

**CYPRESS SHADOWS
COMMUNITY DEVELOPMENT DISTRICT
BOARD OF SUPERVISORS
SPECIAL MEETING
AUGUST 19, 2020**

CYPRESS SHADOWS
COMMUNITY DEVELOPMENT DISTRICT AGENDA

AUGUST 19, 2020 AT 4:00 p.m.

ZOOM MEETING: <https://zoom.us/j/93665457493> MEETING ID: 936 6545 7493

District Board of Supervisors	Chairman Supervisor Supervisor Supervisor Supervisor	Louis Frattarelli Tony Provinzino Walt Giesbrecht Don Lozzi Nicholas Liberto
District Managers	Meritus	Brian Lamb
District Attorney	Coleman, Yovanovich & Koester, PA	Greg Urbancic
District Engineer	Banks Engineering Services, LLC	David Underhill, Jr.

The meeting will begin at **4:00 p.m.** with the second section is called **Vendor/Staff Reports**. This section allows the Engineer, and Attorney to update the Board of Supervisors on any pending issues that are being researched for Board action. The third section is called **Business Items**. The business items section contains items for approval by the District Board of Supervisors that may require discussion, motion and votes on an item-by-item basis. If any member of the audience would like to speak on one of the business items, they will need to register with the District Administrator prior to the presentation of that agenda item.

The final sections are called **Supervisor Requests and Audience Comments**. This is the section in which the Supervisors may request Staff to prepare certain items in an effort to meet residential needs. The Audience Comment portion of the agenda is where individuals may comment on matters that concern the District. Each individual is limited to three (3) minutes for such comment. The Board of Supervisors or Staff is not obligated to provide a response until sufficient time for research or action is warranted. **IF THE COMMENT CONCERNS A MAINTENANCE RELATED ITEM, THE ITEM WILL NEED TO BE ADDRESSED BY THE DISTRICT ADMINSTRATOR OUTSIDE THE CONTEXT OF THIS MEETING.**

Agendas can be reviewed by contacting the Manager’s office at (813) 873-7300 at least seven days in advance of the scheduled meeting. Requests to place items on the agenda must be submitted in writing with an explanation to the District Manager at least fourteen (14) days prior to the date of the meeting.

Public workshops sessions may be advertised and held in an effort to provide informational services. These sessions allow staff or consultants to discuss a policy or business matter in a more informal manner and allow for lengthy presentations prior to scheduling the item for approval. Typically, no motions or votes are made during these sessions.

Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the District Office at (813) 873-7300, at least 48 hours before the meeting. If you are hearing or speech impaired, please contact the Florida Relay Service at 7-1-1, who can aid you in contacting the District Office.

Any person who decides to appeal any decision made by the Board with respect to any matter considered at the meeting is advised that this same person will need a record of the proceedings and that accordingly, the person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

Cypress Shadows Community Development District

Dear Board Members:

The Special Meeting of the Board of Supervisors of the Cypress Shadows Community Development District will be held on **Wednesday, August 19, 2020 at 4:00 p.m.**, via Zoom at the information listed below:

ZOOM MEETING: <https://zoom.us/j/93665457493> MEETING ID: 936 6545 7493

- 1. CALL TO ORDER/ROLL CALL**
- 2. VENDOR/STAFF REPORTS**
 - A. District Counsel
 - B. District Engineer
 - C. District Manager
- 3. BUSINESS ITEMS**
 - A. Joint HOA/CDD Board Agreement Discussion
 - B. Consideration of CDD Facilities Operation and Maintenance Agreement Tab 01
 - C. Consideration of Resolution 2020-04; Re-designating Officers..... Tab 02
 - D. General Matters of the District
- 4. SUPERVISORS REQUESTS**
- 5. AUDIENCE QUESTIONS, COMMENTS AND DISCUSSION FORUM**
- 6. ADJORNMENT**

While it is necessary to hold the above referenced meeting of the District’s Board of Supervisors utilizing communications media technology due to the current COVID-19 public health emergency, the District fully encourages public participation in a safe and efficient manner. Toward that end, anyone wishing to listen and participate in the meeting can do so via video conference or telephonically at <https://zoom.us/j/93665457493> Meeting ID: 936 6545 7493. Additionally, participants are encouraged to submit questions and comments to the District Manager in advance at 813-873-7300 to facilitate the Board’s consideration of such questions and comments during the meeting.

We look forward to speaking with you at the meeting. In the meantime, if you have any questions, please do not hesitate to call us at (813) 873-7300.

Sincerely,

Brian Lamb
District Manager

COMMUNITY DEVELOPMENT DISTRICT
FACILITIES OPERATION AND MAINTENANCE AGREEMENT

THIS COMMUNITY DEVELOPMENT DISTRICT FACILITIES OPERATION AND MAINTENANCE AGREEMENT (this “**Agreement**”) is entered into as of this _____ day of _____, 2020, by and between **CYPRESS SHADOWS COMMUNITY DEVELOPMENT DISTRICT**, an independent special district established pursuant to Chapter 190, Florida Statutes (the “**District**”), and **THE PRESERVE AT CORKSCREW MASTER ASSOCIATION, INC.**, a Florida not-for-profit corporation (the “**Association**”).

RECITALS:

A. The District and the Association previously entered into that certain Agreement Between the Cypress Shadows Community Development District and the Preserve at Corkscrew Master Association, Inc. for Infrastructure Management and Maintenance Services dated as of September 27, 2012 (the “**Original Agreement**”) for the provision of certain operation and maintenance services for the District.

B. This Agreement shall amend, restate, and replace the Original Agreement in all respects as of the **EffectiveCommencement** Date (as defined herein).

C. The District is a local unit of special-purpose government established by ordinance adopted by the Board of County Commissions of Lee County, Florida, pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended (the “**Act**”), and is validly existing under the Constitution and laws of the State of Florida. The District has the authority to exercise powers to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems and facilities for roads, water management, water supply, sewer, street lights, access control, among other powers, including all powers necessary, convenient, incidental or proper in connection with any of the powers, duties, or purposes authorized by the Act.

D. The Association is a private not-for-profit corporation formed pursuant to Chapters 617 and 720, Florida Statutes that owns and operates certain community infrastructure located within The Preserve at Corkscrew community within the boundaries of the District. The membership of the Association is comprised solely of property owners within the District and all of The Preserve at Corkscrew property owners are members of the Association pursuant to the Master Declaration of Covenants, Conditions, Easements and Restrictions for The Preserve at Corkscrew originally recorded as Instrument Number 2012000094216 of the Public Records of Lee County, Florida, as amended and supplemented.

E. The District desires to contract with the Association to operate, maintain, repair and replace the items improvements owned by the District set forth on **Exhibit “A”** located in those areas depicted on **Exhibit “B”** (collectively, the “**District Improvements**”).

F. The Association is responsible for operating, maintaining, repairing and replacing certain common areas either contiguous or in close proximity to the areas where the District Improvements are or will be located and the members of the Association are the direct beneficiaries of the District Improvements.

G. The Association agrees to undertake the responsibility for operating, maintaining, repairing and replacing the District Improvements all on the terms and conditions set forth herein.

H. The District and the Association agree that having a single point of contact for community operations and service issues is in the interest of the District and the property owners benefitting from the District Improvements.

NOW, THEREFORE, the District and the Association agree as follows:

1. **Recitals**. The above recitals are true and correct and incorporated herein by this reference.
2. **Finding**. The District and the Association expressly agree that having the Association operate, maintain, repair and replace the District Improvements is in the best interests of the District and the property owners intended to benefit from the District Improvements.

3. **Operation, Maintenance, Repair and Replacement**.

a. Except as otherwise provided for herein, the Association agrees to be responsible during the term of this Agreement, at the Association's sole cost and expense, for operating, maintaining, repairing and replacing the District Improvements. The District Improvements shall be kept by the Association in proper condition and repair according to specific standards mutually agreed upon by the District and the Association and developed using appropriate industry specialists. Said standards will be used as specifications for the various maintenance contracts for the District Improvements. All such action by the Association shall be performed in compliance with all applicable statutes, ordinances, administrative rules and regulations, permit conditions and the rules, policies, practices and procedures of the District. The Association understands and agrees that the Association shall be required to budget for, fund, and complete the maintenance, repair and replacement of the District Improvements and their component parts.

b. During the Initial Term of this Agreement (and any Renewal Terms), the Association shall have a non-exclusive license to enter upon the property of the District to the extent reasonably necessary to carry out the Association's obligations under this Agreement. Notwithstanding the foregoing, if any property of the District is damaged a result of any activity of the Association pursuant to this Agreement, the Association shall be responsible, at the Association's sole cost and expense, to promptly repair any damaged property or landscaping to the extent necessary to restore the property to its condition prior to the damage.

c. The Association shall maintain a reserve schedule prepared by a reputable third-party consultant that separately details amounts to be collected and reserved over the useful life of the District Improvements for their ultimate replacement ("**Reserve Schedule**"). The reserves for the District Improvements ("**District Improvement Reserves**") may be maintained by the Association in a manner permitted for a homeowners' association under Florida law, if the Association were reserving for its own assets. The Association shall fund the District Improvement Reserves consistent with the Reserve Schedule. The reserve schedule shall be updated every three (3) years consistent with the Association's standard practices. The cost of the reserve studies shall be the responsibility of the Association. The Association shall provide annually, and at other times upon written request from the District, an update on the amounts of the District Improvements Reserves held by the Association per the Reserve Schedule.

d. All contracts (or amendments or renewals of contracts) or purchase orders in excess of \$5,000.00 ("**Contract Review Threshold**") entered into by the Association with third-parties for the operation, maintenance, repair and replacement of the District Improvements shall be subject to the prior approval of the District. If the Association desires to enter into such a contract (or amendment or renewal), ~~or purchase order~~ (a "**Proposed Contract**"), the Association shall provide written notice to the District of the ~~proposed contract~~ **Proposed Contract** together with the applicable contract document(s) ("**Contract Notice**"). ~~For Proposed Contracts that are at least \$5,000 but not in excess of \$10,000, if the~~

District does not provide written notice of the District's disapproval of the ~~proposed contract~~Proposed Contract within ~~thirty (30)~~three (3) business days after the District's receipt of the Contract Notice, the applicable ~~contract~~Proposed Contract shall be deemed approved by the District and the Association may, in its discretion, proceed with the ~~contract~~Proposed Contract. For Proposed Contracts that are \$10,000 or more, if the District does not provide written notice of the District's disapproval of the Proposed Contract within thirty (30) days after the District's receipt of the Contract Notice, the applicable Proposed Contract shall be deemed approved by the District and the Association may, in its discretion, proceed with the Proposed Contract. The Association agrees not to split the procurement of operation, maintenance, repair and replacement services for a particular District Improvement into more than one contract in order to avoid the Contract Review Threshold and the District's ability to conduct contract review pursuant to this subsection. A "business day" shall mean and include every calendar day except Saturdays, Sundays and any legal or bank holiday in the State of Florida.

e. Any contract entered into by the Association for the services hereunder shall provide that it may be assigned by the Association to the District in the event of a termination of this Agreement. Notwithstanding the foregoing, the acceptance of the assignment of a contract upon termination shall be in the District's sole discretion and nothing shall herein obligate the District to accept any such assignment.

4. **Access to the Community.** As part of the operation of the District Improvements pursuant to Section 3, the Association shall be responsible for operating the access point to the Cypress Shadows community (the "**Community**") and managing access to the Community. The Association acknowledges that the internal roadways within the Community are owned by the District and constitute public assets of the District under applicable law. The Association agrees that the operation of the access point and managing access to the Community shall be undertaken by the Association in a manner consistent with all applicable local, state and federal laws, statutes, regulations, ordinances, codes, rules and permits. In connection with the Association's operations under this Section, the Association shall develop and maintain post-orders detailing the Association's gate and gatehouse procedures relating to its operation of the access points and managing access to the Community ("**Post Orders**") for purposes including, without limitation, access by the public to the roadways as required by law, access by the public to meetings and hearings of the District and access by the public to District Improvements to the extent necessary or required by law. The Post Orders shall be subject to the review and approval by the District.

5. **Property Insurance.** The parties acknowledge that the Association is acting as a service provider to the District under this Agreement and this Agreement is a means to provide for the services set forth in Section 3 on a resource-efficient basis as described in the recitals. This Agreement transfers neither ownership nor ultimate legal responsibility for the District Improvements. Nor does this Agreement change the character of the District Improvements, which are public assets of the District. As part of the operational function of the Association, the Association agrees to maintain in full force and effect during the Initial Term (and any Renewal Term, if applicable), a property insurance policy in an amount equal to the full insurable replacement value of any and all structural improvements comprising the District Improvements, but excluding items that are ineligible for coverage including, but not limited to, roads, ponds, forested preserve, and drainage system. The District shall be named as a loss payee as its interests may appear. The policy of insurance required to be obtained by the Association shall be issued by an insurance company authorized to do business in Florida and reasonably satisfactory to the District. The Association shall from time to time, and upon the request of the District, provide the District with a certificate of insurance for such property insurance and renewal certificates upon renewal.

6. **Representative.** The District shall designate in writing a person to act as the District's representative with respect to the services to be performed under this Agreement. The District's representative shall have the authority to transmit instructions, receive information, interpret and define the

District's policies and decisions with respect to materials, equipment, elements, and systems pertinent to the Association's services. The District initially designates the District's Manager or his/her authorized designee to act as the District's representative. The Association agrees to meet with the District's representative, as designated by the District Manager, as is reasonably necessary to evaluate the District Improvements and discuss conditions, schedules, and items of concern regarding this Agreement. The District may have a District Representative attend the Association's regular monthly meetings to review the Quarterly Report (defined below) and discuss any potential issues. The District, upon request to the Association, may have a District Representative participate in a quarterly walk around of the community to inspect the District Improvements with a Director of the Association to identify any potential issues.

7. Annual Budget Updates/Inspections and Reporting.

a. Annually, the Association shall submit in writing to the District the Association's proposed operating budget (or portions thereof relating to the District Improvements) in sufficient detail to illustrate the Association's estimated expenditures for the operation, maintenance, repair and replacement of the District Improvements for the next fiscal year of the Association pursuant to this Agreement. The District shall respond in writing within thirty (30) days to the Association that it has reviewed the budget (or applicable portion thereof) and that either (i) the District has no objection to the ~~proposed portion(s) of the Association's operating budget that pertain to the operation, maintenance, repair and replacement of the District Improvements~~ or (ii) the District recommends specific, reasonable changes to the ~~proposed budget portion(s) of the Association's operating that pertain to the operation, maintenance, repair and replacement of the District Improvements~~, which the Association shall review and either agree to incorporate into the budget or propose its own reasonable changes. ~~The budget must be reasonably and mutually satisfactory to both parties.~~

b. The Association shall perform regular on-site inspections of the District Improvements to determine their condition, confirm proper operation and perform the maintenance, repair and replacement of such District Improvements as outlined in this Agreement. Based upon such inspections, the Association shall perform such additional maintenance, repair and replacement of the District Improvements as necessary consistent with the obligations set forth under Section 3.

c. The Association shall at a minimum provide to the District a quarterly written summary asset report prepared by the Association's management company (each, a "**Quarterly Report**") based upon the on-site inspections of the District Improvements.

d. The Association shall make a representative available to provide reporting on the District Improvements at a regular meeting of the Board of Supervisors upon request of the District Manager.

e. In the first quarter of 2021, the Association shall, at the Association's cost, engage one or more independent advisors experienced in the operation and maintenance of a stormwater management system and landscaping to assist in the following : (i) the preparation of contract specifications for the maintenance contracts relating to stormwater management system and landscaping based upon best management practices; (ii) the hiring of appropriate vendors; and (iii) contract oversight of applicable vendors.

8. Modifications to the District Improvements. The Association shall have the right to modify or enhance the District Improvements consistent with the terms of this Agreement; provided, however, that the Association may not make any material modification to the District Improvements (including, without limitation, removal or replacement) without the prior written consent of the District, which consent may be withheld in the District's sole and exclusive discretion. The District shall have the right to modify or

enhance the District Improvements from time to time in its discretion. Prior to the commencement of any material modification or enhancement, the District shall provide no less than thirty (30) days' prior written notice to the Association of its commencement. The Association may terminate this Agreement during the 30-day District notice period provided for herein and the termination shall be effective ninety (90) days after the Association's notice to terminate, unless the parties agree in writing to a shorter time.

9. **Term/Termination.**

a. Term. The initial term of this Agreement will commence on October 1, 2020 ("**Commencement Date**") and will run through September 30, ~~2021~~2023 ("**Initial Term**"), unless terminated prior to that time by either party pursuant to a provision of this Agreement. After the Initial Term, this Agreement will automatically renew for additional one (1) year periods (October 1st through September 30th of the next year) (each, a "**Renewal Term**") unless terminated by either party as provided for herein.

b. Termination Without Cause. The District may terminate this Agreement for any or no reason upon on December 31st of a calendar year provided the District provides the Association with written notice of termination no later than July 31st of that year. If written notice of termination is provided by the District after Just 31st, then the effective date of termination will be December 31st of the following calendar year. The Association may terminate this Agreement for any or no reason ~~upon~~ on September 30th of a calendar year provided the Association provides the District written notice of termination no later than March 31st of that year. If written notice of termination is provided by the Association after March 31st, then the effective date of termination will be September 30th of the following calendar year.

c. Termination With Cause. ~~Further, this~~This Agreement may be terminated by either party upon a default of the other party, ~~if after~~ ("**Defaulting Party**") ~~in the performance or observance of any of the covenants, agreements or conditions contained in this Agreement required to be performed or observed by the Defaulting Party, and such default is not cured within thirty (30) days following written notice, specifying the default by the non-defaulting party has failed to the Defaulting Party or within such longer period of time, not exceeding an additional sixty (60) days, as may be reasonably necessary to cure the default stated in the notice. Any default notice under this subsection shall state the nature of the such default and give the defaulting party said thirty (30) days after if the date of the written notice to Defaulting Party is diligently and with continuity of effort pursuing such cure and the default- is susceptible of cure within an additional sixty (60) day period.~~

d. Reserve Transfer. In the event of any termination of this Agreement, the Association will transfer the District Improvement Reserves to the District within sixty (60) days after termination. ~~Notwithstanding the foregoing, there will be no transfer of District Improvement Reserves to the District if the District terminates this Agreement without cause pursuant to subsection 9.b. within one (1) year after the Commencement Date. The District agrees that any District Improvement Reserves that may be transferred to the District by the operation of this provision will ultimately be used by the District for the repair or replacement of the applicable District Improvements.~~

10. **Independent Contractor.** In all matters relating to this Agreement, the Association shall be acting as an independent contractor. Neither the Association nor employees of the Association, if there are any, are employees of the District under the meaning or application of any Federal or State Unemployment or Insurance Laws or Old Age Laws or otherwise. The Association agrees to assume all liabilities or obligations imposed by any one or more of such laws with respect to employees of the Association, if there are any, in the performance of this Agreement. The Association shall not have any authority to assume or create any obligation, express or implied, on behalf of the District and the Association shall have no authority to represent the District as an agent, employee, or in any other capacity.

11. **Liens and Claims.** The Association shall promptly and properly pay for all contractors retained, labor employed, materials purchased, and equipment hired by it to perform under this Agreement. The Association shall keep the District's property free from any construction, materialmen's or mechanic's liens and claims or notices in respect to such liens and claims or notices in respect to such liens and claims, which arise by reason of the Association's performance under this Agreement, and the Association shall immediately discharge any such claim or lien.

12. **Other Insurance.** In addition to the property insurance required in Section 5, the Association shall procure, at the Association's expense, and maintain at all times during the term of this Agreement, comprehensive general liability insurance, worker's compensation insurance, automobile liability insurance, and such other coverage as may be necessary or desirable to carry out its duties under this Agreement regarding the District Improvements in the Improvement Area. The Association shall carry the following minimum levels of insurance:

a. Commercial general liability including contractual liability insurance coverage of \$1,000,000 combined single limit bodily injury and property damage per occurrence, and \$2,000,000 general aggregate.

b. Worker's compensation insurance coverage insurance shall be in full compliance with Florida statutory requirements.

c. Automobile Liability Insurance for bodily injuries in limits of not less than \$1,000,000 combined single limit bodily injury and for property damage, providing coverage for any accident arising out of or resulting from the operation, maintenance, or use by the Association of any owned, non-owned, or hired automobiles, trailers, or other equipment required to be licensed.

The District, shall be named as an additional insured on all policies required (excluding worker's compensation). The general liability policy shall provide the District with thirty (30) days' prior written notice of non-renewal or ten (10) days prior written notice for nonpayment of premium. An acceptable certificate of insurance will be provided to the District annually evidencing compliance with the foregoing insurance requirements. Insurance coverage shall be from one or more reputable insurance carriers that are licensed to conduct business in the State of Florida, which carriers shall be reasonably acceptable to the District.

The Association further agrees to require by written contract any contractor or subcontractors hired or engaged by the Association to perform all or part of the Associations' services hereunder to procure and maintain, until the completion of the contractor's or subcontractor's work, insurance of the types and to the limits specified in this Section unless such insurance requirements for the contractor or subcontractor are expressly modified or waived in writing by the District.

13. **Indemnification.** Except to the extent of negligence or intentional misconduct of the District, the Association agrees to indemnify, defend and hold harmless the District and its Board members, officers, agents, staff and employees from any and all liability, claims, actions, suits or demands by any person, corporation or other entity for injuries, death, property damage or harm of any nature, arising out of, or in connection with, the acts or omissions of the Association, or its officers, employees, representatives, contractors, or subcontractors relating to the obligations assumed by the Association hereunder. Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, forfeitures, back pay awards, court costs, arbitration and/or mediation costs, litigation expenses, fines, penalties, attorneys' fees, and paralegal fees (incurred in court, out of court, mediation, on appeal, or in bankruptcy proceedings) as ordered.

14. **Payment/Funding.** The District shall pay Association the sum of Ten Dollars (\$10.00) per year for the provision of operation, maintenance, repair and replace services pursuant to the terms of this Agreement. The Association shall not be entitled, for any reason, to reimbursement or refund from the District of any funds expended in the performance of the Association's obligations and responsibilities under this Agreement. To the extent of the Association's funding obligations under this Agreement, the Association shall be responsible for staffing, budgeting, financing, billing and collection of fees, service charges, etc., necessary to perform the operation and maintenance responsibilities set forth in this Agreement. The Association shall assess and collect from the membership of the Association for the operation, maintenance, repair and replacement costs it is providing hereunder. The Association shall maintain any records for the District Improvements from its other Association records and have them available for inspection by the District upon request. At the termination of this Agreement for any reason, the Association shall, within thirty (30) days following the termination date, remit and deliver to the District copies of all records and documents relating to and associated with the performance of the Association under this Agreement.

15. **Amendments.** This Agreement may not be changed, modified or terminated, except by an instrument executed by the parties hereto.

16. **Assignment.** This Agreement may not be assigned by the Association or the District without the prior written specific consent of the other party, which consent may be withheld in that party's sole and absolute discretion; provided, however, that the Association may contract with third party contractors (subject to the contacting limitations set forth herein) to perform the work under this Agreement without the consent of the District.

17. **Notices.** Any notice, demand, consent, authorization, request, approval or other communication that any party is required, or may desire, to give to or make upon the other parties pursuant to this Agreement will be effective and valid only if in writing, signed by the party giving notice and either (i) delivered personally to the other parties; (ii) sent by commercial courier, delivery service or U.S. mail; or (iii) email, addressed to the other parties at the addresses set forth below (or to such other place as any party may by notice to the others specify). Notice will be considered given when received, except that if delivery is not accepted, notice will be considered given on the date of such non-acceptance. Counsel may deliver notice on behalf of the party represented. Initial addresses for the Parties include:

If to District: Cypress Shadows Community Development District
Attn: Brian Lamb, District Manager
Meritus
2005 Pan Am Circle, Suite 300
Tampa, FL 33607
brian.lamb@merituscorp.com

With a copy to:

Coleman, Yovanovich & Koester, P.A.
Attn: Gregory L. Urbancic, Esq.
4001 Tamiami Trail North, Suite 300
Naples, Florida 34103
gurbancic@cyklawfirm.com

If to Association: The Preserve at Corkscrew Master Association, Inc.
Attn: General Manager

c/o Alliant Property Management, LLC
13831 Vector Avenue
Fort Myers, FL 33907
_____@_____

The addressees and addresses for the purpose of this Section may be changed by either party by giving written notice of such change to the other party in the manner provided herein. For the purpose of changing such addresses or addressees only, unless and until such written notice is received, the last addressee and respective address stated herein shall be deemed to continue in effect for all purposes.

18. **Governing Law.** This Agreement is made and shall be governed and construed by the laws of the State of Florida. Any litigation arising out of this Agreement shall be in the State court of appropriate jurisdiction in Lee County, Florida.

19. **Prevailing Party.** In any action or proceeding arising between the parties relating to the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, expenses, and all court costs, including fees and costs incurred through any appeal, from the non-prevailing party.

20. **Public Records Law.** In connection with its services to the District, the Association agrees to fully comply with the provisions of Section 119.0701, Florida Statutes pertaining to Florida's Public Records Law. Said compliance will include the Association taking appropriate and necessary steps to comply with the provisions of Section 119.0701(2)(b), Florida Statutes including, without limitation, the following:

- a. The Association shall keep and maintain public records required by the District to perform the services hereunder.
- b. Upon a request for public records received by the District, the Association shall provide the District 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 otherwise provided by law.
- c. The Association shall 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 Agreement term and following completion of this Agreement if the Association does not transfer the records to the District.
- d. Upon completion of this Agreement, the Association shall transfer, at no cost, to the District all public records in possession of the Association or keep and maintain public records required by the District to perform the service. If the Association transfers all public records to the District upon completion of this 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 this Agreement, the Association shall meet all applicable requirements for retaining public records. All records stored electronically by the Association must be provided to the District, upon request from the District's custodian of public records, in a format that is compatible with the information technology systems of the District.

Failure of the Association to comply with Section 119.0701, Florida Statutes may subject the Association to penalties under Section 119.10, Florida Statutes. Further, in the event the Association fails to comply with this Section or Section 119.0701, Florida Statutes, the District shall be entitled to any and all remedies at law or in equity. The following statement is required to be included in this Agreement pursuant to Section 119.0701(2), Florida Statutes:

IF THE ASSOCIATION HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ASSOCIATION'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT MERITUS C/O BRITTANY CRUTCHFIELD; TELEPHONE: (813) 873-7300; EMAIL: BRITTANY.CRUTCHFIELD@MERITUSCORP.COM, AND MAILING ADDRESS: 2005 PAN AM CIRCLE, SUITE 300, TAMPA, FL 33607.

21. **Counterparts.** This Agreement may be executed in several counterparts or by separate instruments, and all of such counterparts and instruments shall constitute one agreement, binding on all of the parties hereto.

22. **Electronic Signatures.** An electronic signature will be considered an original signature on this Agreement and any related documents or subparts and will have the same force and effect as a written signature unless prohibited by Florida law. Electronic signatures include, but are not limited to, facsimiles, electronic signatures, portable document format (PDF), and any other electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a party with the intent to sign the Agreement or any other document related to this Agreement.

23. **Sovereign Immunity.** The Association agrees that nothing contained in this Agreement shall constitute or be construed as a waiver of the District's limitations on liability set forth in Section 768.28, Florida Statutes, and/or other applicable law, and nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operation of law.

24. **Severability.** In the event any provision of this Agreement is deemed to be unenforceable under applicable law, the remainder of this Agreement shall continue to be enforceable and said provision shall be automatically modified and/or limited so that it is enforceable.

25. **Authorization.** Both parties have the requisite approvals and authority to execute and bind the parties.

{Remainder of page intentionally left blank. Signatures appear on next page.}

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below.

DISTRICT:

CYPRESS SHADOWS COMMUNITY DEVELOPMENT DISTRICT,
a community development district

ATTEST:

Brian Lamb, Secretary

By: _____
Louis Frattarelli, Chairman

Date: _____

ASSOCIATION:

THE PRESERVE AT CORKSCREW MASTER ASSOCIATION, INC.
a Florida not-for-profit corporation

By: _____
Marc Nusbaum, President

Date: _____

EXHIBIT "A"
DISTRICT IMPROVEMENTS

EXHIBIT "B"
MAP OF DISTRICT IMPROVEMENTS

RESOLUTION 2020-04

**A RESOLUTION OF THE BOARD OF SUPERVISORS
DESIGNATING THE OFFICERS OF CYPRESS
SHADOWS COMMUNITY DEVELOPMENT DISTRICT,
AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, Cypress Shadows Community Development District (the “District”), is a local unit of special-purpose government created and existing pursuant to Chapter 190, Florida Statutes, being situated entirely within the County of Lee; and

WHEREAS, the Board of Supervisors (hereinafter the “Board”) now desires to designate the Officers of the District per F.S. 190.006(6).

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD
OF SUPERVISORS OF CYPRESS SHADOWS
COMMUNITY DEVELOPMENT DISTRICT:**

1. The following persons are elected to the offices shown, to wit:

_____	Chairman
_____	Vice-Chairman
<u>Brian Lamb</u>	Secretary
<u>Eric Davidson</u>	Treasurer
<u>Brian Howell</u>	Assistant Secretary
_____	Assistant Secretary
_____	Assistant Secretary
_____	Assistant Secretary

2. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED THIS 19th DAY OF AUGUST, 2020.

ATTEST:

**CYPRESS SHADOWS COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/ Assistant Secretary
Print Name: _____

Chair/ Vice Chair
Print Name: _____