

**OTEKA'S WATER DESIGN, INC.**  
201 LIBERTY HILLS LANE  
LIBERTY HILL, TEXAS 78642  
515-5322 OFFICE/FAX  
512-917-1151 CELL  
MCCLAIN201@SBCGLOBAL.NET

May 13, 2008

## **Aquatic Landscaping Maintenance Agreement**

Fern Bluff Municipal Utility District ("Customer" or "you")

Oteka's Water Design, Inc. ("Oteka's Water Design", "Contractor", "we" or "our")

This Aquatic Landscaping Maintenance Agreement (the "Agreement") is for the Oakbrook Wet Ponds ("pond" or "ponds") located on property owned by Customer and within the Oakbrook Homeowner's Association's area.

**Monthly Fee:** Based on the information that discussed and current availability, Contractor agrees to provide the following services for the monthly lump sum fee of: **\$500.00/mo.**

**Schedule for this job:** Our crew will perform on-site monthly clean-ups in accordance with the terms of this Agreement.

**Scope of Work:** We will remove cattails, willows, cottonwoods and other invasive vines and shrubs that occur in the pond or in the "wickline" at the water's edge. The removal of trash is part of the service that we offer, this is particularly important after major storm events. In certain rainfall circumstances we would return to the pond to check for trash even if it was within days of our regularly scheduled maintenance visits. Any use of chemicals needed to take care of this pond is included in this bid, primarily referring to herbicide to treat cattails. In rare cases this would include the use of chemicals on algae. This Agreement shall not cover maintenance of the fountains located in the ponds, which obligation shall remain with Oakbrook Homeowner's Association, the owner of the fountains and related equipment and appurtenances.

**Special Notes:** Our fees include the removal of trash and plant materials, taken out of the pond, from the site. We will agree to not raise the monthly fees for the time period of one year from the execution date of this contract.

The monthly fee set forth above is based upon visible conditions. Should unforeseen conditions arise, we will discuss their ramifications and possible additional costs with the Customer prior to adjusting the work plan. Unless pre-approved by Customer's board, Customer shall not be required to pay any costs in excess of the monthly fee set forth above.

Customer modifications to this agreement after accepted or work has begun will incur additional charges. If the Customer wishes additional tasks or materials or to make changes to the work plan, these must be submitted in writing. Oteka McClain and the contract landscape supervisor are the only two representatives of **Oteka's Water Design** authorized to approve changes to this work plan. Costs for such changes or additions will be based on our standard rates for material and labor.

As Contractor for this job, all discussion pertaining to the work or material should be directed to the contract landscape supervisor or to Oteka McClain. Any discussions or agreements solely between the Customer and any sub-contractor for **Oteka's Water Design** are the responsibility of the Customer. **Oteka's Water Design** bears no liability for costs or work associated with such agreements.

As Contractor we agree to the following stipulations:

## 1. Insurance.

The Contractor shall secure and maintain in effect insurance to protect the Contractor, its subcontractors, employees, volunteers, and Customer from claims for bodily injuries, death or property damage which may arise out of or as a result from the Contractor's performance or nonperformance of its duties under this Agreement. The following minimum levels of coverage are required:

**1.1 Public liability and property damage:**

General liability: \$1,000,000 per occurrence / \$2,000,000 aggregate

**1.2 Commercial Automobile: \$ 75,000**

**1.3 Workers' Compensation: None**

Certificates of insurance confirming the Contractor's coverage and naming Customer as an additional insured shall be provided to the Contractor's attorney and shall contain the requirements that the Customer's attorney shall be notified at least fifteen (15) days prior to the date of expiration or cancellation of any required coverage.

Any failure by the Contractor to maintain required insurance or to furnish any required certificate shall be grounds for immediate termination of this Agreement.

## 2. Indemnification.

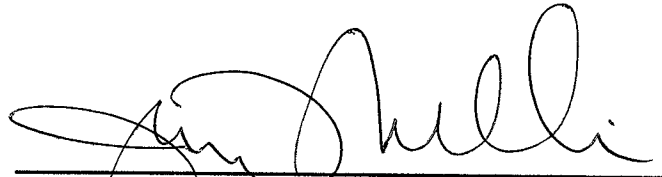
To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Customer and its officers, directors, agents and employees from all claims, damages, losses, liability and expense, including attorney's fees, arising out of or resulting from the Contractor's, or any of its sub-contractor's, actual or alleged performance or failure to perform any work or services required under this Agreement. Such obligation shall not be construed to negate, abridge, or

otherwise reduce any other right or obligation of indemnity which would otherwise exist to any part or person described in this paragraph. The indemnification requirement set out herein shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under any workers compensation acts, disability benefit acts or other employee benefit acts.

**Term and Termination:** This contract is good for one (1) year and the monthly fee set forth herein will remain the same. At the end of one year's time, either party may cancel with 30 days written notice or choose to renew for the next year.

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***Oteka's Water Design, Inc.***



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Fern Bluff Municipal Utility District



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
04/15/2008

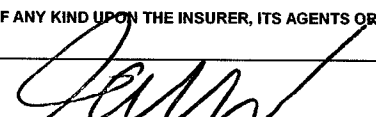
<b>PRODUCER</b> HAYS INSURANCE AGENCY PO BOX 638 WEST COLUMBIA, TX 77486 (979)-345-2271	<b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b>	
	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
<b>INSURED</b> OTEKA MCCLAIN DBA OTEKA WATER DESIGNS 201 LIBERTY HILL LIBERTY HILL, TX 78642	INSURER A: ALLSTATE INSURANCE COMPANY	
	INSURER B: ALLSTATE COUNTY MUTUAL INS. CO.	
	INSURER C:	
	INSURER D:	
	INSURER E:	

### COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR _____ GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	050779246	10-09-2007	10-09-2008	EACH OCCURRENCE	\$ 1,000,000.
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 50,000.
						MED EXP (Any one person)	\$ 5,000.
						PERSONAL & ADV INJURY	\$ 100,000.
						GENERAL AGGREGATE	\$ 1,000,000.
						PRODUCTS - COMP/OP AGG	\$ 1,000,000.
		<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS _____	048550220	07-02-2007	07-02-2008	COMBINED SINGLE LIMIT (Ea accident)	\$ 500,000.
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO _____				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
		<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE _____ <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
						E.L. EACH ACCIDENT	\$
						E.L. DISEASE - EA EMPLOYEE	\$
						E.L. DISEASE - POLICY LIMIT	\$
		<b>OTHER</b> _____					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
 CERTIFICATE HOLDER IS NAMED AS ADDITIONAL INSURED ON BOTH THE LIABILITY AND AUTO POLICIES

<b>CERTIFICATE HOLDER</b> FERN BLUFF MUNICIPAL UTILITY DISTRICT C/O WINDSTEAD PC 401 CONGRESS AVE. STE 2100 AUSTIN, TX 78701	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>10</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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## **IMPORTANT**

If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.