notices. The Parties will provide all notices and other communications under this Agreement to the other Parties in writing by United States registered mail or electronic mail and addressed as follows:

The District:

Belvedere Municipal Utility District
c/o David Klein
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Ave., Suite 1900
Austin, Texas 78701
(phone) 512-322-5818
(fax) 512-472-0532
(email) dklein@lglawfirm.com

The HOA:

Belvedere Homeowners' Association
17400 Flagler Drive
Austin, Texas 78738

Any Party may change its address or contact person by giving written notice to the other parties.

9. No Third-Party Beneficiaries. Nothing expressed or implied in this Third Amendment is intended, nor shall be construed, to confer upon or give any individual or entity other than the Parties hereto and their respective successors and assigns any rights or remedies under or by reason of this Third Amendment.
10. Entire Agreement. The Agreement, as amended hereby, constitutes the full and entire understanding and agreement between the Parties regarding the subject matter hereof and thereof and supersedes and cancels all prior agreements, negotiations, correspondence,

undertakings, and communications of the Parties, oral or written, with respect to such subject matter.

11. Severability. If any provision of this Third Amendment is illegal, invalid, or unenforceable under present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this Third Amendment shall not be affected thereby, and it is also the intention of the Parties to this Third Amendment that in lieu of each provision of this Third Amendment that is illegal, invalid, or unenforceable, there be added as a part of this Third Amendment a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible, and be legal, valid, and enforceable.
12. Change in Law and Compliance with Laws. Any alterations, additions, or deletions to the terms of the Agreement, as amended hereby, that are required by changes in federal or state law or regulations are automatically incorporated into the Agreement, as amended hereby, without written amendment, and shall become effective on the date designated by such law or by regulation.
13. Further Assurances. The Parties hereby covenant and agree that they will execute and deliver any such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out this Third Amendment and the Agreement.
14. Waiver. Any failure by a Party hereto to insist, or any election by a Party hereto not to insist, upon strict performance by the other Party of any of the terms, provisions, or conditions of this Third Amendment shall not be deemed to be a waiver thereof, or of any other term, provision, or condition hereof, and such Party shall have the right at any time or times thereafter to insist upon strict performance of any and all of the terms, provisions, and conditions hereof.
15. Applicable Law. The construction and validity hereof shall be governed by the laws of Texas.
16. Venue. Venue shall be in the court of proper jurisdiction located in Travis County, Texas.
17. Expenses. Each Party shall be responsible for their respective attorney's fees, expenses, and costs of court related to this Third Amendment or any dispute arising regarding the same.
18. Section Headings. All section headings contained herein are for convenience and reference only and are not intended to define or limit the scope of any provision of this Third Amendment.
19. Authority and Representations. Each Party executing this Third Amendment warrants and represents that the individual executing this Third Amendment on its behalf has the authority and power to execute this Third Amendment for the entity on behalf of which he or she executes this Third Amendment.

20. Counterpart Execution. This third Amendment may be executed in any number of counterparts, each of which shall be, for all purposes, deemed to be an original, and all such counterparts shall together constitute and be one and the same instrument. A facsimile or other electronic copy of a signature, and a counterpart transmitted electronically (e.g., by fax, email, text, or similar means), will be deemed to be and will have the same force and effect as an original signature for all purposes.

[Remainder of page intentionally blank]

IN WITNESS WHEREOF, the Parties have executed this Third Amendment in multiple copies, each of which shall constitute an original, on the dates set forth below:

BELVEDERE MUNICIPAL UTILITY DISTRICT

By:

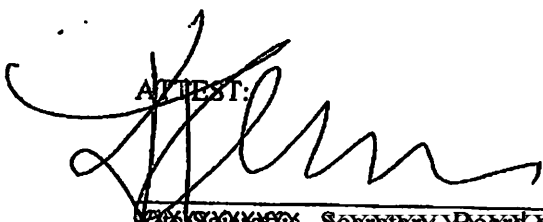


Jim Koerner, President, Board of Directors

Date:

November 19, 2024

ATTEST:



~~Keri Parker, Secretary, Board of Directors~~

Keri Parker, Assistant Secretary, Board of Directors

BELVEDERE HOMEOWNERS ASSOCIATION

By: 

Name: KEZIA MELIKERWITZ

Title: President

Date: 11/26/2024