

MOODY RIVER ESTATES

**COMMUNITY DEVELOPMENT
DISTRICT**

November 23, 2021

BOARD OF SUPERVISORS

SPECIAL MEETING

AGENDA

Moody River Estates Community Development District

OFFICE OF THE DISTRICT MANAGER

2300 Glades Road, Suite 410W • Boca Raton, Florida 33431

Phone (561) 571-0010 • Fax (561) 571-0013 • Toll-free: (877) 276-0889

November 22, 2021

Board of Supervisors
Moody River Estates Community Development District


Dear Board Members:

The Board of Supervisors of the Moody River Estates Community Development District will hold a Special Meeting on November 23, 2021, at 1:00 p.m., at the Clubhouse at Moody River Estates, 3050 Moody River Blvd., North Fort Myers, Florida 33903.

1. Call to Order/Roll Call
2. Public Comments (*3 minutes - agenda items*)
3. Consideration of Premier District Management, LLC, Agreement for District Management Services
4. Consideration of Resolution 2022-02, Appointing and Removing Officers of the District and Providing for an Effective Date
5. Other Business
6. Supervisor Requests
7. Adjournment

Should you have any questions and/or concerns, please contact me directly at 239-464-7114.

Sincerely,



Chesley E. Adams, Jr.
District Manager

ATTENDEES:

Please identify yourself each time you speak to facilitate accurate transcription of meeting minutes.

FOR BOARD MEMBERS AND STAFF TO ATTEND BY TELEPHONE

CALL IN NUMBER: 1-888-354-0094

PARTICIPANT PASSCODE: 826 180 6254

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

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**AGREEMENT BETWEEN THE
MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT AND
PREMIER DISTRICT MANAGEMENT, LLC FOR
DISTRICT MANAGEMENT SERVICES**

THIS AGREEMENT (“Agreement”) is made and entered into this 23rd day of November, 2021, by and between:

MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to Chapter 190, Florida Statutes, located in Lee County, Florida, with a mailing address of c/o Premier District Management, LLC, 3820 Colonial Boulevard, Suite 101, Fort Myers, Florida 33966 (the “**District**”); and

PREMIER DISTRICT MANAGEMENT, LLC, a Florida limited liability company, with a mailing address of 3820 Colonial Boulevard, Suite 101, Fort Myers, Florida 33966 (hereinafter “**Consultant**” and together with the District, the “**Parties**”).

RECITALS

WHEREAS, the District is a local unit of special-purpose government established pursuant to the Uniform Community Development Act of 1980, as codified in Chapter 190, Florida Statutes (the “**Act**”), and by ordinance adopted by the Board of County Commissioners of Lee County, Florida, for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure;

WHEREAS, the District wishes to retain an independent contractor to provide professional district management services, all as more particularly described herein and in **Exhibit A**, which is incorporated herein by reference;

WHEREAS, Consultant represents and warrants to the District that it is qualified, capable and willing to provide such services and the District desires to enter into this Agreement with the Consultant for the same; and

WHEREAS, the District and Consultant warrant and agree that they have the right, power and authority to enter into and be bound by this Agreement.

NOW, THEREFORE, in consideration of the recitals, agreements, and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties agree as follows:

SECTION 1. RECITALS. The recitals stated above are true and correct and by this reference are incorporated into and form a material part of this Agreement.

SECTION 2. PURPOSE; SCOPE OF SERVICES: The purpose of this Agreement is for the Consultant to provide professional district management services to the District pursuant to the Act. A brief description of these services is provided below and a detailed description is provided in **Exhibit A** to this Agreement. The Consultant shall not commence providing the services to be performed pursuant to this Agreement and **Exhibit A** until December 20, 2021; provided however, prior to such date, at Consultant's own expense, Consultant may attend District Board meetings, consult with District staff and/or supervisors, and take such other actions as it deems necessary in order to effectively provide the services starting December 20, 2021. All management services shall be provided by Calvin Teague, unless another individual is approved by the District Board of Supervisors.

A. Standard On-Going District Management Services ("Standard Services"). The Consultant shall provide the following Standard Services to the District pursuant to this Agreement:

1. **Management** – services include the conducting of one (1) three (3) hour board meeting per month, one (1) workshop per year, overall administration of District functions, and all required state and local filings, preparation of annual budget, purchasing and risk management;
2. **Administrative** - services include support for the District Management function, recording and preparation of meeting minutes, records retention and maintenance in accordance with Chapter 119, *Florida Statutes*, and the District's adopted Rules of Procedure, preparation and delivery of agenda;
3. **Accounting** - services include the preparation and delivery of the District's financial statements in accordance with Governmental Accounting Standards, accounts payable and accounts receivable functions, asset tracking, investment tracking, capital program administration and requisition processing, filing of annual reports required by the State of Florida and monitoring of trust account activity;
4. **Financial & Revenue Collection** - services include all functions necessary for the timely billing, collection and reporting of District assessments in order to ensure adequate funds to meet the District's debt service and operations and maintenance obligations. These services include, but are not limited to, assessment roll preparation and certification, direct billings and funding request processing as well as responding to property owner questions regarding District assessments.
5. **Website Administration** - Consultant shall ensure that the District's website(s) remain in compliance with all applicable Florida law regarding the content and

functionality. Consultant shall also be responsible for web design and hosting, including providing for all District e-mail addresses.

6. **Field Services** – Consultant shall provide field management services, including but not limited to, oversight and administration of the maintenance, repair and replacement of the District’s equipment, infrastructure and real property. Field services shall include the assignment of an experienced Field Manager to perform quarterly inspections and a quarterly lake bank condition report.
7. **Dissemination Agent** - Consultant shall serve as the District’s dissemination agent under any District continuing disclosure agreements.

B. Time Frame. The Standard Services shall be provided on a monthly basis as detailed in this Agreement.

C. Consultant Acknowledgments. Consultant acknowledges that it works for the collective District Board of Supervisors and not for individual board members. Unless directed by state or federal law, a rule, resolution or policy adopted by the District Board of Supervisors, or as directed by motion of the District Board of Supervisors, Consultant shall not take direction from individual board members.

SECTION 3. ADDITIONAL SERVICES. In addition to the Standard Services described above, or in any addendum executed between the Parties, the District may, from time to time, require additional services from the Consultant. Any services not specifically provided for in the scope of services described herein or in **Exhibit A**, or necessary to carry out the services as described herein, as well as any changes in the scope requested by the District, will be considered additional services (“**Additional Services**”). Additional services must be authorized by the District prior to being provided by Consultant. Such Additional Services may include, but are not limited to, the items set forth in **Exhibit A** under the heading “ADDITIONAL SERVICES.” If any Additional Services are required or requested, the Consultant will provide a detailed description of these services and fees for such services to the District for approval prior to beginning any additional services. The Consultant shall undertake the additional services after the District has issued its written approval, as evidenced by a vote of the Board of Supervisors, of the description and fees for such services to the Consultant. All Additional Services will remain subject to the terms and conditions of this Agreement.

SECTION 4. TERM. The initial term of this Agreement commences on December 20, 2021 and continues until September 30, 2022 (“**Initial Term**”), unless terminated earlier by either party in accordance with the provisions of this Agreement. This Agreement shall automatically renew for additional one-year terms (“**Additional Terms**”), unless terminated pursuant to its terms. The Consultant acknowledges that the prices of this Agreement are firm and that the Consultant may change the prices only with the District’s written consent, as evidenced by a vote of the District’s Board of Supervisors.

SECTION 5. FEES AND EXPENSES; PAYMENT TERMS.

A. Fees and Expenses.

1. A schedule of fees for the services provided pursuant to this Agreement is attached hereto as **Exhibits A** and **B** to this Agreement, which is attached hereto and incorporated herein. The District shall pay the Consultant for the services it provides pursuant to this Agreement in accordance with the schedule of fees in **Exhibits A** and **B**. For purposes of the Consultant's compensation for services provided pursuant to this Agreement, the District shall compensate the Consultant only for those services provided under the terms of this Agreement. For services provided by Consultant on and after October 1, 2022, the District and Consultant will discuss adjustments to the annual fee schedule based on a Consumer Price Index Adjustment or other relevant factors. Provided however, any such adjustment to the annual fee or other fee shall be approved by the District Board of Supervisors by motion at a public meeting.
2. Unless otherwise specified by this Agreement, the Consultant will invoice the District for the Consultant's services as soon as may be practicable in advance of each month and in the amounts set forth in **Exhibits A** and **B**. The fees for those services which are not being requested at the time this Agreement is approved will be provided to the District at such time as those services are required and requested by vote of the Board of Supervisors. All invoices shall be due and payable by the District within thirty (30) days from the date of receipt of a correctly submitted invoice or as otherwise provided by the Prompt Payment Act, Chapter 218.70, *Florida Statutes*. Invoices not paid within thirty (30) days of presentation or as otherwise required by the Prompt Payment Act shall be charged interest on the balance due at the maximum legally permissible rate.
3. Fees for the Standard Services described in this Agreement may be negotiated annually by the Parties. Any amendment to Standard Services fees must comply with the amendment procedure in this Agreement and must be reflected in the adopted General Fund Budget of the District. The District's adoption of the General Fund Budget shall not constitute the District's consent for payment of any expenses or change in Agreement terms.
4. In the event the District authorizes a requested change in the scope of services, Consultant shall submit, in writing to the District, a request for a fee amendment corresponding to the change in services being requested, if it has not already done so. Any change in the scope of requested services and the corresponding fee amendment shall comply with the amendment procedure in this Agreement. Such amendment must be validly executed by the Parties before Consultant is authorized to begin providing services pursuant to the change in scope and the revised fees are adopted.

5. For the purposes of this Agreement, an out-of-pocket expense is an unexpected expense that the Consultant or one of its subcontractors, if applicable, incurs during the performance of the Standard Services, as provided in this Agreement. Such out-of-pocket expenses may be included in the fees shown in **Exhibit A**. Out-of-pocket expenses incurred in connection with the performance of Additional Services will be subject to reimbursement at cost. These expenses include, but are not limited to, airfare, mileage, transportation/parking, lodging, postage, and copies.

B. Payment Terms.

1. **Standard Services.** Standard Services will be billed monthly as a fixed fee pursuant to the schedule shown in **Exhibit B**.
2. **Additional Services.** Additional Services will either be billed monthly or per occurrence both as authorized by the District and negotiated by the Parties.
3. **Out-of-Pocket Expenses.** Out-of-Pocket expenses not included under the Standard Services of the Consultant will be billed monthly as incurred.

SECTION 6. SUSPENSION OF SERVICES FOR NON-PAYMENT. Unless nonpayment is the fault of the Consultant, the Consultant shall have the right to suspend services being provided pursuant to this Agreement if the District fails to pay Consultant's invoices in a timely manner, which shall be construed as thirty (30) days from date of the invoice or as otherwise provided by the Prompt Payment Act, Section 218.70, *Florida Statutes*. Consultant shall notify the District, in writing, at least ten (10) days prior to suspending services.

SECTION 7. AMENDMENT. Amendments to, and waivers of, the provisions contained in this Agreement may be made only by an instrument in writing that is executed by both the District and the Consultant.

SECTION 8. RESPONSIBILITIES.

A. District Responsibilities. The District shall provide for the timely services of its legal counsel, engineer, and any other consultants, contractors, or employees, as required, for the Consultant to perform the duties outlined in this Agreement. Expenses incurred in providing this support shall be the sole responsibility of the District unless specified herein.

B. Limitations of Responsibilities. To the extent not referenced herein, and to the extent consistent with Section 190.006, *Florida Statutes*, Consultant shall not be responsible for the acts or omissions of any other Consultant or any of its subcontractors, suppliers, or of any other individual or entity performing services as part of this Agreement which are not under the control of the Consultant. Consultant shall not be liable for any damage that occurs from Acts of

God, which are defined as those caused by windstorm, hail, fire, flood, hurricane, freezing, or other similar occurrences of nature.

SECTION 9. TERMINATION. This Agreement may be terminated as follows:

A. By the District for “good cause” immediately, which shall include, but is not limited to, misfeasance, malfeasance, nonfeasance, or dereliction of duties by the Consultant. Termination for “good cause” shall be effected by written (electronic) notice to Consultant.

B. By the District immediately in the event that Calvin Teague is unable for any reason to personally and fully perform district management responsibilities, in the District’s sole discretion.

C. By the Consultant for “good cause” immediately, which shall include, failure of the District to timely pay Consultant for services rendered in accordance with the terms set forth in this Agreement, malfeasance, nonfeasance, or dereliction of duties by the District, or upon request or demand by the Board, or any member thereof, for Consultant to undertake any action or implement a policy of the Board which Consultant deems unethical, unlawful, or in contradiction of any applicable federal, state, or municipal law or rule. Termination for “good cause” shall be effected by written (electronic) notice to District.

D. By the Consultant or District, for any reason, upon provision of a minimum of sixty (60) days written (electronic) notice of termination to the address noted herein.

E. Upon any termination of this Agreement, the Consultant shall be entitled to payment for all services rendered pursuant to this Agreement up until the effective date of the termination of this Agreement, subject to whatever claims or off-sets the District may have against the Consultant. Consultant will make all reasonable efforts to provide for an orderly transfer of the books and records of the District to the District or its designee.

SECTION 10. GENERAL TERMS AND CONDITIONS.

A. The Consultant and its officers, supervisors, staff, and employees shall use due care to protect the property of the District, its residents, and landowners from damage. The Consultant agrees to take steps to repair any damage resulting from the Consultant’s activities and work pursuant to the Agreement within twenty-four hours (24) hours.

B. Dissolution or court declared invalidity of the District shall not relieve the District of compensation due for services theretofore rendered.

SECTION 11. APPLICABLE LAW AND VENUE. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA WITHOUT REFERENCE TO THE PRINCIPLES OF CONFLICT OF LAWS. EXCEPT FOR ACTIONS SEEKING

INJUNCTIVE RELIEF (WHICH MAY BE BROUGHT IN ANY APPROPRIATE JURISDICTION), SUITS UNDER THIS AGREEMENT SHALL ONLY BE BROUGHT IN A COURT OF COMPETENT JURISDICTION IN LEE COUNTY, STATE OF FLORIDA. THIS CHOICE OF VENUE IS INTENDED BY THE PARTIES TO BE MANDATORY AND NOT PERMISSIVE IN NATURE, AND TO PRECLUDE THE POSSIBILITY OF LITIGATION BETWEEN THE PARTIES WITH RESPECT TO, OR ARISING OUT OF, THIS AGREEMENT IN ANY JURISDICTION OTHER THAN THAT SPECIFIED IN THIS SECTION. EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR SIMILAR DOCTRINE OR TO OBJECT TO VENUE WITH RESPECT TO ANY PROCEEDING BROUGHT IN ACCORDANCE WITH THIS SECTION.

SECTION 12. INDEMNIFICATION.

A. District Indemnification. To the extent allowable under applicable law (and only to the extent of the limitations of liability set forth in Section 768.28, *Florida Statutes*), except to the extent caused by the negligence, reckless, and/or willful misconduct of the Consultant, the District agrees to indemnify, defend, and hold harmless the Consultant and its officers, supervisors, staff, and employees from and against any and all liability, claims, actions, suits, demands, assessments or judgments asserted and any and all losses, liabilities, damages, costs, court costs, and expenses, including attorney's fees, that Consultant may hereafter incur, become responsible for, or be caused to pay out arising out of or relating to the negligent or intentionally wrongful acts or omissions of the District. The indemnification provided for herein shall not be deemed exclusive of any other rights to which the Consultant may be entitled and shall continue after the Consultant has ceased to be engaged under this Agreement.

B. Consultant Indemnification. The Consultant agrees to indemnify, defend, and hold harmless the District and its officers, supervisors, staff, and employees from and against any and all liability, claims, actions, suits, demands, assessments or judgments asserted and any and all losses, liabilities, damages, costs, court costs, and expenses, including attorney's fees, that the District may hereafter incur, become responsible for, or be caused to pay out arising out of or relating to the failure to perform under this Agreement or at law, or negligent, reckless, and/or intentionally wrongful acts or omissions of the Consultant. The indemnification provided for herein shall not be deemed exclusive of any other rights to which the District may be entitled and shall continue after the Consultant has ceased to be engaged under this Agreement. Additionally, nothing in this Agreement requires Consultant to indemnify the District for the District's percentage of fault if the District is adjudged to be more than 50% at fault for any claims against the District and Consultant as jointly liable parties; however, Consultant shall indemnify the District for any and all percentage of fault attributable to Consultant for claims against the District, regardless of whether the District is adjudged to be more or less than 50% at fault.

C. Sovereign Immunity; Indemnification Obligations. Nothing herein shall be construed to waive or limit the District's sovereign immunity limitations of liability as provided in Section 768.28, *Florida Statutes*, or other applicable law. Indemnification obligations under this Agreement 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, attorneys' fees, paralegal fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings), any interest, expenses, damages, penalties, fines, or judgments as ordered.

SECTION 13. INSURANCE.

A. The District shall provide and maintain Public Official Liability and General Liability insurance policies, each in an amount not less than One Million Dollars (\$1,000,000.00) throughout the term of this Agreement.

B. The Consultant shall provide and maintain the following levels of insurance coverage at all times throughout the term of this Agreement:

1. Worker's Compensation Insurance in accordance with the laws of the State of Florida.
2. General Liability Insurance with the limit of One Million Dollars (\$1,000,000.00) per each occurrence.
3. Professional Liability Insurance with limit of no less than One Million Dollars (\$1,000,000.00) per each occurrence.
4. Employment Practices Liability Insurance with limit of Two Million Dollars (\$2,000,000.00) per each occurrence.
5. Comprehensive Automobile Liability Insurance for all vehicles used by the Consultant's staff, whether owned or hired, with a combined single limit of One Million Dollars (\$1,000,000.00).
6. Employee Theft Insurance with a limit no less than One Million Dollars (\$1,000,000.00) per each occurrence.

C. Except with respect to Professional Liability and Worker's Compensation insurance policies, the District and its officers, supervisors, staff, and employees will be listed as additional insureds on each insurance policy described above. None of the policies above may be canceled during the term of this Agreement (or otherwise cause the District to not be named as an additional insured where applicable) without thirty (30) days written notice to the District. Consultant will furnish the District with a Certificate of Insurance evidencing compliance with this section upon request. Insurance should be from a reputable insurance carrier, licensed to conduct business in the State of Florida.

D. If the Consultant fails to secure or maintain the required insurance, the District has the right (without any obligation to do so) to secure such required insurance, in which event the Consultant shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the District's obtaining the required insurance.

SECTION 14. ASSIGNMENT. Neither the District nor the Consultant may assign this Agreement or any monies to become due hereunder without the prior written approval of the other. Any assignment attempted to be made by the Consultant or the District without the prior written approval of the other party is void.

SECTION 15. COMPLIANCE WITH PUBLIC RECORDS LAWS. Consultant understands and agrees that all documents of any kind provided to the District in connection with this Agreement may be public records, and, accordingly, Consultant agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to Section 119.0701, *Florida Statutes*. Consultant acknowledges that the designated public records custodian for the District is **Calvin Teague ("Public Records Custodian")**. Among other requirements and to the extent applicable by law, the Consultant shall 1) keep and maintain public records required by the District to perform the service; 2) upon request by the Public Records Custodian, provide the District with the requested public records or allow the records to be inspected or copied within a reasonable time period at a cost that does not exceed the cost provided in Chapter 119, *Florida Statutes*, and the District's Rules of Procedure; 3) ensure that public records which 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 the Agreement term if the Consultant does not transfer the records to the Public Records Custodian of the District; 4) follow the District's Records Request Policy; and 5) upon completion of the Agreement, transfer to the District or its designee, at no cost, all public records in Consultant's possession or, alternatively, keep, maintain and meet all applicable requirements for retaining public records pursuant to Florida laws. When such public records are transferred by the Consultant, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the District in a format that is compatible with Microsoft Office products, Adobe PDF formats, or the other information technology systems of the District.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (239)690-7100, EXT. 101, OR BY EMAIL AT CTEAGUE@CDDMANAGEMENT.COM, OR BY REGULAR MAIL AT PREMIER DISTRICT MANAGEMENT, LLC, 3820 COLONIAL BOULEVARD, SUITE 101, FORT MYERS, FLORIDA 33966.

SECTION 16. NOTICES. All notices, requests, consents and other communications under this Agreement (“**Notices**”) shall be electronic or in writing and delivered, mailed by First Class Mail, postage prepaid, or overnight delivery service, to the parties, as follows:

If to the District: Board of Supervisors
Moody River Estates Community Development District
c/o Premier District Management
3820 Colonial Boulevard, Suite 101
Fort Myers, Florida 33966

With a copy to: Kutak Rock LLP
P.O. Box 10230
Tallahassee, FL 32302
Attn: District Counsel

If to the Consultant: Premier District Management
3820 Colonial Boulevard, Suite 101
Fort Myers, Florida 33966
Attn: Calvin Teague

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above or delivered electronically with return receipt. Notices delivered after 5:00 p.m. (at the place of delivery) or on a non-business day, shall be deemed received on the next business day. If any time for giving Notice contained in this Agreement would otherwise expire on a non-business day, the Notice period shall be extended to the next succeeding business day. Saturdays, Sundays, and legal holidays recognized by the United States Government shall not be regarded as business days. Counsel for the District and counsel for the Consultant may deliver Notice on behalf of the District and the Consultant, respectively. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth herein.

SECTION 17. EFFECTIVE DATE. This Agreement shall become effective upon execution by both the District and the Consultant, and shall remain effective until natural expiration or termination by either the District or the Consultant in accordance with the provisions of this Agreement.

SECTION 18. HEADINGS FOR CONVENIENCE ONLY. The descriptive headings in this Agreement are for convenience only and shall neither control nor affect the meaning or construction of any of the provisions of this Agreement.

SECTION 19. AGREEMENT; CONFLICTS. This instrument, together with accompanying **Exhibits A and B**, shall constitute the final and complete expression of this

Agreement between the District and the Consultant relating to the subject matter of this Agreement. To the extent of any conflict between this instrument and **Exhibits A and B** this instrument shall control.

SECTION 20. ENFORCEMENT OF AGREEMENT; PROTECTION AGAINST THIRD-PARTY INTERFERENCE. A default by either the District or the Consultant under this Agreement shall entitle the other to all remedies available at law or in equity, which may include, but not be limited to, the right of damages, injunctive relief, and/or specific performance. In the event that either the District or the Consultant is required to enforce this Agreement by court proceedings or otherwise, then the prevailing Party shall be entitled to recover all fees and costs incurred, including reasonable attorneys' fees and costs for trial, alternative dispute resolution, or appellate proceedings. The District shall be solely responsible for enforcing its rights under this Agreement against any interfering third-party. Nothing contained in this Agreement shall limit or impair the District's right to protect its rights from interference by a third-party to this Agreement.

SECTION 21. THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the District and the Consultant and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person or corporation other than the District and the Consultant any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement; and all of the provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and shall be binding upon the District and the Consultant and their respective representatives, successors, and assigns.

SECTION 22. COMPLIANCE WITH GOVERNMENTAL REGULATION. The Consultant shall keep, observe, and perform all requirements of applicable local, State, and Federal laws, rules, regulations, and ordinances. If the Consultant fails to notify the District in writing within five (5) days of the receipt of any notice, order, required to comply notice, or a report of a violation or an alleged violation, made by a local, State, or Federal governmental body or agency or subdivision thereof with respect to the services being rendered under this Agreement or any action of the Consultant or any of its agents, servants, employees, or materialmen, or with respect to terms, wages, hours, conditions of employment, safety appliances, or any other requirements applicable to provision of services, or fails to comply with any requirement of such agency within five (5) days after receipt of any such notice, order, request to comply notice, or report of a violation of an alleged violation, the District may terminate this Agreement, such termination to be effective immediately upon the giving of notice of termination.

SECTION 23. ARM'S LENGTH TRANSACTION. This Agreement has been negotiated fully between the District and the Consultant as an arm's length transaction. The District and the Consultant participated fully in the preparation of this Agreement with the assistance of their respective counsel. In the case of a dispute concerning the interpretation of

any provision of this Agreement, the Parties are deemed to have drafted, chosen, and selected the language, and any doubtful language will not be interpreted or construed against any party.

SECTION 24. INDEPENDENT CONTRACTOR STATUS. In all matters relating to this Agreement, the Consultant shall be acting as an independent contractor. Neither the Consultant nor employees of the Consultant 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 Consultant agrees to assume all liabilities or obligations imposed by any one or more of such laws with respect to employees of the Consultant in the performance of this Agreement. The Consultant shall not have any authority to assume or create any obligation, express or implied, on behalf of the District and the Consultant shall have no authority to represent the District as an agent, employee, or in any other capacity, unless otherwise set forth in this Agreement.

SECTION 25. SEVERABILITY. The invalidity or unenforceability of any one or more provisions of this Agreement shall not affect the validity or enforceability of the remaining portions of this Agreement, or any part of this Agreement not held to be invalid or unenforceable.

SECTION 26. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall be an original; however, all such counterparts together shall constitute, but one and the same instrument.

SECTION 27. COMPLIANCE WITH E-VERIFY. The Consultant shall comply with and perform all applicable provisions of Section 448.095, *Florida Statutes*. Accordingly, beginning January 1, 2021, to the extent required by Florida Statute, Contractor shall register with and use the United States Department of Homeland Security's E-Verify system to verify the work authorization status of all newly hired employees. The District may terminate this Agreement immediately for cause if there is a good faith belief that the Consultant has knowingly violated Section 448.091, *Florida Statutes*.

- A.** If the Consultant anticipates entering into agreements with a subcontractor for the Work, Consultant will not enter into the subcontractor agreement without first receiving an affidavit from the subcontractor regarding compliance with Section 448.095, *Florida Statutes*, and stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Consultant shall maintain a copy of such affidavit for the duration of the agreement and provide a copy to the District upon request.
- B.** In the event that the District has a good faith belief that a subcontractor has knowingly violated Section 448.095, *Florida Statutes*, but the Consultant has otherwise complied with its obligations hereunder, the District shall promptly notify the Consultant. The Consultant agrees to immediately terminate the agreement with the subcontractor upon notice from the District. Further, absent

such notification from the District, the Consultant or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated s. 448.09(1), Florida Statutes, shall promptly terminate its agreement with such person or entity.

- C. By entering into this Agreement, the Consultant represents that no public employer has terminated a contract with the Consultant under Section 448.095(2)(c), *Florida Statutes*, within the year immediately preceding the date of this Agreement.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties each intend to enter this Agreement, understand the terms set forth herein, hereby agree to those terms, and have executed this Agreement on the day and year first written above.

ATTEST:

**MOODY RIVER ESTATES COMMUNITY
DEVELOPMENT DISTRICT**

Secretary / Assistant Secretary

Chairperson, Board of Supervisors

WITNESS:

PREMIER DISTRICT MANAGEMENT, LLC, a
Florida limited liability company

(Print Name)

By: Calvin Teague

Its: _____

Exhibit A: Scope of Services
Exhibit B: Schedule of Fees

Exhibit A: Scope of Services

STANDARD ON-GOING SERVICES (“STANDARD SERVICES”): These services will be provided on a recurring basis and are commonly referred to as the basic services necessary for the normal and routine functioning of the District.

1. MANAGEMENT:

- A.** Arrange and attend a special meeting of the District Board of Supervisors to be held before the end of calendar year 2021 for the sole purpose of the collective Board setting future goals for the District.
- B.** Attend and conduct all regularly scheduled and special Board meetings, Landowners’ meetings, continued meetings, hearings and workshops. Arrange for time and location and all other necessary logistics for such meetings, hearings, etc. If requested by the Board of Supervisors, lead meetings and workshops.
- C.** Suggest actions, and implement actions approved by the Board, that lead to the efficient management of District meetings and workshops. Examples include increased communication with Supervisors, management of meeting discussions, etc.
- D.** Suggest actions, and implement actions approved by the Board, that lead to prudent financial decisions. Examples include estimating future funding needs, tracking unpaid but contractual commitments to make future payments, suggesting consultants to improve investment returns, and suggesting processes to ensure appropriate maintenance, repair and replacement of capital assets.
- E.** Ensure compliance with all statutes affecting the District, including but not limited to:
 - 1.** Certify Special District Update Form, submitted to the Special District Information Program, Department of Economic Opportunity each year.
 - 2.** Assign and provide Records Management Liaison Officer for reporting to the Department of Library and Archives
 - 3.** Provide contact person for the State Commission of Ethics for Financial Disclosure coordination, and fulfill the duties of Financial Disclosure Coordinator as provided pursuant to statute and the District’s Rules of Procedure.
 - 4.** Provide Form 1 Financial Disclosure documents for Board Members
 - 5.** Provide Form 1F Financial Disclosure documents for Resigning Board Members.
 - 6.** Monitor and supply Form 3A, Interest in Competitive Bid for Public Business as needed
 - 7.** Monitor and provide Form 8B, Memorandum of Voting Conflict for the Board.
 - 8.** Monitor and provide update on Creation Documents, including Notice of Establishment, to Department of Economic Opportunity and the County.
 - 9.** Maintain and file Disclosure of Public Financing and file with Department of Economic Opportunity and each residential developer.
 - 10.** Provide for a proposed budget for Board approval on or by June 15 of each fiscal year.

11. Provide copy of approved proposed budget to the County a minimum of 60 days prior to the public hearing on the budget.
12. Provide written notice to owners of public hearing on the budget and its related assessments.
13. Provide copy of the initial Public Facilities report to the County to be submitted in accordance with the statute.
14. Provide copy of an annual notice of any changes to the Public Facilities report to the County if changes are made.
15. Provide copy of the seven (7) year Public Facilities report update, based on reporting period assigned to the County it is located in.
16. File name and location of the Registered Agent and Office location annually with Department of Economic Opportunity and the County.
17. Provide for submitting the regular meeting schedule of the Board to County.
18. Provide District Map and update as provided by the District's Engineer as needed to the Department of Economic Opportunity and the County
19. Provide legal description and boundary map as provided by District Engineer to the Supervisor of Elections
20. File request letter to the Supervisor of Election of the County for number of registered voters as of April 15, each year.
21. Provide for public records announcement and file document of registered voter data each June.
22. Update Board Member names, positions and contact information to the State Commission on Ethics annually.
23. Certify and file the Form DR 421, Truth in Millage Document with the Department of Revenue each tax year.
24. Properly notice all public meetings, in accordance with the appropriate Florida Statutes, including but not limited to, public hearings on assessments, the budget, establishment of rates, fees, or charges, rulemaking, uniform method of collection, and all other required notices of meetings, hearings and workshops.
 - a. Provide for the appropriate ad templates and language for each of the above.
25. Provide for instruction to Landowners on the Election Process and forms, etc.
26. Respond to Bond Holders Requests for Information.
27. Implement the policies established by the Board in connection with the operations of the District.

- F. Assist in the negotiation of Agreements, as directed by the Board.
- G. Advise the Board on the status of negotiations, as well as contract provisions and their impacts on the District and provide contract administration services.
- H. Make recommendations on contract approval, rejection, amendment, renewal, and cancellation. In advance of expiration of contracts, advise the Board as to need for renewal or additional procurement activities and implement same.
- I. Monitor certificates of insurance as needed per contract.

- J. Answer Project Status Inquiries from Consultants Bonding Companies.
- K. Provide an office location to handle and respond to written, phone or e-mail inquiries from the public.

2. ADMINISTRATIVE:

- A. Prepare agendas for transmittal to Board of Supervisors and staff seven (7) days prior to Board of Supervisors' Meeting. Prepare meeting materials for other meetings, hearings, etc., as needed.
- B. Provide accurate minutes for all meetings and hearings, including landowners' meetings.
- C. Implement and maintain a document management system to create and save documents, and provide for the archiving of District documents.
 - 1. Certify and file annual report to the Department of State, Library and Archive Division, for storage and disposal of public records.
- D. Protect integrity of all public records in accordance with the requirements of State law. Respond to public records requests as required by law and in compliance with the Rules of Procedure and the District's adopted public records policy. Fulfilling routine public records requests shall not result in additional charges to the District – see Additional Services for extraordinary public records requests.
- E. Maintain "Record of Proceedings" for the district within the County which includes meeting minutes, agreements, resolutions and other records required by law.

3. ACCOUNTING:

A. Financial Statements

- 1. Establish Fund Accounting System in accordance with federal and state law, as well as GASB and the Rules of the Auditor General. This includes the following:
 - i. Chart of Accounts
 - ii. Vendor and Customer Master File
 - iii. Report creation and set-up.
- 2. Prepare monthly balance sheet, income statement(s) with budget to actual variances, including the following:
 - i. Cash Investment Account Reconciliations per fund
 - ii. Balance Sheet Reconciliations per fund
 - iii. Expense Variance Analysis
- 3. Prepare and file Annual Public Depositor's Report and distribute to State Department of Insurance and Treasury.

4. Prepare and file Public Depositor's and Indemnification Form on new accounts as needed.
5. Manage banking relations with the District's Depository and Trustee.
6. Prepare all other financial reports as required by applicable law and accounting standards, and bond trust indenture requirements.
7. Account for assets constructed by or donated to the District for maintenance.
8. On or before October 1st of every year prepare an annual inventory of all District owned tangible personal property and equipment in accordance with all applicable rules and standards.
9. Provide Audit support to auditors for the required Annual Audit, as follows:
 - i. Review statutory and bond indenture requirements
 - ii. Prepare Audit Confirmation Letters for independent verification of activities.
 - iii. Prepare all supporting accounting reports and documents as requested by the auditors
 - iv. Respond to auditor questions
 - v. Review and edit draft report
 - vi. Prepare year-end adjusting journal entries as required
10. Provide for transmission of the Audit to the County and the Auditor General's Office of the State.
11. Provide and file Annual Financial Statements (FS. 218 report) by June 30th of each year.
12. Monitor investment of District funds against a benchmark on a regular basis to ensure District funds are held in accordance with the Florida statute, expected cash flow and liquidity needs, and the District's investment policy, if any.

B. Budgeting

1. Prepare budget and backup material for and present the budget at all budget meetings, hearings and workshops. The budget is to be done in accordance with state law standards, and consistent with applicable GFOA and GASB standards. Budget preparation shall include calculation of operation and maintenance assessments, which may include development of benefit methodology for those assessments.
2. File all required documentation to the Department of Revenue, Auditor General, the County, and other governmental agencies with jurisdiction.
3. Prepare and cause to be published notices of all budget hearings and workshops.
4. Prepare all budget amendments on an ongoing basis. Assist in process to retain an auditor and cooperate and assist in the performance of the audit by the independent auditor.

C. Accounts Payable/Receivable

1. Administer the processing, review and approval, and payment of all invoices and purchase orders. Ensure timely payment of vendor invoices and purchase orders.
 - a. Manage Vendor Information per W-9 reports
2. Prepare monthly Vendor Payment Report and Invoicing Support for presentation to the Board of Supervisors for approval or ratification.
3. Maintain checking accounts with qualified public depository including:
 - a. Reconciliation to reported bank statements for all accounts and funds.
4. Prepare year-end 1099 Forms for Vendor payments as applicable.
 - a. File reports with IRS.

D. Capital Program Administration

1. Maintain proper capital fund and project fund accounting procedures and records.
2. Process Construction requisitions including:
 - a. Vendor Agreement completion status
 - b. Verify Change Orders for materials
 - c. Check for duplicate submittals
 - d. Verify allowable expenses per Bond Indenture Agreements such as:
 - i. Agreement Assignment
 - ii. Acquisition Agreement
 - iii. Project Construction and Completion Agreement
3. Oversee and implement bond issue related compliance, i.e., coordination of annual arbitrage report, transmittal of annual audit and budget to the trustee, transmittal of annual audit and other information to dissemination agent (if other than manager) or directly to bond holders as required by Continuing Disclosure Agreements, annual/quarterly disclosure reporting, update etc.
4. Provide Asset Tracking for improvements to be transferred and their value for removal from District's Schedule of Property Ownership that are going to another local government.
5. Provide for appropriate bid and or proposal/qualification processes for Capital Project Construction.

E. Purchasing

1. Assist in selection of vendors as needed for services, goods, supplies, materials. Obtain pricing proposals as needed and in accordance with District rules and state law.
2. Prepare RFPs for Administrative Services as needed, such as audit services, legal services, and engineering services.
3. Prepare and process requisitions for capital expenses, in coordination with District Engineer.

F. Risk Management

1. Prepare and follow risk management policies and procedures.
2. Recommend and advise the Board, in consultation with the District Engineer of the appropriate amount and type of insurance and be responsible for procuring all necessary insurance.
3. Process and assist in the investigation of insurance claims, in coordination with Counsel of the District.
4. Review insurance policies and coverage amounts of District vendors.
5. Provide for an update to the Schedule of Values of Assets owned by the District for purposes of procuring adequate coverage.
6. Maintain and monitor Certificates of Insurance for all service and Agreement vendors.

4. FINANCIAL AND REVENUE COLLECTION:

A. Administer Prepayment Collection:

1. Provide payoff information and pre-payment amounts as requested by property owners.
2. Monitor, collect and maintain records of prepayment of assessments.
3. Coordinate with Trustee to confirm semi-annual interest payments and bond call amounts.
4. Prepare periodic continuing disclosure reports to investment bankers, bond holder and reporting agencies.

B. Administer Assessment Roll Process:

1. Prepare annual assessment roll for collection of debt service and operations and maintenance assessments.
2. Update roll to reflect per unit and per parcel assessments based on adopted fiscal year budgets.
3. Verify assessments on platted lots, commercial properties or other assessable lands.
4. Convert final assessment roll to County Property Appraiser or Tax Collector format and remit to county.
5. Execute and issue Certificate of Non-Ad Valorem Assessments to County.

C. Administer Assessments for Off Tax Roll parcels/lots:

1. Maintain and update current list of owners of property not assessed via the tax roll.
2. Prepare and issue direct invoices for the annual debt service and operations and maintenance assessments.
3. Monitor collection of direct invoices and prepare and send delinquent/collection notices as necessary.

D. True-Up Analysis:

1. Annually compare current and un-platted lots to original development plan to ensure adequate collection of assessment revenue as necessary.
2. Prepare true-up calculations and invoice property owners for true-up payments as necessary.

5. WEBSITE ADMINISTRATION:

- A. Consultant shall, ensure that the District's website(s) remain in compliance with all applicable Florida law regarding the content and functionality of such website and provide for the long-term storage of all website content and email in compliance with all applicable Florida law for public entities regarding records retention.
- B. Consultant, to the extent it has the technological capability, shall assist the District in developing and maintaining two websites if desired by the Board.

6. FIELD SERVICES:

Consultant shall manage the works of the District as required by the District's charter in Section 190.007(1), Florida Statutes. This will include 1) a full quarterly inspection report of the District's lakes and stormwater management facilities, such report including pictures and a corresponding narrative, and 2) additional visits on an as needed basis. The work included in this proposal is based upon the effort (on or off site) to provide the following field services:

- A. Complaint response to concerns with the performance of district maintenance contractors. In addition, monitor and report conditions of facilities, ponds and other district-controlled areas.
- B. Assistance in the preparation of bid packages for required work in the district.
- C. Responding to resident complaints regarding District's areas of responsibility and include the complaint and action taken in the quarterly field reports submitted to the Board of Supervisors.
- D. Onsite project and maintenance management to include but not be limited to the following:
 1. Inspection of District property.
 2. Natural disaster inspections.
 3. Follow-up on Board identified concerns such as wildlife issues and exotic plant intrusion.
 4. Evaluation of preserves for invasive plants and inspect ponds on a regularly established basis.
 5. Inspecting storm water drainage structures.
 6. Inspection and maintenance of all District infrastructure/assets.
 7. Soliciting vendor proposals for maintenance work. Oversight of vendor maintenance projects.
 8. Assistance with all capital projects of the District.
 9. Identifying and working towards healthy and beautiful ponds that all are proud of.

7. DISSEMINATION AGENT:

- A. Consultant shall serve as the District's dissemination agent under any applicable continuing disclosure undertaking of the District, which shall include fulfilling all duties of the Dissemination Agent set forth in such continuing disclosure undertaking.

ADDITIONAL SERVICES:

- A. Any **special** tasks exceeding 100 pages will be billed at cost at \$0.35/color copy and \$0.07/black and white copy. Any binders, covers or other supplies needed will be billed at cost.
- B. Special project postage, Fed Ex, UPS, or other similar costs for the District at cost.
- C. Special costs for certified mail, overnight deliveries, etc. to be billed at cost.
- D. Financial Advisory services including preparation of Assessment Methodology reports for issuance of bonds at \$25,000 per issuance.
- E. Financial Advisory services for refunding issues including assessment methodology report ranging from \$5,000 to \$15,000 depending upon difficulty in preparation.
- F. Adjustments to Assessment Methodology report \$5,000. This will include any short-term borrowing, or renegotiation of any existing debt.
- G. The fee for standard services is based upon a total of fourteen (14) meetings and workshops of the Board annually. If the number of meetings is exceeding reasonable expectations for this level of service, then the Manager will approach the District to discuss additional compensation for meetings, which will be billed at two hundred fifty dollars (\$250) per hour to cover additional staff time and other related expenses incurred by Premier for additional meetings. The additional billing will be approved by the Board prior to any approval with the minimum charge being one hour and billed in increments of thirty (30) minutes rounded up.
- H. Field services requests requiring additional visits more than quarterly will be billed at \$50 per hour.

Exhibit B – Schedule of Fees

Standard Service Description	Annual Fee*
Management / Administrative / Accounting / Financial and Revenue Collection / Website Administration / Field Services	\$67,000
Dissemination Agent	\$1,000
TOTAL	\$68,000

* Except for Dissemination Agent services, standard services shall be billed monthly. The annual fee of \$67,000 is based on twelve (12) months of standard services. The prorated monthly fee for December 2021 shall be \$2,161.29 and thereafter the monthly fee shall be \$5,583.33. The Dissemination Agent fee shall be billed at a rate of \$250 after each quarterly report is submitted. If quarterly reports are no longer required, the Dissemination Agent fee shall be billed annually after the District's annual report is submitted.

Fees for Additional Services are set forth on Exhibit A.

MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT

4

RESOLUTION 2022-02

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE MOODY RIVER ESTATES
COMMUNITY DEVELOPMENT DISTRICT APPOINTING AND REMOVING OFFICERS
OF THE DISTRICT AND PROVIDING FOR AN EFFECTIVE DATE.**

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

WHEREAS, the District’s Board of Supervisors desires to appoint and remove Officers of the District.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE
MOODY RIVER ESTATES COMMUNITY DEVELOPMENT DISTRICT THAT:**

SECTION 1. The following are appointed as Officers of the District effective upon the passage of this Resolution:

_____ is appointed Chairman;
_____ is appointed Vice Chairman;
_____ is appointed Assistant Secretary;
_____ is appointed Assistant Secretary;
_____ is appointed Assistant Secretary;
_____ is appointed Assistant Secretary;
_____ is appointed Assistant Treasurer.

SECTION 2. The following are appointed as Officers of the District effective upon the passage of this Resolution:

<u>Chesley E. Adams, Jr.</u>	is appointed Secretary;
<u>Craig Wrathell</u>	is appointed as Treasurer;
<u>Craig Wrathell</u>	is appointed as Assistant Secretary;
<u>Jeffrey Pinder</u>	is appointed as Assistant Treasurer.

The Officers named in this Section 2 shall be removed as Officers as of 12:00 a.m. on December 21, 2021 without further action of the Board. As of 12:00 a.m. on December 21, 2021, any Officer who is a past or present employee of Wrathell, Hunt and Associates, LLC shall be removed without further action of the Board.

SECTION 3. The following are appointed as Officers of the District effective at 12:00 a.m. on December 21, 2021:

<u>Cal Teague</u>	is appointed Secretary;
_____	is appointed as Treasurer;
_____	is appointed as Assistant Secretary;
_____	is appointed as Assistant Treasurer.

SECTION 4. This Resolution supersedes any prior appointments made by the Board for Chairman, Vice Chairman, Secretaries, Treasurer, Assistant Secretaries, and Assistant Treasurers.

SECTION 5. This Resolution shall take effect upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED THIS 23RD DAY OF NOVEMBER, 2021.

ATTEST:

**MOODY RIVER ESTATES COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson
Board of Supervisors