



Rizzetta & Company

Somerset Community Development District

Board of Supervisors' Regular Meeting November 8, 2021

**District Office:
120 Richard Jackson Blvd, Suite 220
Panama City Beach, Florida 32407
850-334-9055**

**SOMERSET COMMUNITY
DEVELOPMENT DISTRICT AGENDA
SOMERSET COMMUNITY DEVELOPMENT DISTRICT**

Alys Beach Office Building 1, 84 Elbow Road, Alys Beach, FL 32461
November 8, 2021 at 2:00 p.m.

District Board of Supervisors	Andrew O'Connell	Chairman
	John Rosenberg	Vice Chairman
	George Hartley	Assistant Secretary
	Tonya Pippin	Assistant Secretary
	Tom Dodson	Assistant Secretary
District Manager	Kimberly O'Mera	Rizzetta & Company, Inc
District Counsel	Tucker Mackie	Hopping Green & Sams, P.A.
District Engineer	Jim Martelli	Innerlight Engineering

**All Cellular phones and pagers must be turned off while in the meeting room.
The District Agenda is comprised of five different sections:**

The **regular** meeting will begin promptly at **2:00 p.m.** with the first section which is called **Audience Comments on Agenda Items**. 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 MANAGER OUTSIDE THE CONTEXT OF THIS MEETING.** The second section is called **Business Administration**. The Business Administration section contains items that require the review and approval of the District Board of Supervisors as a normal course of business. The third section is called **Staff Reports**. This section allows the District Manager, Engineer, and Attorney to update the Board of Supervisors on any pending issues that are being researched for Board action. The fourth 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 Manager prior to the presentation of that agenda item. Occasionally, certain items for decision within this section are required by Florida Statute to be held as a Public Hearing. During the Public Hearing portion of the agenda item, each member of the public will be permitted to provide one comment on the issue, prior to the Board of Supervisors' discussion, motion and vote. Agendas can be reviewed by contacting the Manager's office at (850) 334-9055 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. The final section is 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 and provides members of the audience the opportunity to comment on matters of concern to them that were not addressed during 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 (850) 334-9055, 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.

SOMERSET COMMUNITY DEVELOPMENT DISTRICT
DISTRICT OFFICE • PANAMA CITY BEACH, FL 32407
MAILING ADDRESS • 3434 COLWELL AVENUE, SUITE 200, TAMPA, FL 33614
<http://somersetcdd.org/>

November 1, 2021

**Board of Supervisors
Somerset Community
Development District**

AGENDA

Dear Board Members:

The regular meeting of the Board of Supervisors of the Somerset Community Development District will be held on **Monday, November 8, 2021, at 2:00 p.m. (Central Time)** at the Alys Beach Office Building 1 located at 84 Elbow Beach Road, Alys Beach, FL 32461 The following is the agenda for this meeting:

- 1. CALL TO ORDER/ROLL CALL**
- 2. AUDIENCE COMMENTS ON AGENDA ITEMS**
- 3. BUSINESS ADMINISTRATION**
 - A. Consideration of Minutes of the Board of Supervisors' Meeting Held on August 9, 2021.....Tab 1
 - B. Ratification of Operation and Maintenance Expenditures for June 2021 – September 2021.....Tab 2
- 4. BUSINESS ITEMS**
 - A. Consideration of Palm Tree Maintenance Proposal – Rip's Professional Lawn Care.....Tab 3
 - B. Ratification of Fiscal Year 2021-2022 Insurance Policy.....Tab 4
 - C. Ratification of Fiscal Year 2021-2022 Dune Maintenance Agreement.....Tab 5
 - D. Ratification of Landscape Maintenance Agreement – Rip's Professional Lawn Care.....Tab 6
 - E. Discussion of Beach and Dune Restoration Feasibility Study – Monitoring Surveys, Analysis and Report.....Tab 7
 - F. Public Hearing to Consider Amended and Restated Rules of Procedure
 - 1) Consideration of Resolution 2022-01, Adopting Amended and Restated Rules of Procedure.....Tab 8
 - G. Consideration of Resolution 2022-02, Fiscal Year 2020-2021 Budget Amendment*under separate cover*
- 5. STAFF REPORTS**
 - A. District Counsel
 - 1) Update on Transition – Hopping Green & Sams.....Tab 9
 - B. District Engineer
 - C. Facilities Manager
 - D. District Manager
 - 1) Presentation of District Manager Report *under separate cover*
- 6. SUPERVISOR REQUESTS AND AUDIENCE COMMENTS**

7. ADJOURNMENT

I look forward to seeing you at the meeting. In the meantime, if you have any questions, please do not hesitate to call me at 850-334-9055.

Sincerely,

Kimberly O'Mera

Kimberly O'Mera

District Manager

Tab 1

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

August 9, 2021 Minutes of Meeting

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MINUTES OF MEETING

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

**SOMERSET
COMMUNITY DEVELOPMENT DISTRICT**

A special meeting of the Board of Supervisors of the Somerset Community Development District was held on **Monday, August 9, 2021, at 2:00 p.m. Central Time** at the Alys Beach Office Building 1 located at 84 Elbow Road, Alys Beach, FL 32461.

Present and constituting a quorum:

Andrew O'Connell	Board Supervisor, Chairman
John Rosenburg	Board Supervisor, Vice Chairman (Via Speakerphone)
Tom Dodson	Board Supervisor, Assistant Secretary (Via Speakerphone)
George Hartley	Board Supervisor, Assistant Secretary
Tonya Pippin	Board Supervisor, Assistant Secretary

Also present were:

Kimberly O'Mera	District Manager, Rizzetta & Company, Inc.
Tucker Mackie	District Counsel, Hopping Green & Sams, P.A.
Jim Martelli	District Engineer, Inner Light Engineering (Via Speakerphone)
Scott Buchewicz	Town Manager, Alys Beach
Rip Thompson	Landscape Provider, Rip's Professional Lawn Care
Audience	Present

FIRST ORDER OF BUSINESS

Call to Order

Ms. O'Mera called the meeting to order and read the roll call, confirming a quorum for the meeting.

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

August 9, 2021 Minutes of Meeting

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SECOND ORDER OF BUSINESS

Audience Comments

There were no audience comments.

THIRD ORDER OR BUSINESS

**Consideration of the Minutes of the
Board of Supervisors' Meeting Held
on June 12, 2021**

On a motion by Mr. O'Connell, seconded by Mr. Hartley, with all in favor, the Board of Supervisors accepted the Minutes of the Board of Supervisors' Meeting, held on June 12, 2021, for Somerset Community Development District.

FOURTH ORDER OF BUSINESS

**Ratification of Operation and
Maintenance Expenditures for May
2021**

Ms. O'Mera a reviewed the Operation and Maintenance Expenditures for May 2021 with the Board.

On a motion by Mr. O'Connell, seconded by Mr. Hartley, with all in favor, the Board of Supervisors ratified the Operation and Maintenance Expenditures for May 2021 in the amount of \$16,730.29 for Somerset Community Development District.

FITFTH ORDER OF BUSINESS

**Consideration to Terminate Cost Share
Agreement – Alys Beach
Neighborhood Association**

Ms. Mackie explained the Memorandum of Understanding – Maintenance Responsibilities effective October 1, 2021, and the Amended Cost Share Agreement with Alys Beach Neighborhood Association requiring a 30-day written notice to terminate.

On a Motion by Mr. O'Connell, seconded by Ms. Pippin, with all in favor, the Board of Supervisors approved Ms. Mackie sending written notice to terminate First Amended Cost Share Agreement for Certain Maintenance Services with Alys Beach Neighborhood Association, for Somerset Community Development District.

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

August 9, 2021 Minutes of Meeting

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SIXTH ORDER OF BUSINESS

Consideration of Landscape Maintenance Agreement – Rip's Professional Lawn Care

Ms. O'Mera presented Landscape Maintenance Agreement. Mr. O'Connell reviewed the agreement as presented, noting that the revisions he requested to expand the scope of services had not been incorporated within the document provided by Rip's Professional Lawn Care. General discussion ensued.

Ms. Mackie will produce a draft landscape maintenance agreement and expanded scope of services based on what has been provided historically. Mr. O'Connell will work with Staff and Mr. Thompson to refine these to meet the needs of the District, considering the Memorandum of Understanding defining Maintenance Responsibilities of the District.

On a Motion by Mr. O'Connell, seconded by Mr. Hartley, with all in favor, the Board of Supervisors approved Landscape and Maintenance Agreement – Rip's Professional Lawn Care, with a not-to-exceed of \$8,975.00 per month, with understanding the scope of services will be revised to explicitly set forth what is being done on a monthly or annual basis, confirming the map of services with Innerlight Engineering and Mr. Buchewicz, for Somerset Community Development District.

SEVENTH ORDER OF BUSINESS

Public Hearing to Consider the Adoption of the Fiscal Year 2021-2022 Budget

On a Motion by O'Connell, seconded by Mr. Dodson, with all in favor, the Board of Supervisors, opened a Public Hearing to Consider the Adoption of the Fiscal Year 2021-2022 Budget, for Somerset Community Development District.

EIGHTH ORDER OF BUSINESS

Audience Comments on Fiscal Year 2021/2022 Approved Proposed Budget

Mr. Steve Lawrence has concerns about moving responsibilities from the HOA to CDD and vice versa. Mr. Lawrence also inquired what additional services they are receiving with the proposed increase and more details of what is causing the significant increase. Mr. O'Connell explained there had been very few increases in past years, and most of the increase funds the reserves, dune maintenance and restoration, and future waste solutions to avoid a special assessment in the future.

On a Motion by Mr. O'Connell, seconded by Mr. Hartley, with all in favor, the Board of Supervisors closed the Public Hearing on Fiscal Year 2021/2022 Approved Proposed Budget, for Somerset Community Development District.

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

August 9, 2021 Minutes of Meeting

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NINTH ORDER OF BUSINESS

**Consideration of Resolution 2021-04,
Annual Appropriations and Adopting
the Budget for Fiscal Year 2021-2022**

On a Motion by Mr. O'Connell, seconded by Ms. Pippin, with all in favor, the Board of Supervisors, adopted Resolution 2021-04, Annual Appropriations and Adopting the Budget for Fiscal Year 2021-2022, for Somerset Community Development District.

TENTH ORDER OF BUSINESS

**Public Hearing to Consider the
Imposition of Operation and
Maintenance Special Assessments**

On a Motion by Mr. Hartley, seconded by Ms. Pippin, with all in favor, the Board of Supervisors opened a Public Hearing to Consider the Imposition of Operation and Maintenance Special Assessments, for Somerset Community Development District.

ELEVENTH ORDER OF BUSINESS

**Audience Comments on the
Imposition of Operation and
Maintenance Special Assessments**

Ms. Macke explained the purpose of the Public Hearing for those in attendance.

Mr. Steve Lawrence inquired about the special assessments. Ms. Mackie explained it is a non-ad valorem special assessment which will appear the tax bill and is levied every year. Mr. O'Connell explained while this is called a special assessment, it is what is levied annually.

Ms. Tess Howard asked for clarification on the proposed increase.

On a Motion by Ms. Pippin, seconded by Mr. O'Connell, with all in favor, the Board of Supervisors closed the Public Hearing to Consider the Imposition of Operation and Maintenance Special Assessments, for Somerset Community Development District.

TWELFTH ORDER OF BUSINESS

**Consideration of Resolution 2021-05,
Making a Determination of Benefit,
and Imposing Special Assessments
for Fiscal Year 2021-2022; Providing
for the Collection and Enforcement of
Special Assessments; Certifying an
Assessment Roll**

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

August 9, 2021 Minutes of Meeting

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On a Motion by Mr. Hartley, seconded by Ms. Pippin, with all in favor, the Board of Supervisors adopted Resolution 2021-05, Making a Determination of Benefit, and Imposing Special Assessments for Fiscal Year 2021/2022; Providing for the Collection and Enforcement of Special Assessments; Certifying and Assessment Roll, for Somerset Community Development District.

THIRTEENTH ORDER OF BUSINESS

**Consideration of Fiscal Year 101/2022
Direct Collection**

On a Motion by Mr. Hartley, seconded by Ms. Pippin, with all in favor, the Board of Supervisors adopted Resolution 2021-05, Making a Determination of Benefit, and Imposing Special Assessments for Fiscal Year 2021/2022; Providing for the Collection and Enforcement of Special Assessments; Certifying and Assessment Roll, for Somerset Community Development District.

FOURTEENTH ORDER OF BUSINESS

**Consideration of Fiscal Year
2021/2022 Direct Collection Agreement**

Ms. O'Mera turned over the presentation to Ms. Mackie. Ms. Mackie presented and reviewed the Fiscal Year 2021/2022 Direct Collection Agreement.

On a Motion by Mr. O'Connell, seconded by Mr. Dodson, with all in favor, the Board of Supervisors approved Fiscal Year 2021/2022 Direct Collection Agreement, for Somerset Community Development District.

FIFTEENTH ORDER OF BUSINESS

**Consideration of Resolution 2021-06,
Fiscal Year 2021/2022 Annual Meeting
Schedule**

Ms. O'Mera presented and reviewed Resolution 2021-06, Fiscal Year 2021/2022 Annual Meeting Schedule.

On a Motion by Mr. O'Connell, seconded by Mr. Dodson, with all in favor, the Board of Supervisors adopted Resolution 2021-06, Fiscal Year 2021/2022 Annual Meeting Schedule, for Somerset Community Development District.

SIXTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel

Ms. Mackie advised that she could bring back the agreement with Rip's and the Dune Doctors agreement for ratification.

B. District Engineer

Mr. Martelli has no report at this time.

C. District Manager

Ms. O'Mera advised that the next meeting of the Board of Supervisors will be November 8, 2021, at 2:00 p.m.

SEVENTEENTH ORDER OF BUSINESS

Supervisor Requests

There were no Supervisor requests.

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

August 9, 2021 Minutes of Meeting

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EIGHTEENTH ORDER OF BUSINESS

Adjournment

On a Motion by Mr. Hartley, seconded by Mr. O'Connell, with all in favor, the Board of Supervisors adjourned the meeting at 2:43 pm (CST), for the Somerset Community Development District.

Secretary/Assistant Secretary

Chairman/ Vice Chairman

Tab 2

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

DISTRICT OFFICE · PANAMA CITY, FLORIDA · (850) 334-9055

MAILING ADDRESS · 3434 COLWELL AVENUE, SUITE 200 ·

TAMPA, FLORIDA 33614

Operation and Maintenance Expenditures June 2021 For Board Approval

Attached please find the check register listing the Operation and Maintenance expenditures paid from June 1, 2021 through June 30, 2021. This does not include expenditures previously approved by the Board.

The total items being presented: **\$42,410.52**

Approval of Expenditures:

_____ Chairperson

_____ Vice Chairperson

_____ Assistant Secretary

Somerset Community Development District

Paid Operation & Maintenance Expenditures

June 1, 2021 Through June 30, 2021

<u>Vendor Name</u>	<u>Check Number</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Amount</u>
ALYS Beach Resort LLC	002769	CL00009062	Street Light Repair & Mirror Install 04/21	\$ 2,481.53
ALYS Beach Resort LLC	002769	CL00009070	Stucco Wall Repair 04/21	\$ 1,380.00
Grau & Associates	002774	21240	Audit Services FYE 09/30/2020	\$ 3,400.00
Gulf Power Company	2021080621-2	21046-33165 05/21	9954 E Cty Hwy 30A Irrigation 05/21	\$ 422.53
Gulf Power Company	2021080621-2	21080-12465 05/21	9396 E Cty Hwy 30A Irrigation 05/21	\$ 379.21
Hopping Green & Sams	002770	122570	General/Monthly Legal Services 04/21	\$ 1,002.50
Innerlight Engineering Corporation	002771	5202	Engineering Services 12/20-05/21	\$ 6,750.00
Innerlight Engineering Corporation	002771	5381	Engineering Services 04/21	\$ 6,500.00
Innerlight Engineering Corporation	002771	5382	Engineering Services 05/21	\$ 8,500.00
Innerlight Engineering Corporation	002771	5383	Engineering Services 03/21 - 05/21	\$ 6,175.00
Mills Supply	002777	8517	Pump Station Maintenance 06/21	\$ 200.00
Newagetutors LLC DBA VGlobalTech	002775	2728	Website ADA Compliance 06/21	\$ 425.00
Rizzetta & Company, Inc.	002772	INV0000058980	District Management Services 06/21	\$ 4,646.75

Somerset Community Development District

Paid Operation & Maintenance Expenditures

June 1, 2021 Through June 30, 2021

<u>Vendor Name</u>	<u>Check Number</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Amount</u>
Rizzetta Technology Services, LLC.	002773	INV0000007618	Website Hosting Services 06/21	\$ 100.00
The Lake Doctors, Inc.	002776	585374	Monthly Monitoring/Inspection 06/21	<u>\$ 48.00</u>
Report Total				<u>\$ 42,410.52</u>

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

DISTRICT OFFICE · PANAMA CITY, FLORIDA · (850) 334-9055

MAILING ADDRESS · 3434 COLWELL AVENUE, SUITE 200 ·

TAMPA, FLORIDA 33614

Operation and Maintenance Expenditures July 2021 For Board Approval

Attached please find the check register listing the Operation and Maintenance expenditures paid from July 1, 2021 through July 31, 2021. This does not include expenditures previously approved by the Board.

The total items being presented: **\$18,265.89**

Approval of Expenditures:

_____ Chairperson

_____ Vice Chairperson

_____ Assistant Secretary

Somerset Community Development District

Paid Operation & Maintenance Expenditures

July 1, 2021 Through July 31, 2021

<u>Vendor Name</u>	<u>Check Number</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Amount</u>
ALYS Beach Neighborhood Association	002778	04302021	ALYS Beach Neighborhood Association Reimbursement 04/21	\$ 7,154.50
Andrew O'Connell	002780	AO052421	Board of Supervisors Meeting 05/24/2021	\$ 200.00
George Hartley	002779	GH052421	Board of Supervisors Meeting 05/24/2021	\$ 200.00
Gulf Power Company	2021082421-1	21046-33165 06/21	9954 E Cty Hwy 30A Irrigation 06/21	\$ 469.32
Gulf Power Company	2021082421-1	21080-12465 06/21	9396 E Cty Hwy 30A Irrigation 06/21	\$ 257.78
Hopping Green & Sams	002785	123601	General/Monthly Legal Services 05/21	\$ 4,364.54
Mills Supply	002787	8569	Pump Station Maintenance 07/21	\$ 200.00
Newagetutors LLC DBA VGlobalTech	002784	2865	Website ADA Compliance 07/21	\$ 425.00
Rizzetta & Company, Inc.	002781	INV0000059431	District Management Services 07/21	\$ 4,646.75
Rizzetta Technology Services, LLC.	002782	INV0000007751	Website Hosting Services 07/21	\$ 100.00
The Lake Doctors, Inc.	002786	588397	Monthly Monitoring/Inspection 07/21	\$ 48.00
Thomas M Dodson	002783	TD052421	Board of Supervisors Meeting 05/24/2021	\$ <u>200.00</u>
Report Total				<u>\$ 18,265.89</u>

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

DISTRICT OFFICE · PANAMA CITY, FLORIDA · (850) 334-9055

MAILING ADDRESS · 3434 COLWELL AVENUE, SUITE 200 ·

TAMPA, FLORIDA 33614

Operation and Maintenance Expenditures August 2021 For Board Approval

Attached please find the check register listing the Operation and Maintenance expenditures paid from August 1, 2021 through August 31, 2021. This does not include expenditures previously approved by the Board.

The total items being presented: **\$ 17,883.49**

Approval of Expenditures:

_____ Chairperson

_____ Vice Chairperson

_____ Assistant Secretary

Somerset Community Development District

Paid Operation & Maintenance Expenditures

August 1, 2021 Through August 31, 2021

<u>Vendor Name</u>	<u>Check Number</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Amount</u>
ALYS Beach Resort LLC	002805	CL00010008	Street Light Check And Repair - Weekly Pump Inspection 06/21	\$ 946.67
Andrew O'Connell	002793	AO071221	Board of Supervisors Meeting 07/12/2021	\$ 200.00
Andrew O'Connell	002801	AO080921	Board of Supervisors Meeting 08/09/21	\$ 200.00
CA Florida Holdings LLC	002806	0003984540	Acct #526295 Legal Advertising 07/21	\$ 1,507.93
Custom Reserves LLC	002788	R162.21.19	Retainer for Reserve Study	\$ 1,350.00
George Hartley	002799	GH080921	Board of Supervisors Meeting 08/09/21	\$ 200.00
Hopping Green & Sams	002790	124147	General/Monthly Legal Services 06/21	\$ 5,534.00
John Rosenberg	002796	JR071221	Board of Supervisors Meeting 07/12/2021	\$ 200.00
John Rosenberg	002802	JR080921	Board of Supervisors Meeting 08/09/21	\$ 200.00
LLS Tax Solutions, Inc.	002791	002373	Arbitrage Rebate Calculation PE 07/11/21	\$ 500.00
Mills Supply	002789	8588	Pump Service Work 07/21	\$ 560.00
Mills Supply	002792	8600	Pump Station Maintenance 08/21	\$ 200.00
Newagetutors LLC DBA VGlobalTech	002798	2945	Website ADA Compliance 08/21	\$ 425.00

Somerset Community Development District

Paid Operation & Maintenance Expenditures

August 1, 2021 Through August 31, 2021

<u>Vendor Name</u>	<u>Check Number</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Amount</u>
Rizzetta & Company, Inc.	002794	INV0000060365	District Management Services 08/21	\$ 4,646.75
Rizzetta & Company, Inc.	002794	INV0000060447	Mass Mailing 07/21	\$ 465.14
Rizzetta Technology Services, LLC.	002795	INV0000007838	Website Hosting Services 08/21	\$ 100.00
The Lake Doctors, Inc.	002800	595002	Monthly Monitoring/Inspection 08/21	\$ 48.00
Thomas M Dodson	002797	TD071221	Board of Supervisors Meeting 07/12/2021	\$ 200.00
Thomas M Dodson	002803	TD080921	Board of Supervisors Meeting 08/09/21	\$ 200.00
Tonya Johnson Pippin	002804	TP080921	Board of Supervisors Meeting 08/09/21	<u>\$ 200.00</u>
Report Total				<u>\$ 17,883.49</u>

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

DISTRICT OFFICE · PANAMA CITY, FLORIDA · (850) 334-9055

MAILING ADDRESS · 3434 COLWELL AVENUE, SUITE 200 ·

TAMPA, FLORIDA 33614

Operation and Maintenance Expenditures September 2021 For Board Approval

Attached please find the check register listing the Operation and Maintenance expenditures paid from September 1, 2021 through September 30, 2021. This does not include expenditures previously approved by the Board.

The total items being presented: **\$ 78,601.72**

Approval of Expenditures:

_____ Chairperson

_____ Vice Chairperson

_____ Assistant Secretary

Somerset Community Development District

Paid Operation & Maintenance Expenditures

September 1, 2021 Through September 30, 2021

<u>Vendor Name</u>	<u>Check Number</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Amount</u>
ALYS Beach Neighborhood Association	2807	5312021	ALYS Beach Neighborhood Association Reimbursement 05/21	\$ 10,585.00
ALYS Beach Neighborhood Association	2807	6302021	ALYS Beach Neighborhood Association Reimbursement 06/21	\$ 6,992.00
ALYS Beach Neighborhood Association	2807	7312021	ALYS Beach Neighborhood Association Reimbursement 07/21	\$ 6,992.00
ALYS Beach Resort LLC	2816	CL00009438	Street Light Repair 05/21	\$ 2,972.07
ALYS Beach Resort LLC	2814	CL00009762	Street Light Repair Credit 06/21	\$ (1,187.58)
ALYS Beach Resort LLC	2816	CL00010101	Street Light Repair 06/21	\$ 2,806.03
ALYS Beach Resort LLC	2814	CL00010362	Street Light Repair 07/21	\$ 315.00
ALYS Beach Resort LLC	2814	CL00010561	Street Light Check And Repair - Weekly Pump Inspection 07/21	\$ 946.67
ALYS Beach Resort LLC	2816	CL00010573	Street Light Repair 07/21	\$ 1,909.53
ALYS Beach Resort LLC	2814	CL00010897	Street Light Check And Repair - Weekly Pump Inspection 08/21	\$ 946.67
ALYS Beach Resort LLC	2816	CL00010937	Traffic Signals Repair 06/21	\$ 800.00
ALYS Beach Resort LLC	2816	CL00010937-2	Traffic Signals Repair 06/21	\$ 6,300.00
Egis Insurance Advisors LLC	2817	14691	Property/Gen Liability & PO Insurance FY21-22	\$ 15,394.00

Somerset Community Development District

Paid Operation & Maintenance Expenditures

September 1, 2021 Through September 30, 2021

<u>Vendor Name</u>	<u>Check Number</u>	<u>Invoice Number</u>	<u>Invoice Description</u>	<u>Invoice Amount</u>
Hopping Green & Sams	2808	124650	General/Monthly Legal Services 07/21	\$ 4,525.79
Innerlight Engineering Corporation	2818	5574	Engineering Services 06/21 - 09/21	\$ 7,600.00
Mills Supply	2812	8653	Pump Station Maintenance 09/21	\$ 200.00
Newagetutors LLC DBA VGlobalTech	2810	3024	Website ADA Compliance 09/21	\$ 425.00
Rizzetta & Company, Inc.	2809	INV0000061165	District Management Services 09/21	\$ 4,646.75
Rizzetta Technology Services, LLC.	2815	INV0000007930	Website Hosting Services 09/21	\$ 100.00
Rizzetta Technology Services, LLC.	2815	INV0000007936	Email Accounts, Admin & Maintenance/Email Setup 03/21-09/21	\$ 1,025.00
The Lake Doctors, Inc.	2811	601561	Monthly Monitoring/Inspection 09/21	\$ 48.00
US Bank	2813	6241960	Trustee Fees Series 2005 08/01/2021- 07/31/2022	\$ 4,259.79
Report Total				<u>\$ 78,601.72</u>

Tab 3

511 North Highway 79
Panama City Beach, FL 32413
850-233-6396

Date	Estimate #
10/28/2021	5-4462

Name / Address
<p>Alys Beach Neighborhood Association c/o Rizzetta & Company 120 Richard Jackson Boulevard, Suite 220 Panama City Beach, FL 32407</p>

			Project
Description	Qty	Rate	Total
Palm Tree Maintenance - 30A Corridor Trimming 1 times per year for low fronds and seed pods. Trimmed 2 more times for brown and hanging fronds, 224 lbs of Palm and Annual fertilizer	56	525.00	29,400.00
		Total	\$29,400.00

Tab 4



Egis Insurance & Risk Advisors

Is pleased to provide a

Proposal of Insurance Coverage for:

Somerset Community Development District

Please review the proposed insurance coverage terms and conditions carefully.

Written request to bind must be received prior to the effective date of coverage.

The brief description of coverage contained in this document is being provided as an accommodation only and is not intended to cover or describe all Coverage Agreement terms. For more complete and detailed information relating to the scope and limits of coverage, please refer directly to the Coverage Agreement documents. Specimen forms are available upon request.

About FIA

Florida Insurance Alliance (“FIA”), authorized and regulated by the Florida Office of Insurance Regulation, is a non-assessable, governmental insurance Trust. FIA was created in September 2011 at a time when a large number of Special Taxing Districts were having difficulty obtaining insurance.

Primarily, this was due to financial stability concerns and a perception that these small to mid-sized Districts had a disproportionate exposure to claims. Even districts that were claims free for years could not obtain coverage. FIA was created to fill this void with the goal of providing affordable insurance coverage to Special Taxing Districts. Today, FIA proudly serves and protects more than 800 public entity members.

Competitive Advantage

FIA allows qualifying Public Entities to achieve broad, tailored coverages with a cost-effective insurance program. Additional program benefits include:

- Insure-to-value property limits with no coinsurance penalties
- First dollar coverage for “alleged” public official ethics violations
- Proactive in-house claims management and loss control department
- Complimentary risk management services including on-site loss control, property schedule verification and contract reviews
- Online Risk Management Education & Training portal
- Online HR & Benefits Support portal
- HR Hotline
- Safety Partners Matching Grant Program

How are FIA Members Protected?

FIA employs a conservative approach to risk management. Liability risk retained by FIA is fully funded prior to the policy term through member premiums. The remainder of the risk is transferred to reinsurers. FIA’s primary reinsurers, Lloyds of London and Hudson Insurance Company, both have AM Best A XV (Excellent) ratings and surplus of \$2Billion or greater.

In the event of catastrophic property losses due to a Named Storm (i.e., hurricane), the program bears no risk as all losses are passed on to the reinsurers. FIA purchases property reinsurance to withstand the 1,000-year storm event (probability of exceedance .1%). This level of protection is statistically 2 to 3 times safer than competitors and industry norms. FIA members’ property claims resulting from Hurricane Irma in 2017 amounted to less than 4% of the per occurrence coverage available.

What Are Members Responsible For?

As a non-assessable Trust, our members are only responsible for two items:

- Annual Premiums
- Individual Member Deductibles

FIA Bylaws prohibit any assessments or other fees.

Additional information regarding FIA and our member services can be found at www.fia360.org.

Quotation being provided for:

Somerset Community Development District
c/o Rizzetta & Company
3434 Colwell Ave, Suite 200
Tampa, FL 33614

Term: October 1, 2021 to October 1, 2022

Quote Number: 100121653

PROPERTY COVERAGE

SCHEDULE OF COVERAGES AND LIMITS OF COVERAGE

COVERED PROPERTY	
Total Insured Values – Blanket Building and Contents – Per Schedule on file totalling	\$385,000
Loss of Business Income	\$1,000,000
Additional Expense	\$1,000,000
Inland Marine	
Scheduled Inland Marine	\$572,000

It is agreed to include automatically under this Insurance the interest of mortgagees and loss payees where applicable without advice.

	Valuation	Coinsurance
Property	Replacement Cost	None
Inland Marine	Actual Cash Value	None

DEDUCTIBLES:	\$2,500	Per Occurrence, All other Perils, Building & Contents and Extensions of Coverage.
	3 %	Total Insured Values per building, including vehicle values, for "Named Storm" at each affected location throughout Florida subject to a minimum of \$10,000 per occurrence, per Named Insured.
	Per Attached Schedule	Inland Marine

Special Property Coverages		
Coverage	Deductibles	Limit
Earth Movement	\$2,500	Included
Flood	\$2,500 *	Included
Boiler & Machinery		Included
TRIA		Included

*Except for Zones A & V see page 8 (Terms and Conditions) excess of NFIP, whether purchased or not

TOTAL PROPERTY PREMIUM

\$8,613

Extensions of Coverage

If marked with an "X" we will cover the following EXTENSIONS OF COVERAGE under this Agreement, These limits of liability do not increase any other applicable limit of liability.

(X)	Code	Extension of Coverage	Limit of Liability
X	A	Accounts Receivable	\$500,000 in any one occurrence
X	B	Animals	\$1,000 any one Animal \$5,000 Annual Aggregate in any one agreement period
X	C	Buildings Under Construction	As declared on Property Schedule, except new buildings being erected at sites other than a covered location which is limited to \$250,000 estimated final contract value any one construction project.
X	D	Debris Removal Expense	\$250,000 per insured or 25% of loss, whichever is greater
X	E	Demolition Cost, Operation of Building Laws and Increased Cost of Construction	\$500,000 in any one occurrence
X	F	Duty to Defend	\$100,000 any one occurrence
X	G	Errors and Omissions	\$250,000 in any one occurrence
X	H	Expediting Expenses	\$250,000 in any one occurrence
X	I	Fire Department Charges	\$50,000 in any one occurrence
X	J	Fungus Cleanup Expense	\$50,000 in the annual aggregate in any one occurrence
X	K	Lawns, Plants, Trees and Shrubs	\$50,000 in any one occurrence
X	L	Leasehold Interest	Included
X	M	Air Conditioning Systems	Included
X	N	New locations of current Insureds	\$1,000,000 in any one occurrence for up to 90 days, except 60 days for Dade, Broward, Palm Beach from the date such new location(s) is first purchased, rented or occupied whichever is earlier. Monroe County on prior submit basis only
X	O	Personal property of Employees	\$500,000 in any one occurrence
X	P	Pollution Cleanup Expense	\$50,000 in any one occurrence
X	Q	Professional Fees	\$50,000 in any one occurrence
X	R	Recertification of Equipment	Included
X	S	Service Interruption Coverage	\$500,000 in any one occurrence
X	T	Transit	\$1,000,000 in any one occurrence
X	U	Vehicles as Scheduled Property	Included
X	V	Preservation of Property	\$250,000 in any one occurrence
X	W	Property at Miscellaneous Unnamed Locations	\$250,000 in any one occurrence
X	X	Piers, docs and wharves as Scheduled Property	Included on a prior submit basis only

X	Y	Glass and Sanitary Fittings Extension	\$25,000 any one occurrence
X	Z	Ingress / Egress	45 Consecutive Days
X	AA	Lock and Key Replacement	\$2,500 any one occurrence
X	BB	Awnings, Gutters and Downspouts	Included
X	CC	Civil or Military Authority	45 Consecutive days and one mile

CRIME COVERAGE

<u>Description</u>	<u>Limit</u>	<u>Deductible</u>
Forgery and Alteration	Not Included	Not Included
Theft, Disappearance or Destruction	Not Included	Not Included
Computer Fraud including Funds Transfer Fraud	Not Included	Not Included
Employee Dishonesty, including faithful performance, per loss	Not Included	Not Included

Deadly Weapon Protection Coverage

Coverage	Limit	Deductible
Third Party Liability	\$1,000,000	\$0
Property Damage	\$1,000,000	\$0
Crisis Management Services	\$250,000	\$0

AUTOMOBILE COVERAGE

Coverages	Covered Autos	Limit	Premium
Covered Autos Liability	8,9	\$1,000,000	Included
Personal Injury Protection	N/A		Not Included
Auto Medical Payments	N/A		Not Included
Uninsured Motorists including Underinsured Motorists	N/A		Not Included
Physical Damage Comprehensive Coverage	N/A	Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus Applicable Deductible (See Attached Schedule) For Each Covered Auto, But No Deductible Applies To Loss Caused By Fire or Lightning. See item Four for Hired or Borrowed Autos.	Not Included
Physical Damage Specified Causes of Loss Coverage	N/A	Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus Applicable Deductible (See Attached Schedule) For Each Covered Auto For Loss Caused By Mischief Or Vandalism See item Four for Hired or Borrowed Autos.	Not Included
Physical Damage Collision Coverage	N/A	Actual Cash Value Or Cost Of Repair, Whichever Is Less, Minus Applicable Deductible (See Attached Schedule) For Each Covered Auto See item Four for Hired or Borrowed Autos.	Not Included
Physical Damage Towing And Labor	N/A	\$0 For Each Disablement Of A Private Passenger Auto	Not Included

GENERAL LIABILITY COVERAGE (Occurrence Basis)

Bodily Injury and Property Damage Limit	\$1,000,000
Personal Injury and Advertising Injury	Included
Products & Completed Operations Aggregate Limit	Included
Employee Benefits Liability Limit, per person	\$1,000,000
Herbicide & Pesticide Aggregate Limit	\$1,000,000
Medical Payments Limit	\$5,000
Fire Damage Limit	Included
No fault Sewer Backup Limit	\$25,000/\$250,000
General Liability Deductible	\$0

PUBLIC OFFICIALS AND EMPLOYMENT PRACTICES LIABILITY (Claims Made)

Public Officials and Employment Practices Liability Limit	Per Claim	\$1,000,000
	Aggregate	\$2,000,000
Public Officials and Employment Practices Liability Deductible		\$0

Supplemental Payments: Pre-termination \$2,500 per employee - \$5,000 annual aggregate.
Non-Monetary \$100,000 aggregate.

Cyber Liability sublimit included under POL/EPLI

Media Content Services Liability
Network Security Liability
Privacy Liability
First Party Extortion Threat
First Party Crisis Management
First Party Business Interruption
Limit: \$100,000 each claim/annual aggregate



PREMIUM SUMMARY

Somerset Community Development District
c/o Rizzetta & Company
3434 Colwell Ave, Suite 200
Tampa, FL 33614

Term: October 1, 2021 to October 1, 2022

Quote Number: 100121653

PREMIUM BREAKDOWN

Property (Including Scheduled Inland Marine)	\$8,613
Crime	Not Included
Automobile Liability	Not Included
Hired Non-Owned Auto	Included
Auto Physical Damage	Not Included
General Liability	\$3,673
Public Officials and Employment Practices Liability	\$3,108
Deadly Weapon Protection Coverage	Included
TOTAL PREMIUM DUE	\$15,394

IMPORTANT NOTE

Defense Cost - Outside of Limit, Does Not Erode the Limit for General Liability, Public Officials Liability, and Employment related Practices Liability.

Deductible does not apply to defense cost. Self-Insured Retention does apply to defense cost.

Additional Notes:

(None)



PARTICIPATION AGREEMENT
Application for Membership in the Florida Insurance Alliance

The undersigned local governmental entity, certifying itself to be a public agency of the State of Florida as defined in Section 163.01, Florida Statutes, hereby formally makes application with the Florida Insurance Alliance ("FIA") for continuing liability and/or casualty coverage through membership in FIA, to become effective 12:01 a.m., 10/01/2021, and if accepted by the FIA's duly authorized representative, does hereby agree as follows:

- (a) That, by this reference, the terms and provisions of the Interlocal Agreement creating the Florida Insurance Alliance are hereby adopted, approved and ratified by the undersigned local governmental entity. The undersigned local governmental entity certifies that it has received a copy of the aforementioned Interlocal Agreement and further agrees to be bound by the provisions and obligations of the Interlocal Agreement as provided therein;
- (b) To pay all premiums on or before the date the same shall become due and, in the event Applicant fails to do so, to pay any reasonable late penalties and charges arising therefrom, and all costs of collection thereof, including reasonable attorneys' fees;
- (c) To abide by the rules and regulations adopted by the Board of Directors;
- (d) That should either the Applicant or the Fund desire to cancel coverage; it will give not less than thirty (30) days prior written notice of cancellation;
- (e) That all information contained in the underwriting application provided to FIA as a condition precedent to participation in FIA is true, correct and accurate in all respects.

Somerset Community Development District

(Name of Local Governmental Entity)
By: *Andrew O'Connell*
Signature

ANDREW O'CONNELL - BOARD CHAIR
Print Name

Witness By: *Kimberly O'Mera*
Signature

Kimberly O'Mera
Print Name

IS HEREBY APPROVED FOR MEMBERSHIP IN THIS FUND, AND COVERAGE IS EFFECTIVE October 1, 2021

By: _____
Administrator



PROPERTY VALUATION AUTHORIZATION

Somerset Community Development District
c/o Rizzetta & Company
3434 Colwell Ave, Suite 200
Tampa, FL 33614

QUOTATIONS TERMS & CONDITIONS

1. Please review the quote carefully for coverage terms, conditions, and limits.
2. The coverage is subject to 100% minimum earned premium as of the first day of the "Coverage Period".
3. Total premium is late if not paid in full within 30 days of inception, unless otherwise stated.
4. Property designated as being within Flood Zone A or V (and any prefixes or suffixes thereof) by the Federal Emergency Management Agency (FEMA), or within a 100 Year Flood Plain as designated by the United States Army Corps of Engineers, will have a Special Flood Deductible equal to all flood insurance available for such property under the National Flood Insurance Program, whether purchased or not or 5% of the Total Insured Value at each affected location whichever the greater.
5. The Florida Insurance Alliance is a shared limit. The limits purchased are a per occurrence limit and in the event an occurrence exhaust the limit purchased by the Alliance on behalf of the members, payment to you for a covered loss will be reduced pro-rata based on the amounts of covered loss by all members affected by the occurrence. Property designated as being within.
6. Coverage is not bound until confirmation is received from a representative of Egis Insurance & Risk Advisors.

I give my authorization to bind coverage for property through the Florida Insurance Alliance as per limits and terms listed below.

<input checked="" type="checkbox"/> Building and Content TIV	\$385,000	As per schedule attached
<input checked="" type="checkbox"/> Inland Marine	\$572,000	As per schedule attached
<input type="checkbox"/> Auto Physical Damage	Not Included	

Signature: Andrew O'Connell Date: 9-24-2021

Name: ANDREW O'CONNELL

Title: BOARD CHAIR



Florida
Insurance
Alliance™

Property Schedule

Somerset Community Development District

Schedule Items Effective As of: 10/01/2021

Policy No.: 100121653

Agent: Egis Insurance Advisors LLC (Boca Raton, FL)

Unit #	Description Address		Year Built	Eff. Date	Building Value		Total Insured Value	
			Const Type	Term Date	Contents Value			
	Roof Shape	Roof Pitch		Roof Covering	Covering Replaced	Roof Yr Blt		
1	Waterpumps,controller		2005	10/01/2021	\$100,000			
	County Rd 30A & County Rd 395 Santa Rosa Beach FL 32459		Pump / lift station	10/01/2022			\$100,000	
Unit #	Description Address		Year Built	Eff. Date	Building Value		Total Insured Value	
			Const Type	Term Date	Contents Value			
	Roof Shape	Roof Pitch		Roof Covering	Covering Replaced	Roof Yr Blt		
2	East Well		2011	10/01/2021	\$35,000			
	County Rd 30A & County Rd 395 Santa Rosa Beach FL 32459		Pump / lift station	10/01/2022			\$35,000	
Unit #	Description Address		Year Built	Eff. Date	Building Value		Total Insured Value	
			Const Type	Term Date	Contents Value			
	Roof Shape	Roof Pitch		Roof Covering	Covering Replaced	Roof Yr Blt		
3	West Well		2011	10/01/2021	\$35,000			
	County Rd 30A & County Rd 395 Santa Rosa Beach FL 32459		Pump / lift station	10/01/2022			\$35,000	
Unit #	Description Address		Year Built	Eff. Date	Building Value		Total Insured Value	
			Const Type	Term Date	Contents Value			
	Roof Shape	Roof Pitch		Roof Covering	Covering Replaced	Roof Yr Blt		
4	McGee Well		2011	10/01/2021	\$35,000			
	County Rd 30A & County Rd 395 Santa Rosa Beach FL 32459		Pump / lift station	10/01/2022			\$35,000	
Unit #	Description Address		Year Built	Eff. Date	Building Value		Total Insured Value	
			Const Type	Term Date	Contents Value			
	Roof Shape	Roof Pitch		Roof Covering	Covering Replaced	Roof Yr Blt		
5	Development Well		2011	10/01/2021	\$35,000			
	County Rd 30A & County Rd 395 Santa Rosa Beach FL 32459		Pump / lift station	10/01/2022			\$35,000	
Unit #	Description Address		Year Built	Eff. Date	Building Value		Total Insured Value	
			Const Type	Term Date	Contents Value			
	Roof Shape	Roof Pitch		Roof Covering	Covering Replaced	Roof Yr Blt		
6	Irrigation Pump Station & Filtration System		2011	10/01/2021	\$145,000			
	Lake Marilyn Santa Rosa Beach FL 32459		Pump / lift station	10/01/2022			\$145,000	
			Total:	Building Value \$385,000		Contents Value \$0		Insured Value \$385,000

Sign:

Andrew O'Connell

Print Name:

ANDREW O'CONNELL

Date:

9-24-2021



Florida
Insurance
Alliance™

Inland Marine Schedule

Schedule Items Effective As of: 10/01/2021

Somerset Community Development District

Policy No.: 100121653

Agent: Egis Insurance Advisors LLC (Boca Raton, FL)

Item #	Department	Serial Number	Classification Code	Eff. Date	Value	Deductible
	Description			Term Date		
1	106 Street Lights (\$4,800 each)		Other inland marine	10/01/2021	\$508,800	
				10/01/2022		
2	8 Pedestrian Traffic Signals (\$7,900 each)		Other inland marine	10/01/2021	\$63,200	
				10/01/2022		
				Total	\$572,000	

Sign:

Andrew O'Connell

Print Name:

ANDREW O'CONNELL

Date:

9-24-2021

Tab 5

**AGREEMENT BETWEEN THE SOMERSET COMMUNITY DEVELOPMENT
DISTRICT AND DUNE DOCTORS, LLC, FOR DUNE MAINTENANCE SERVICES**

THIS AGREEMENT ("Agreement") is made and entered into this 12 day of October, 2021 by and between:

Somerset Community Development District, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, being situated in Walton County, Florida, and whose mailing address is 120 Richard Jackson Boulevard, Suite 220, Panama City Beach, Florida 32407 (the "District"); and

Dune Doctors, LLC, a Florida limited liability company, with a mailing address of 1020 East Cervantes Street, Pensacola, Florida 32501 (hereinafter "Contractor," together with District the "Parties").

RECITALS

WHEREAS, the District is a local unit of special-purpose government established pursuant to the Uniform Community Development District Act of 1980, as codified in Chapter 190, *Florida Statutes* (the "Act"), by ordinance adopted by Walton County, Florida; and

WHEREAS, the District was established for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure; and

WHEREAS, the District desires to enter into an agreement with an independent contractor to provide dune maintenance services for certain coastal lands within the District; and

WHEREAS, Contractor submitted a proposal and represents that it is qualified to provide dune maintenance services and has agreed to provide to the District those services identified in the "Dune Management Phase," of **Exhibit A**, attached hereto and incorporated by reference herein, to the areas identified on the **Exhibit B** and incorporated by reference herein (the "Services"); and

WHEREAS, the District and Contractor warrant and agree that they have all 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. INCORPORATION OF RECITALS. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Agreement.

SECTION 2. DESCRIPTION OF WORK AND SERVICES.

A. The District desires that the Contractor provide professional dune maintenance services within presently accepted dune protection services industry standards. Upon

all Parties signing this Agreement, the Contractor shall provide the District with the Services identified in the "Dune Management Phase," of **Exhibit A**.

B. While providing the Services, the Contractor shall assign such staff as may be required, and such staff shall be responsible for coordinating, expediting, and controlling all aspects to assure completion of the Services.

C. The Contractor shall provide the Services as shown in **Section 3** of this Agreement. Contractor shall solely be responsible for the means, manner and methods by which its duties, obligations and responsibilities are met to the satisfaction of the District.

D. This Agreement grants to Contractor the right to enter the lands that are subject to this Agreement, for those purposes described in this Agreement, and Contractor hereby agrees to comply with all applicable laws, rules, and regulations.

SECTION 3. SCOPE OF DUNE MAINTENANCE SERVICES. The Contractor will provide dune maintenance services for the District. The duties, obligations, and responsibilities of Contractor are to provide the material, tools, skill and labor necessary for the Services identified in the "Dune Management Phase - Annual Maintenance Program," of **Exhibit A**. To the extent any of the provisions of this Agreement are in conflict with the provisions of **Exhibit A**, this Agreement controls.

SECTION 4. MANNER OF CONTRACTOR'S PERFORMANCE. The Contractor agrees, as an independent contractor, to undertake work and/or perform such Services as specified in this Agreement or any addendum executed by the Parties or in any authorized written work order by the District issued in connection with this Agreement and accepted by the Contractor. All work shall be performed in a neat and professional manner reasonably acceptable to the District and shall be in accordance with recognized dune maintenance industry standards. The performance of the Services by the Contractor under this Agreement and related to this Agreement shall conform to any reasonable written instructions issued by the District.

A. Should any work and/or Services be required which are not specified in this Agreement or any addenda, but which are nevertheless reasonably necessary for the completion of Services to the District, such work or services shall be fully performed by the Contractor as if described and delineated in this Agreement.

B. The Contractor agrees that the District shall not be liable for the payment of any work or Services not included in **Section 3** unless the District, through an authorized representative of the District, authorizes the Contractor, in writing, to perform such work or provide such Services.

C. 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 complete 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 Contractor's Services.

(1) The District hereby designates the District Manager to act as its representative.

(2) Upon request by the District Manager, the Contractor agrees to meet with the District's representative to walk the property to discuss conditions, schedules, and items of concern regarding this Agreement.

(3) Upon request by the Contractor, the District representative agrees to meet with the Contractor to walk the property to discuss conditions, schedules, and items of concern regarding this Agreement.

D. Contractor shall use all due care to protect the property of the District, its residents, and landowners from damage. Contractor agrees to repair any damage resulting from Contractor's activities and work within twenty-four (24) hours.

SECTION 5. WARRANTY AND COVENANT. The Contractor warrants to the District that all materials furnished under this Agreement shall be new, and that all services and materials shall be of good quality, free from faults and defects. The Contractor hereby warrants any materials and Services identified in Section 2 above against failure of those materials for a period of twelve (12) months after acceptance by the District or longer as required under Florida law. With respect to any and all plant material provided pursuant to Section 2, all plant material shall be guaranteed to be in a satisfactory growing condition and to live for a period of twelve (12) months from planting except plants damaged by acts of God, plants subjected to extreme weather conditions, or for annuals, which will be replaced seasonally. All plants that fail to survive under the guarantee shall be replaced as they fail with the same type and size as originally specified. Contractor further warrants to the District those warranties which Contractor otherwise warrants to others and the duration of such warranties is as provided by Florida law unless longer guarantees or warranties are provided for elsewhere in the Agreement (in which case the longer periods of time shall prevail). Contractor shall replace or repair warranted items to the District's reasonable satisfaction and in the District's reasonable discretion. Neither final acceptance of the Services, nor final payment therefore, nor any provision of the Agreement shall relieve Contractor of responsibility for defective or deficient materials or Services. If any of the Services are found to be defective, deficient or not in accordance with the Agreement, Contractor shall correct, remove and replace it promptly after receipt of a written notice from the District and correct and pay for any other damage resulting there from to District property or the property of landowners within the District.

Contractor hereby covenants to the District that it shall perform the Services: (i) using its best skill and judgment and in accordance with generally accepted professional and design standards and practices for projects of similar design and complexity as the development occurring within the District; (ii) in compliance with all applicable federal, state, county municipal, building and zoning, land use, environmental, public safety, non-discrimination and disability accessibility laws, codes, ordinances, rules and regulations, including, without limitation, all professional registration (both corporate and individual) for all required basic disciplines that it shall perform; and (iii) in an expeditious and economical manner consistent with the best interest of the District. Contractor hereby covenants to the District that any work product of the Contractor shall not call

for the use nor infringe any patent, trademark, services mark, copyright or other proprietary interest claimed or held by any person or business entity absent prior written consent from the District.

SECTION 6. COMPENSATION; TERM.

A. As compensation for the Services described in this Agreement, the District agrees to pay the Contractor an amount not-to-exceed Seventy-Two Thousand Four Hundred Eighty Dollars (\$72,480.00) annually, based on the following schedule:

Down Payment Due on or before October 31, 2021:	\$21,744.00
Due Upon Completion of Quarter One Maintenance Visit:	\$9,429.00
Due Upon Completion of Quarter Two Maintenance Visit:	\$13,769.00
Due Upon Completion of Quarter Three Maintenance Visit:	\$13,769.00
Due Upon Completion of Quarter Four Maintenance Visit:	\$13,769.00

The term of this Agreement shall be from the date of execution by both Parties to this Agreement through September 30, 2022. Thereafter, this Agreement shall automatically renew for additional one (1) year terms, unless terminated earlier by either party in accordance with the provisions of this Agreement.

B. If the District should desire additional work or Services, or to add additional areas to be maintained, the Contractor agrees to negotiate in good faith to undertake such additional work or Services. Upon successful negotiations, the Parties shall agree in writing to an, addendum, addenda, or change order to this Agreement. The Contractor shall be compensated for such agreed additional work or Services based upon a payment amount acceptable to the Parties and agreed to in writing.

C. The District may require, as a condition precedent to making any payment to the Contractor that all subcontractors, materialmen, suppliers or laborers be paid and require evidence, in the form of Lien Releases or partial Waivers of Lien, to be submitted to the District by those subcontractors, material men, suppliers or laborers, and further require that the Contractor provide an Affidavit relating to the payment of said indebtedness. Further, the District shall have the right to require, as a condition precedent to making any payment, evidence from the Contractor, in a form reasonably satisfactory to the District, that any indebtedness of the Contractor, as to services to the District, has been paid and that the Contractor has met all of the obligations with regard to the withholding and payment of taxes, Social Security payments, Workmen's Compensation, Insurance Premiums, Unemployment Compensation contributions, and similar payroll deductions from the wages of employees.

D. The Contractor shall maintain records conforming to usual accounting practices. As soon as may be practicable at the end of each quarterly site visit, the Contractor shall invoice the District for all Services performed in the prior quarter and any other sums due to the Contractor. The District shall pay the invoice amount within thirty (30) days after the invoice date. The Contractor may cease performing Services under this Agreement if any payment due hereunder is not paid within thirty (30) days of the invoice date. Each monthly invoice will include such supporting information as the District may reasonably require the Contractor to provide.

SECTION 7. INSURANCE.

A. The Contractor shall maintain throughout the term of this Agreement the following insurance:

(1) Worker's Compensation Insurance in accordance with the laws of the State of Florida.

(2) Commercial General Liability Insurance covering the Contractor's legal liability for bodily injuries, with limits of not less than \$1,000,000 combined single limit bodily injury and property damage liability, and covering at least the following hazards:

(i) Independent Contractors Coverage for bodily injury and property damage in connection with any subcontractors' operation.

(3) Employer's Liability Coverage with limits of at least \$1,000,000 (one million dollars) per accident or disease.

(4) 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 Contractor of any owned, non-owned, or hired automobiles, trailers, or other equipment required to be licensed.

B. The District, its staff, and supervisors shall be named as additional insured. The Contractor shall furnish the District with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable to the District unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the District. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida.

C. If the Contractor fails to have secured and maintained the required insurance, the District has the right but not the obligation to secure such required insurance in which event the Contractor shall pay the reasonable 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 8. INDEMNIFICATION.

A. 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, attorney fees, and paralegal fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings) as ordered by the Court having jurisdiction of the claim.

B. Contractor agrees to indemnify and hold harmless the District and its officers, agents 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 of any nature, arising out of, or in connection with, the work to be performed by Contractor, including litigation or any appellate proceedings with respect thereto. Contractor further agrees that nothing herein shall constitute or be construed as a waiver of the District's limitations on liability contained in Section 768.28, *Florida Statutes*, or other statute.

C. In no event, however, shall Contractor be liable for incidental, special, punitive or exemplary damages in connection with this Agreement, even if notice was given of the possibility of such damages and even if such damages were reasonably foreseeable.

SECTION 9. LIMITATIONS ON GOVERNMENTAL LIABILITY. Nothing in this Agreement shall be deemed as a waiver of the District's sovereign immunity or the District's limits of liability as set forth in Section 768.28, *Florida Statutes*, or other statute, 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 such limitations of liability or by operation of law.

SECTION 10. COMPLIANCE WITH GOVERNMENTAL REGULATION. The Contractor shall keep, observe, and perform all requirements of applicable local, State, and Federal laws, rules, regulations, or ordinances. If the Contractor fails to notify the District in writing within ten (10) days of the receipt of any notice, order, required to comply notice, or a report of a violation or an alleged violation, made by any 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 Contractor 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 ten (10) days after receipt of any such notice, order, request to comply notice, or report of a violation or an alleged violation, which is not challenged by the Contractor, the District may terminate this Agreement, such termination to be effective upon the giving of notice of termination.

SECTION 11. LIENS AND CLAIMS. The Contractor shall promptly and properly pay for all labor employed, materials purchased, and equipment hired by it to perform under this Agreement. The Contractor shall keep the District's property free from any materialmen's or mechanic's liens and claims or notices in respect to such liens and claims, which arise by reason of the Contractor's performance under this Agreement, and the Contractor shall immediately discharge any such claim or lien. In the event that the Contractor does not pay or satisfy such claim or lien within three (3) business days after the filing of notice thereof, the District, in addition to any and all other remedies available under this Agreement, may terminate this Agreement to be effective immediately upon the giving of notice of termination.

SECTION 12. DEFAULT AND PROTECTION AGAINST THIRD PARTY INTERFERENCE. A default by either party 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. 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 13. CUSTOM AND USAGE. It is hereby agreed, any law, custom, or usage to the contrary notwithstanding, that the District shall have the right at all times to enforce the conditions and agreements contained in this Agreement in strict accordance with the terms of this Agreement, notwithstanding any conduct or custom on the part of the District in refraining from so doing; and further, that the failure of the District at any time or times to strictly enforce its rights under this Agreement shall not be construed as having created a custom in any way or manner contrary to the specific conditions and agreements of this Agreement, or as having in any way modified or waived the same.

SECTION 14. SUCCESSORS. This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the Parties to this Agreement, except as expressly limited in this Agreement.

SECTION 15. TERMINATION. The District agrees that the Contractor may terminate this Agreement with cause by providing thirty (30) days' written notice of termination to the District stating a failure of the District to perform according to the terms of this Agreement; provided, however, that the District shall be provided a reasonable opportunity to cure any failure under this Agreement. The Contractor agrees that the District may terminate this Agreement immediately for cause by providing written notice of termination to the Contractor. The District shall provide thirty (30) days' written notice of termination without cause. Upon any termination of this Agreement, the Contractor shall be entitled to payment for all work and/or services rendered up until the effective termination of this Agreement, subject to whatever claims or off-sets the District may have against the Contractor.

SECTION 16. PERMITS AND LICENSES. All permits and licenses required by any governmental agency directly for the District shall be obtained and paid for by the District. All other permits or licenses necessary for the Contractor to perform under this Agreement shall be obtained and paid for by the Contractor.

SECTION 17. ASSIGNMENT. Neither the District nor the Contractor may assign this Agreement without the prior written approval of the other. Any purported assignment without such approval shall be void.

SECTION 18. INDEPENDENT CONTRACTOR STATUS. In all matters relating to this Agreement, the Contractor shall be acting as an independent contractor. Neither the Contractor nor employees of the Contractor, 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 Contractor agrees to assume all liabilities or obligations imposed by any one or more of such laws with respect to employees of the Contractor, if there are any, in the performance of this Agreement. The Contractor shall not have any authority to assume or create any obligation, express or implied, on behalf of the District and the Contractor 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 19. 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 20. ENFORCEMENT OF AGREEMENT. A default by either Party under this Agreement shall entitle the other Party to all remedies available at law or in equity. In the event that either the District or the Contractor 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.

SECTION 21. AGREEMENT. This instrument shall constitute the final and complete expression of this Agreement between the Parties relating to the subject matter of this Agreement. None of the provisions of **Exhibits A and B** shall apply to this Agreement and **Exhibits A and B** shall not be incorporated herein, except that **Exhibits A and B** are applicable to the extent that they state the scope of Services for the labor and materials to be provided under this Agreement. This Agreement replaces any and all previous dune maintenance services agreements entered into between the Parties.

SECTION 22. AMENDMENTS. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both the Parties.

SECTION 23. AUTHORIZATION. The execution of this Agreement has been duly authorized by the appropriate body or official of the Parties, the Parties have complied with all the requirements of law, and the Parties have full power and authority to comply with the terms and provisions of this Agreement.

SECTION 24. NOTICES. All notices, requests, consents and other communications under this Agreement ("Notice" or "Notices") shall be in writing and shall be hand delivered, mailed by First Class Mail, postage prepaid, or sent by overnight delivery service, to the Parties, as follows:

A. If to District: Somerset Community Development District
120 Richard Jackson Blvd., Suite 220
Panama City Beach, Florida 32407
Attn: District Manager

With a copy to: Hopping Green & Sams, P.A.
119 S. Monroe Street, Suite 300
Tallahassee, Florida 32301
Attn: District Counsel

B. If to the Contractor: Dune Doctors, LLC
1020 East Cervantes Street
Pensacola, Florida 32501
Attention: Frederique Beroset

With a copy to:

Ward Law, P.A.
1241 Airport Road
Destin, Florida 32548
Attn: Richard Withers

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. 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 Contractor may deliver Notices on behalf of the District and the Contractor. Any party or other person to whom Notices are to be sent or copied may notify the 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 in this Agreement.

SECTION 25. THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the Parties hereto 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 expressed or implied is intended or shall be construed to confer upon any person or corporation other than the Parties hereto 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 Parties hereto and their respective representatives, successors, and assigns.

SECTION 26. CONTROLLING LAW AND VENUE. This Agreement and the provisions contained in this Agreement shall be construed, interpreted, and controlled according to the laws of the State of Florida. All actions and disputes shall be brought in the proper court and venue, which shall be Walton County, Florida.

SECTION 27. COMPLIANCE WITH PUBLIC RECORDS LAWS. Contractor understands and agrees that all documents of any kind provided to the District in connection with this Agreement may be public records, and, accordingly, Contractor agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to Section 119.0701, *Florida Statutes*. Contractor acknowledges that the designated public records custodian for the District is Kim O'Mera ("Public Records Custodian"). Among other requirements and to the extent applicable by law, the Contractor 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*; 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 contract term and following the contract term if the Contractor does not transfer the records to the Public Records Custodian of the District; and 4) upon completion of the contract, transfer to

the District, at no cost, all public records in Contractor'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 Contractor, the Contractor 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 Word or Adobe PDF formats.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (850) 334-9055, komera@rizzetta.com, OR 120 RICHARD JACKSON BLVD., SUITE 220, PANAMA CITY BEACH, FLORIDA 32407.

SECTION 28. 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 29. ARM'S LENGTH TRANSACTION. This Agreement has been negotiated fully between the Parties as an arm's length transaction. The Parties 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 each deemed to have drafted, chosen, and selected the language, and any doubtful language will not be interpreted or construed against any party.

SECTION 30. COUNTERPARTS. This instrument may be executed in any number of counterparts, each of which, when executed and delivered, shall constitute an original, and such counterparts together shall constitute one and the same instrument. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document.

SECTION 31. E-VERIFY. The Contractor shall comply with and perform all applicable provisions of Section 448.095, *Florida Statutes*. Accordingly, 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 Contractor has knowingly violated Section 448.091, *Florida Statutes*. By entering into this Agreement, the Contractor represents that no public employer has terminated a contract with the Contractor under Section 448.095(2)(c), *Florida Statutes*, within the year immediately preceding the date of this Agreement.

[signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have signed and sealed this Agreement on the day and year first written above.

Attest:


**SOMERSET COMMUNITY
DEVELOPMENT DISTRICT**


Secretary/Assistant Secretary


Andrew O'Connell (Oct 18, 2021 16:46 CDT)
Chairperson, Board of Supervisors

Witness:

DUNE DOCTORS, LLC


Print Name: Bankston Roberts

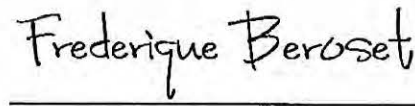

By: Frederique Beroset
Its: Member

Exhibit A: Dune Doctors Proposal
Exhibit B: Service Area



DUNE DOCTORS

Coastal Restoration Experts

Frederique Beroset - Owner

1020 East Cervantes Street, Pensacola, FL 32501 # Phone: 866-386-3737 # Fax: 850-549-3935

Attention: Scott Buchewicz
Via email: sbuchewicz@alysbeach.com

Re: LETTER OF AGREEMENT FOR ALYS BEACH
FLWAL_CALYSBEACH_L0014M02_07072021

Project
Address: 9581 E Co Hwy 30A – Alys Beach, FL 32461

Date: July 07, 2021

I am pleased to submit for your review and signature the following letter of agreement for your project.

By signing this agreement, you are confirming that you are legally authorized to enter into a contract with Dune Doctors, LLC; furthermore, you confirm your authorization to sign financial obligations and to negotiate terms of this contract.

(Space left blank intentionally)

DELIVERABLE	SCOPE	COST
4	Dune Management Phase Annual Maintenance Program	\$72,480.00
MAINTENANCE	<p>Quarter One: November 2021 – January 2022 <u>We shall:</u> - Add pine straw 10-15 feet into the scrub zone for Area L & P - Pruning of dead flower stalks throughout the dune. - Remove vines and invasive weeds throughout the dune and Area L & P - Debris removal as needed throughout the dune and Area L & P - Check on Area K, N, O, R & S.</p> <p>For all future Quarters, Dune Doctors proposes to maintain the scrub zone and dune area seaward of the CCCL over the entire width of Alys Beach. (Restoration and Plant Installation to repair construction damage not included)</p> <p>Quarter Two: February 2022 – April 2022 <u>We shall:</u> - Add flowers for beautification purposes throughout the dune. - Remove vines and invasive weeds throughout the dune and entire scrub zone. - Debris removal as needed throughout the dune and scrub zone. - Prune the protected trees and shrubs present in the scrub zone for Area P only. They shall be lowered according to DEP regulations: no more than 12" to 14", depending on the species, shall be removed. Add pine straw 10-15 feet into the scrub zone.</p> <p>Quarter Three: May 2022 – July 2022 <u>We shall:</u> - One fertilization event of the whole dune and entire scrub zone. - Remove vines and invasive weeds throughout the dune and entire scrub zone. - Debris removal as needed throughout the dune and scrub zone.</p>	\$72,480.00

	<p>Quarter Three: May 2022 – July2022 (Continued) - Prune the protected trees and shrubs present in the scrub zone for Area K. They shall be lowered according to DEP regulations: no more than 12" to 14", depending on the species, shall be removed. Add pine straw 10-15 feet into the scrub zone.</p> <p>Quarter Four: August 2022 – October 2022 We shall: - Add flowers for beautification purposes throughout the dune. - One fertilization event of the whole dune and entire scrub zone. - Remove vines and invasive weeds throughout the dune and entire scrub zone. - Debris removal as needed throughout the dune and scrub zone. - Prune the protected trees and shrubs present in the scrub zone for Area N, O, R and S. They shall be lowered according to DEP regulations: no more than 12" to 14", depending on the species, shall be removed. Add pine straw 10-15 feet into the scrub zone.</p>	
Total Project Cost: \$72,480.00		

TERMS	
Down Payment: Due Upon Signature.	\$21,744.00
Due upon Completion of Quarter One Maintenance Visit:	\$9,429.00
Due upon Completion of Quarter Two Maintenance Visit:	\$13,769.00
Due upon Completion of Quarter Three Maintenance Visit:	\$13,769.00
Due upon Completion of Quarter Four Maintenance Visit:	\$13,769.00
Return this signed Letter of Agreement to: Frederique@DuneDoctors.com	Required to schedule project
Make Checks Payable to: Dune Doctors LLC 1020 East Cervantes Street Pensacola, Florida 32501	Required to commence project

Continued on the next page.

Total Cost of Your Project: \$72,480.00

Please sign and return this document as soon as possible; as no project activity, including reservation of plants, may progress without a signed Letter of Agreement and the required down payment.

Dune Doctors, LLC is honored to be entrusted to complete your coastal erosion control project. Should you have questions or needs please feel free to contact us at (850) 939-7737; we will be more than happy to discuss your project. At Dune Doctors, we look forward to exceeding your expectations and adding you to our growing list of satisfied customers.

Dune Doctors, LLC



Frederique Beroset
Managing Member - Owner

DATE: July 07, 2021

SIGNATURE: _____ DATE: _____
Authorized Property Agent/Owner

PRINT NAME HERE: _____

Notes:

1. Dune Doctors, LLC guarantees over 97% of our plants will be thriving at 90 days.
2. Dune Doctors, LLC does NOT warranty damage or destruction of work due to Act of God or negligence outside of our control (examples include watering, maintenance not performed by Dune Doctors, LLC, storm damage, etc).
3. All quotes are valid for 90 days.
4. Dune Doctors' work does not guarantee the elimination of all storm-related damage but endeavors to be a natural insurance policy to mitigate impact and reduce special assessment cost.
5. Dune Doctors only installs high-quality plants that are ready to thrive. If we are replenishing our stock of plants, it may take up to 90 days to have your plants reach that high-quality mark.

A PLANTING RESTORATION
PLAN TO BE DONE
ALONG WITH
LANDSCAPE PLANS.
ARCHITECT TO CONTACT
DUNE DOCTORS TO
PRODUCE
RESTORATION PLAN
DESIGN- KH TO FOLLOW UP

THIS PLANTING
RESORATION HAS BEEN
COMPLETED 2020-10-30

E NEED QUOTE FOR CLEANUP AND PLANT RESTORATION
DESIGN- KH TO FOLLOW UP

F PLANTING RESTORATION PLAN TO BE PRODUCED AFTER CONSTRUCTION
DESIGN- KH TO FOLLOW UP

G THIS PLANTING RESTORATION IN FRONT
OF BEACH CLUB HAS BEEN COMPLETED

H NEED DATE FOR THIS PLANTING
RESTORATION IN FRONT OF CONDOS
DESIGN- KH TO FOLLOW UP

DESIGN- KH TO FOLLOW UP
PLANTING RESTORATION
PLAN TO BE DONE AFTER
CONSTRUCTION



PRIORITY

PRIORITY

PRIORITY

QUOTE IS \$29,610
WORK TO BE COMPLETED
BY AUGUST 2021

K

PRIORITY

L THIS AREA NEEDS TO BE TRIMMED
AGAIN 2021
WORK TO BE COMPLETED BY NOVEMBER 2021

N QUOTE IS \$7,700.40
WORK TO BE COMPLETED BY SEPTEMBER 2021

O QUOTE IS
\$14,212.80
WORK TO BE COMPLETED BY OCTOBER 2021

PLANTING UNDER
BOARDWALK HAS BEEN
COMPLETED

P THIS TRIMMING IN FRONT
OF BEACH CLUB HAS BEEN
COMPLETED FOR 2021, WILL
NEED TO BE DONE AGAIN
2022

S TO BE COMPLETED
NOV 2021

R QUOTE IS \$10,541.16
WORK TO BE
COMPLETED BY
NOVEMBER 2021

ALYS BEACH DUNE SYSTEM
PLAN OF ACTION
UPDATED 2021-07-13

Dune Doctors FY21-22 Agreement

Final Audit Report

2021-10-18

Created:	2021-10-15
By:	Kim O'Mera (komera@rizzetta.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAsl6ih_fDCL5ZFnGv-NiO3VSMGmXXm6Wb

"Dune Doctors FY21-22 Agreement" History



Document created by Kim O'Mera (komera@rizzetta.com)

2021-10-15 - 4:56:05 PM GMT



Document emailed to Andrew O'Connell (andrew@aloconsultingllc.com) for signature

2021-10-15 - 4:56:39 PM GMT



Email viewed by Andrew O'Connell (andrew@aloconsultingllc.com)

2021-10-18 - 9:39:16 PM GMT- IP address: 71.220.136.109



Document e-signed by Andrew O'Connell (andrew@aloconsultingllc.com)

Signature Date: 2021-10-18 - 9:46:25 PM GMT - Time Source: server- IP address: 71.220.136.109



Agreement completed.

2021-10-18 - 9:46:25 PM GMT



Adobe Sign

Tab 6

**SOMERSET COMMUNITY DEVELOPMENT DISTRICT
LANDSCAPE & IRRIGATION MAINTENANCE SERVICES AGREEMENT**

THIS AGREEMENT (“Agreement”) is made and entered into this 1st day of October , 2021, by and between:

SOMERSET COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, being situated in Walton County, Florida, and having offices at c/o Rizzetta & Company, Inc., 120 Richard Jackson Blvd., Suite 220, Panama City Beach, Florida 32407 (“**District**”); and

RIP’S PROFESSIONAL LAWN CARE, INC., a Florida corporation, with a mailing address of 511 North Highway 79, Panama City Beach, Florida 32413 (the “**Contractor**,” and collectively with the District, the “**Parties**”).

RECITALS

WHEREAS, the District was established for the purpose of planning, financing, constructing, operating and/or maintaining certain infrastructure, including landscaping and irrigation; and

WHEREAS, the District has a need to retain an independent contractor to provide, for certain lands within the District, certain landscape and irrigation maintenance services; and

WHEREAS, Contractor desires to provide such services, and represents that it is qualified to do so in accordance with its proposal submitted to the District;

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, it is agreed that the Contractor is hereby retained, authorized, and instructed by the District to perform in accordance with the following covenants and conditions, which both the District and the Contractor have agreed upon:

1. INCORPORATION OF RECITALS. The recitals stated above are true and correct and are incorporated by reference as a material part of this Agreement.

2. SCOPE OF SERVICES. The Contractor shall provide the services described in the Scope of Services attached hereto as **EXHIBIT A** for the areas identified in the Landscape Maintenance Areas Exhibit attached hereto as **EXHIBIT B** (“**Work**”). The Contractor shall perform the Work consistent with the presently established, high quality standards of the District, and shall assign such staff as may be required for coordinating, expediting, and controlling all aspects of the Work. Contractor shall solely be responsible for the means, manner and methods by which its duties, obligations and responsibilities are met to the satisfaction of the District. Notwithstanding any other provision of this Agreement, the District reserves the right in its discretion to remove from this Agreement any portion of the Work and to separately contract for

such services. In the event that the District contracts with a third party to install certain landscaping or to otherwise perform services that might otherwise constitute a portion of the Work, Contractor agrees that it will be responsible for any such landscaping installed by the third party, and shall continue to perform all other services comprising the Work, including any future services that apply to the landscaping installed by the third party or to the areas where services were performed by the third party.

3. MANNER OF CONTRACTOR'S PERFORMANCE. The Contractor agrees, as an independent contractor, to undertake the Work as specified in this Agreement or any Additional Services Order (see Section 7.c. herein) issued in connection with this Agreement. All Work shall be performed in a neat and professional manner reasonably acceptable to the District and shall be in accordance with industry standards, such as USF, IFAS, etc. The performance of all services by the Contractor under this Agreement and related to this Agreement shall conform to any written instructions issued by the District.

In the event that time is lost due to heavy rains ("**Rain Days**"), the Contractor agrees to reschedule its employees and divide their time accordingly to complete all scheduled services during the same week as any Rain Days. The Contractor shall provide services on Saturdays if needed to make up Rain Days with prior notification to, and approval by, the District Representatives (defined below).

Contractor in conducting the Work shall use all due care to protect against any harm to persons or property. If the Contractor's acts or omissions result in any damage to property within the District, including but not limited to damage to landscape lighting and irrigation system components, entry monuments, etc., the Contractor shall immediately notify the District and repair all damage – and/or replace damaged property – to the satisfaction of the District.

4. MONITORING OF SERVICES. The District shall designate in writing one or more persons to act as the District's representatives with respect to the services to be performed under this Agreement ("**District Representatives**"). The District Representatives shall have complete 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 Contractor's services. This authority shall include but not be limited to verification of correct timing of services to be performed, methods of pruning, pest control and disease control. The District hereby designates Kim O'Mera and other representatives of Rizzetta & Company, Inc., to act as the District Representatives. The District shall have the right to change its designated representatives at any time by written notice to the Contractor.

The Contractor shall provide to management a written report of work performed for each month with notification of any problem areas and a schedule of work for the upcoming month. Further, the Contractor agrees to meet the District Representatives at least bi-weekly to inspect the property to discuss conditions, schedules, and items of concern regarding this Agreement.

If the District Representatives identify any deficient areas, the District Representatives shall notify the Contractor whether through a written report or otherwise. The Contractor shall then within the time period specified by the District Representatives, or if no time is specified

within forty-eight (48) hours, explain in writing what actions shall be taken to remedy the deficiencies. Upon approval by the District, the Contractor shall take such actions as are necessary to address the deficiencies within the time period specified by the District, or if no time is specified by the District, then within three days and prior to submitting any invoices to the District. If the Contractor does not respond or take action within the specified time period, and subject to Section 17, the District shall have the rights to, among other remedies available at law or in equity, fine the Contractor \$100 per day; to withhold some or all of the Contractor's payments under this Agreement; and to contract with outside sources to perform necessary Work with all charges for such services to be deducted from the Contractor's compensation. Any oversight by the District Representatives of Contractor's Work is not intended to mean that the District shall underwrite, guarantee, or ensure that the Work is properly done by the Contractor, and it is the Contractor's responsibility to perform the Work in accordance with this Agreement.

5. **SUBCONTRACTORS.** The Contractor shall not award any of the Work to any subcontractor without prior written approval of the District. The Contractor shall be as fully responsible to the District for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor. Nothing contained herein shall create contractual relations between any subcontractor and the District.

6. **EFFECTIVE DATE.** This Agreement shall be binding and effective as of the date first written above and shall remain in effect as set forth in Section 7, unless terminated in accordance with the provisions of this Agreement.

7. **COMPENSATION; TERM.**

- a. Work under this Agreement shall begin on the date first written above and shall remain in effect for a period of one (1) year ("**Initial Term**"), unless terminated earlier pursuant to the terms of this Agreement. At the end of the Initial Term, the District may elect, in its sole discretion, to renew this Agreement on the same terms for an additional one-year period.
- b. As compensation for the Work, the District agrees to pay Contractor Eight Thousand Nine Hundred and Seventy-Five Dollars (\$8,975.00) per month. Contractor shall invoice the District monthly for Work performed during the prior month. All additional work or services, and related compensation, shall be governed by Section 7.c. of this Agreement.
- c. *Additional Work.* Should the District desire that the Contractor provide additional work and/or services relating to the District's landscaping and irrigation systems (e.g., additional services or services for other areas not specified in this Agreement), such additional work and/or services shall be fully performed by the Contractor after prior approval of a required Additional Services Order ("**ASO**"). The Contractor agrees that the District shall not be liable for the payment of any additional work and/or services unless the District first authorizes the Contractor to perform such additional work and/or services through an authorized and fully executed ASO, an example of which is attached as **EXHIBIT C**. The Contractor shall be compensated for such agreed additional work and/or services based upon a

payment amount derived from the prices set forth in the Contractor's pricing summary (attached as part of **EXHIBIT A**). Nothing herein shall be construed to require the District to use the Contractor for any such additional work and/or services, and the District reserves the right to retain a different contractor to perform any additional work and/or services.

- d. *Payments by District.* The Contractor shall maintain records conforming to usual accounting practices. Further, the Contractor agrees to render monthly invoices to the District, in writing, which shall be delivered or mailed to the District by the fifth (5th) day of the next succeeding month. Each monthly invoice shall contain, at a minimum, the District's name, the Contractor's name, the invoice date, an invoice number, an itemized listing of all costs billed on the invoice with a description of each sufficient for the District to approve each cost, the time frame within which the services were provided, and the address or bank information to which payment is to be remitted. Consistent with Florida's Prompt Payment Act, Section 218.70 et al. of the Florida Statutes, these monthly invoices are due and payable within forty-five (45) days of receipt by the District.
- e. *Payments by Contractor.* Subject to the terms herein, Contractor will promptly pay in cash for all costs of labor, materials, services and equipment used in the performance of the Work, and upon the request of the District, Contractor will provide proof of such payment. Contractor agrees that it shall comply with Section 218.735(6), *Florida Statutes*, requiring payments to subcontractors and suppliers be made within ten (10) days of receipt of payment from the District. Unless prohibited by law, District may at any time make payments due to Contractor directly or by joint check, to any person or entity for obligations incurred by Contractor in connection with the performance of Work, unless Contractor has first delivered written notice to District of a dispute with any such person or entity and has furnished security satisfactory to District insuring against claims therefrom. Any payment so made will be credited against sums due Contractor in the same manner as if such payment had been made directly to Contractor. The provisions of this Section are intended solely for the benefit of District and will not extend to the benefit of any third persons, or obligate District or its sureties in any way to any third party. Subject to the terms of this Section, Contractor will at all times keep the District's property, and each part thereof, free from any attachment, lien, claim of lien, or other encumbrance arising out of the Work. The District may demand, from time to time in its sole discretion, that Contractor provide a detailed listing of any and all potential lien claimants (at all tiers) involved in the performance of the Work including, with respect to each such potential lien claimant, the name, scope of Work, sums paid to date, sums owed, and sums remaining to be paid.

8. INSURANCE.

- a. The Contractor shall maintain throughout the term of this Agreement the following insurance:

- i. Worker's Compensation Insurance in accordance with the laws of the State of Florida.
 - ii. Employer's Liability Coverage with limits of at least \$500,000 per accident or disease.
 - iii. Commercial General Liability Insurance covering the Contractor's legal liability for bodily injuries, with limits of not less than \$2,000,000 combined single limit bodily injury and property damage liability, and further including, but not being limited to, Independent Contractors Coverage for bodily injury and property damage in connection with subcontractors' operation.
 - iv. 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 Contractor of any owned, non-owned, or hired automobiles, trailers, or other equipment required to be licensed.
 - v. Umbrella Excess Liability Insurance to cover any liability in excess of the limits of coverage already required and shall have limits of at least \$2,000,000 per occurrence and \$2,000,000 on aggregate.
- b. The District, its staff, supervisors and consultants shall be named as additional insureds (except with respect to the Worker's Compensation Insurance). The Contractor shall furnish the District with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable to the District unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the District. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida, and such carrier shall have a Best's Insurance Reports rating of A-VII.
- c. If the Contractor fails to have secured and maintained the required insurance, the District has the right (without any obligation to do so, however), to secure such required insurance in which event, the Contractor shall pay the cost for that required insurance to the District and shall furnish, upon demand, all information that may be required in connection with the District's obtaining the required insurance. If Contractor fails to pay such cost to the District, the District may deduct such amount from any payment due the Contractor.

9. INDEMNIFICATION.

- a. Contractor shall use reasonable care in performing the services and shall be responsible for any harm of any kind to persons or property resulting from Contractor's actions or inactions. Contractor agrees to defend, indemnify, and hold harmless the District and its officers, agents, employees, successors, assigns, members, affiliates, or representatives from any and all liability, claims, actions, suits, liens, demands, costs, interest, expenses, damages, penalties, fines, judgments against the District, or loss or damage,

whether monetary or otherwise, arising out of, wholly or in part by, or in connection with the Services to be performed by Contractor, its subcontractors, its employees and agents in connection with this Agreement, including litigation, mediation, arbitration, appellate, or settlement proceedings with respect thereto. Additionally, nothing in this Agreement requires Contractor 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 Contractor as jointly liable parties; however, Contractor shall indemnify the District for any and all percentage of fault attributable to Contractor for claims against the District, regardless whether the District is adjudged to be more or less than 50% at fault.

- b. Obligations under this section shall include the payment of all settlements, judgments, damages, liquidated damages, penalties, fines, forfeitures, back pay, awards, court costs, mediation costs, litigation expenses, attorney fees, paralegal fees (incurred in court, out of court, on appeal, or in bankruptcy proceedings), or other amounts of any kind.
- c. The Contractor agrees that nothing in this Agreement shall serve as or be construed as a waiver of the District's or its staff, supervisors or consultants limitations on liability contained in section 768.28, *Florida Statutes* or other law. Any subcontractor retained by the Contractor shall acknowledge the same in writing, and it shall be Contractor's responsibility to secure such acknowledgments. Further, nothing herein shall be construed to limit or restrict the District's rights against the Contractor under applicable law.

10. ENVIRONMENTAL ACTIVITIES. The Contractor agrees to use best management practices, consistent with industry standards, with respect to the storage, handling and use of chemicals (e.g., fertilizers, pesticides, etc.) and fuels. The Contractor shall keep all equipment clean (e.g., chemical sprayers) and properly dispose of waste. Further, the Contractor shall immediately notify the District of any chemical or fuel spills. The Contractor shall be responsible for any environmental cleanup, replacement of any turf or plants harmed from chemical burns, and correcting any other harm resulting from the Work to be performed by Contractor.

11. ACCEPTANCE OF THE SITE. By executing this Agreement, the Contractor agrees that the Contractor was able to inspect the site prior to the time of submission of the bid, and that the Contractor agrees to be responsible for the care, health, maintenance, and replacement, if necessary, of the existing landscaping, in its current condition, and on an "as is" basis. The Contractor shall be strictly liable for the decline or death of any plant material, regardless of whether such decline or death is due to the negligence of the Contractor, and except that the Contractor shall not be responsible for fire, cold, storm or wind damage, incurable or uncontrollable diseases, or damage due to vandalism. No changes to the compensation set forth in this Agreement shall be made based on any claim that the existing landscaping was not in good condition or that the site was unsuitable for such landscaping.

12. TAX EXEMPT DIRECT PURCHASES. The parties agree that the District, in its discretion, may elect to undertake a direct purchase of any or all materials used for the landscaping

services, including but not limited to the direct purchase of fertilizer. In such event, the following conditions shall apply:

- (a) The District may elect to purchase any or all materials directly from a supplier identified by Contractor.
- (b) Contractor shall furnish detailed Purchase Order Requisition Forms ("Requisitions") for all materials to be directly purchased by the District.
- (c) Upon receipt of a Requisition, the District shall review the Requisition and, if approved, issue its own purchase order directly to the supplier, with delivery to be made to the District on an F.O.B. job site basis.
- (d) The purchase order issued by the District shall include the District's consumer certificate of exemption number issued for Florida sales and use tax purposes.
- (e) Contractor will have contractual obligations to inspect, accept delivery of, and store the materials pending use of the materials as part of the landscaping services. The contractor's possession of the materials will constitute a bailment. The contractor, as bailee, will have the duty to safeguard, store and protect the materials while in its possession until returned to the District through use of the materials.
- (f) After verifying that delivery is in accordance with the purchase order, Contractor will submit a list indicating acceptance of goods from suppliers and concurrence with the District's issuance of payment to the supplier. District will process the invoices and issue payment directly to the supplier.
- (g) The District may purchase and maintain insurance sufficient to cover materials purchased directly by the District.
- (h) All payments for direct purchase materials made by the District, together with any state or local tax savings, shall be deducted from the compensation provided for in this Agreement.

13. COMPLIANCE WITH GOVERNMENTAL REGULATION. The Contractor shall keep, observe, and perform all requirements of applicable local, State and Federal laws, rules, regulations, ordinances, permits, licenses, or other requirements or approvals. Further, the Contractor shall 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 any local, State, or Federal governmental body or agency or subdivision thereof with respect to the services being rendered under this Agreement or any act or omission of the Contractor or any of its agents, servants, employees, or material men, or appliances, or any other requirements applicable to provision of services. Additionally, the Contractor shall promptly comply with any

requirement of such governmental entity after receipt of any such notice, order, request to comply notice, or report of a violation or an alleged violation.

14. DEFAULT AND PROTECTION AGAINST THIRD PARTY INTERFERENCE. A default by either Party under this Agreement shall entitle the other to all remedies available at law or in equity for breach of this Agreement, which may include, but not be limited to, the right of damages, injunctive relief, and/or specific performance. 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.

15. CUSTOM AND USAGE. It is hereby agreed, any law, custom, or usage to the contrary notwithstanding, that the District shall have the right at all times to enforce the conditions and agreements contained in this Agreement in strict accordance with the terms of this Agreement, notwithstanding any conduct or custom on the part of the District in refraining from so doing; and further, that the failure of the District at any time or times to strictly enforce its rights under this Agreement shall not be construed as having created a custom in any way or manner contrary to the specific conditions and agreements of this Agreement, or as having in any way modified or waived the same.

16. SUCCESSORS. This Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the Parties to this Agreement, except as expressly limited in this Agreement.

17. TERMINATION. The District agrees that the Contractor may terminate this Agreement with cause by providing ninety (90) days written notice of termination to the District; provided, however, that the District shall be provided a reasonable opportunity to cure any failure under this Agreement. The Contractor agrees that, notwithstanding any other provision of this Agreement, and regardless of whether any of the procedural steps set forth in Section 4 of this Agreement are taken, the District may terminate this Agreement immediately with cause by providing written notice of termination to the Contractor. The District shall provide thirty (30) days written notice of termination without cause. Any termination by the District shall not result in liability to the District for consequential damages, lost profits, or any other damages or liability. However, upon any termination of this Agreement by the District, the Contractor shall be entitled to payment for all Work and/or services rendered up until the effective termination of this Agreement, subject to whatever claims or off-sets the District may have against the Contractor.

18. PERMITS AND LICENSES. All permits or licenses necessary for the Contractor to perform under this Agreement shall be obtained and paid for by the Contractor.

19. ASSIGNMENT. Neither the District nor the Contractor may assign this Agreement without the prior written approval of the other, which approval shall not be unreasonably withheld, provided, however, that consent shall not be required to assign this Agreement to any company which controls, is controlled by, or is under common control with Contractor or in connection with assignment to an affiliate or pursuant to a merger, sale of all or substantially all of its assets or

equity securities, consolidation, change or control or corporate reorganization. Any purported assignment of this Agreement without such prior written approval shall be void.

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

21. 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.

22. AGREEMENT. This instrument, together with its attachments which are hereby incorporated herein, shall constitute the final and complete expression of this Agreement between the District and Contractor relating to the subject matter of this Agreement. To the extent of any inconsistency / conflict between this document, and the Exhibits, this document and the Exhibits shall be read in harmony to fulfill the intent of this Agreement, provided however that in the event of an irreconcilable inconsistency / conflict, this document shall control.

23. ENFORCEMENT OF AGREEMENT. In the event that either the District or the Contractor 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, paralegal fees and costs for trial, mediation, or appellate proceedings.

24. AMENDMENTS. Amendments to and waivers of the provisions contained in this Agreement may be made only by an instrument in writing which is executed by both the District and the Contractor.

25. AUTHORIZATION. The execution of this Agreement has been duly authorized by the appropriate body or official of the District and the Contractor, both the District and the Contractor have complied with all the requirements of law, and both the District and the Contractor have full power and authority to comply with the terms and provisions of this instrument.

26. NOTICES. Any notice, demand, request or communication required or permitted hereunder ("Notice") shall be in writing and sent by hand delivery, United States certified mail, or by recognized overnight delivery service, addressed as follows:

A. If to the District: Somerset Community Development District
c/o Rizzetta & Company
3434 Colwell Ave., Suite 200
Tampa, FL 33614
Attn: District Manager

With a copy to: Hopping Green & Sams, PA
119 South Monroe Street, Suite 300
Tallahassee, Florida 32301
Attn: District Counsel

B. If to Contractor: Rip's Professional Lawn Care, Inc.
511 North Highway 79
Panama City Beach, Florida 32413
Attn: _____

Except as otherwise provided in this Agreement, any Notice shall be deemed received only upon actual delivery at the address set forth above. 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 Contractor may deliver Notice on behalf of the District and the Contractor. 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.

27. THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the District and the Contractor 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 expressed or implied is intended or shall be construed to confer upon any person or corporation other than the District and the Contractor 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 Contractor and their respective representatives, successors, and assigns.

28. CONTROLLING LAW AND VENUE. This Agreement and the provisions contained in this Agreement shall be construed, interpreted, and controlled according to the laws of the State of Florida. Venue for any legal actions regarding this Agreement shall be Walton County, Florida.

29. COMPLIANCE WITH PUBLIC RECORDS LAWS. Contractor understands and agrees that all documents of any kind provided to the District in connection with this Agreement may be public records, and, accordingly, Contractor agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to Section 119.0701, *Florida Statutes*. Contractor acknowledges that the designated public records custodian for the District is

Kim O'Mera ("Public Records Custodian"). Among other requirements and to the extent applicable by law, the Contractor 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*; 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 contract term and following the contract term if the Contractor does not transfer the records to the Public Records Custodian of the District; and 4) upon completion of the contract, transfer to the District, at no cost, all public records in Contractor'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 Contractor, the Contractor 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 Word or Adobe PDF formats.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (850) 334-9055, KOMERA@RIZZETTA.COM, AND 120 RICHARD JACKSON BLVD., SUITE 220, PANAMA CITY BEACH, FLORIDA 32407.

30. 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.

31. ARM'S LENGTH TRANSACTION. This Agreement has been negotiated fully between the District and the Contractor as an arm's length transaction. The District and the Contractor 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 each deemed to have drafted, chosen, and selected the language, and any doubtful language will not be interpreted or construed against any party.

32. 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.

33. E-VERIFY. The Contractor 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 Contractor has knowingly violated Section 448.091, *Florida Statutes*.

If the Contractor anticipates entering into agreements with a subcontractor for the Work, Contractor 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. Contractor shall maintain a copy of such affidavit for the duration of the agreement and provide a copy to the District upon request.

In the event that the District has a good faith belief that a subcontractor has knowingly violated Section 448.095, *Florida Statutes*, but the Contractor has otherwise complied with its obligations hereunder, the District shall promptly notify the Contractor. The Contractor agrees to immediately terminate the agreement with the subcontractor upon notice from the District. Further, absent such notification from the District, the Contractor 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.

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


[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, the Parties execute this Agreement as set forth below.


ATTEST:


Secretary Assistant Secretary


**SOMERSET COMMUNITY DEVELOPMENT
DISTRICT**


Chairperson, Board of Supervisors

WITNESS:


By: Scott Buchewicz
Its: _____

RIP'S PROFESSIONAL LAWN CARE, INC.


By: James R Thompson
Its: Jrt

- EXHIBIT A:** Scope of Services
- EXHIBIT B:** Landscape Maintenance Area Map
- EXHIBIT C:** Additional Services Order

EXHIBIT "A"
RIP'S PROFESSIONAL LAWN CARE, INC

**Landscape Maintenance Agreement Scope of Services
for Alys Beach Neighborhood Association, Inc.**

County Highway 30A - \$8,975.00 per month (\$107,700.00 annually)

1. Contractor shall be responsible for edging and weed eating of all curbs, walkways, tree circles, landscape islands, and turf bed lines, etc. with a metal blade edger. All completed edges will have a perpendicular appearance between turf and hardscape, and turf, street signs and bed lines. Blowers will be used to clean sidewalk, curbs and streets of all grass clippings caused by mowing or edging.
2. Contractor shall be responsible for the use of monofilament line to trim grass that cannot be mowed with large machinery.
3. Contractor shall be responsible for daily inspection, treatment of any insects and/or disease related problems for the entire Somerset CDD Area along County Highway 30A.
4. Weeding: Landscaped areas shall be regularly weeded as necessary to maintain a clean appearance.
5. Cleaning Hard Surfaces: All hard surfaces, for the entire Somerset CDD Area along County Highway 30A, with the exception' of roadways, shall be blown, swept or vacuumed one (1) time per week and more often when conditions require.
6. Insect Control: Pesticide shall be applied on all turf areas one (1) time in the summer and one (1) time in the fall, and as needed as problems arise. Pesticide for all plant material will be on an as needed basis. Beneficial insects will be released each year in early summer in appropriate locations. Contractor shall be solely responsible for the acquisition and delivery of all insecticide material.
7. Contractor will be responsible for monitoring the moisture levels in turf and bed areas and adjust watering as needed.
8. Irrigation Systems:
 - a) Contractor shall monitor, adjust, and manage all irrigation systems as to proper frequency, duration, and operation of supplemental watering. Contractor shall notify the Client of any malfunction or damage to the system's integrity. Contractor will be responsible for any repairs to system with materials to be an additional cost to the Client. Labor charges will apply to major irrigation repairs, valves, and pump stations repairs at the rate of \$75.00 per hour plus materials needed to complete such repairs. Any required repairs over \$200 to the irrigation system must approved in advance by the CDD Manager.
 - b) Main line irrigation repairs- Time and material at \$125 per hour plus materials and equipment costs

- c) Contractor will cycle the irrigation system monthly to ensure the system is functioning properly. All irrigation problems, whether discovered during a cycle check or observed while performing other duties under this contract, shall be checked, and corrected immediately, unless approval from the CDD Manager is required
 - d) Contractor shall change watering zones as needed to accommodate seasonal variations in water needs
9. All 30A Medjool Palms (52) will be an additional cost to the Client of \$400.00 per palm per year. All treatments to palm trees will be in accordance with the Alys Beach palm inspection report and maintenance recommendations by Groundworks of Palm Beach County.
10. Contractor shall be responsible for monitoring the pH levels in all turf grass areas. Soil samples will be collected annually, and adjustments to pH will be quoted at additional cost after analysis of pH levels is complete.
11. Turf Grass:
- a) Fertilization: All turf area shall be fertilized seven (7) times per year, three (3) times in the summer (with pre-emergent), two (2) times in the spring (with pre-emergent, one (1) time in the fall and one (1) time in the winter. Organic fertilizers will be applied when possible. Contractor shall be solely responsible for the acquisition and delivery of all fertilizer material.
 - b) Contractor shall be responsible for maintaining weed control in all turf areas. Pre-emergent will be applied two times per year to control broadleaf and other weeds. Post-emergent applications will be made as needed
 - c) Insect Control: Pesticide shall be applied on all turf areas one (1) time in the summer and one (1) time in the fall, and as needed as problems arise. Pesticide for all plant material will be on an as needed basis. Beneficial insects will be released each year in early summer in appropriate locations. Contractor shall be solely responsible for the acquisition and delivery of all insecticide material.
 - d) Mowing: All turf areas shall be reel mowed 104 times per calendar year. (2 times per cut) to a height of one half to one and one quarter inches as conditions dictate. No more than one third of the grass blade is to be removed when cutting. Other turf management procedures, such as top dressing, verticutting or aerating will be performed as needed.
 - e) Cleaning Hard Surfaces: All hard surfaces, for the entire Somerset CDD Area along County Highway 30A, with the exception of roadways, shall be blown, swept or vacuumed one (1) time per week and more often when conditions require.
 - f) Edging and Weed Eating: All walks, tree circles, landscape islands, etc., shall be edged and weed eater periodically at approximately weekly intervals.
 - g) Weeding: Landscaped areas shall be regularly weeded as necessary to maintain a clean appearance.
 - h) Contractor shall be responsible for the acquisition and application of Grade A quality Blue Tag Perennial Ryegrass seed in the fall of each year at the rate of 600 lbs. per acre followed by a starter fertilizer at the rate of 43 lbs. per acre. Overseeding shall occur in October. Reduction of the height of the turf to overseed is

acceptable. Contractor shall be responsible for verticutting all turf grass areas if needed before the application of Ryegrass.

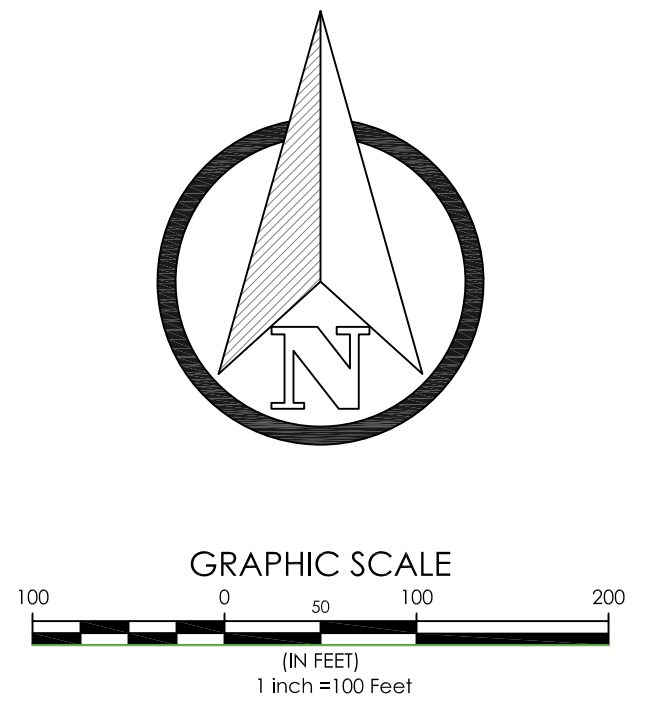
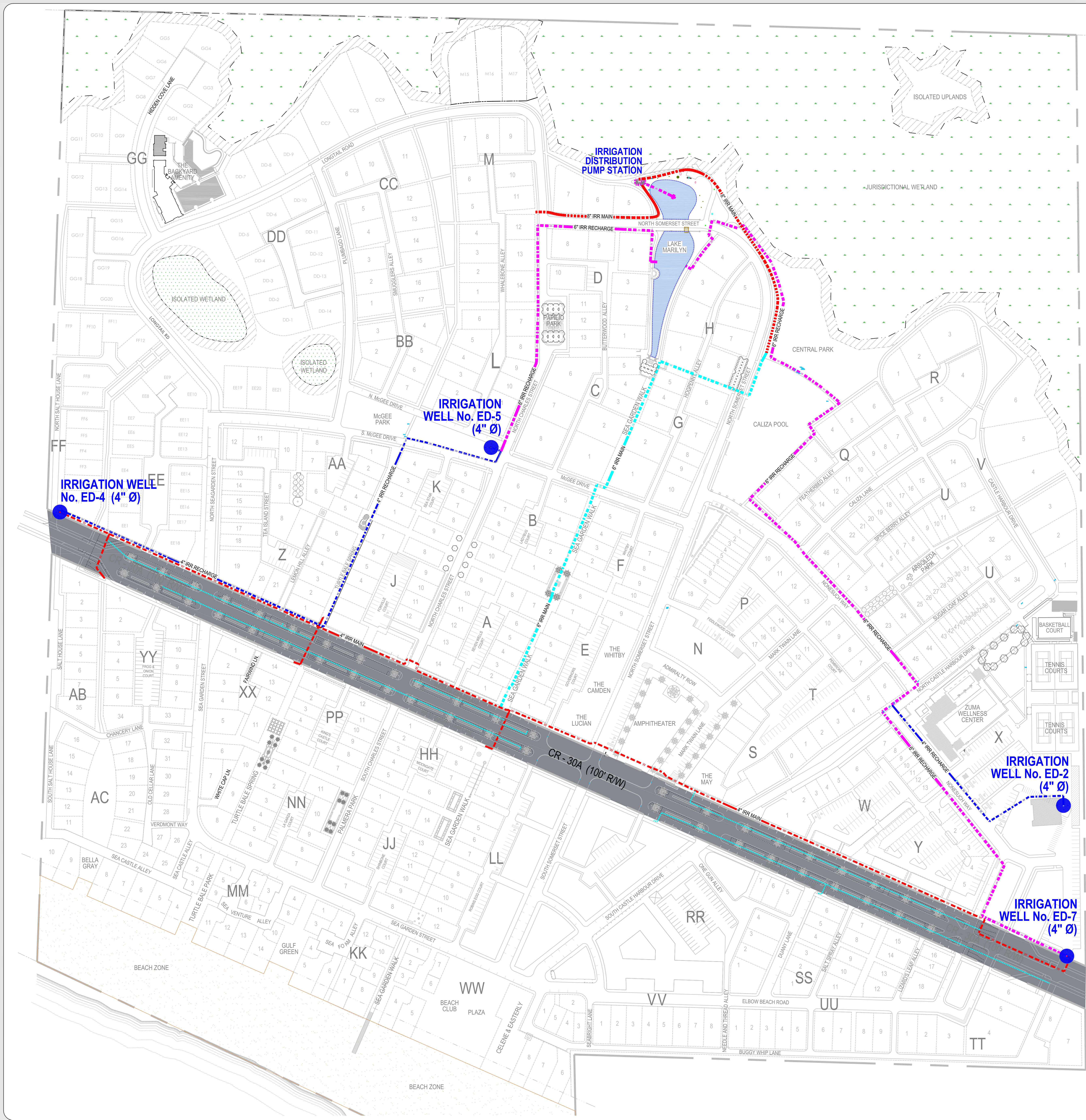
12. General Policing of the Property:

- a) Trash/Debris: All areas of the property shall be policed daily by Contractor to collect trash rubbish and debris to ensure high quality appearance.
- b) Trimmings, grass clippings, limbs, etc. shall be disposed of daily at a site of contractors choosing other than Alys Beach.
- c) Acts of Nature: Contractor shall also clean the property after all storms which degrade the physical appearance of the property except for a Major Storm such as Tropical storms, Tropical Depressions, Hurricanes of a category level 1 to level 5 as determined by the National Weather Service

13. Pruning of Plant Material: shrubs will be routinely trimmed and pruned to get the desired effect for the plant itself. Debris to be removed from property at contractor expense.

14. Equipment: Contractor shall be solely responsible for the acquisition, maintenance, and repairs on and for all equipment required to perform the obligation of this contract.

EXHIBIT "B"
LANDSCAPE MAINTENANCE AREAS



LEGEND

- ALYS BEACH SITE BOUNDARY [±158.5 AC]
- LAKE MARILYN (IRRIGATION STORAGE / SUPPLY)
- CDD LANDSCAPE LIMITS (CR 30A) [± 6.7 AC]
- 4 IN DIAMETER IRRIGATION SUPPLY WELL
- LAKE RECHARGE PIPE (6" DIAMETER) [~3,900 FT]
- LAKE RECHARGE PIPE (4" DIAMETER) [~2,200 FT]
- DISTRIBUTION MAIN (8" DIAMETER) [~1,100 FT]
- DISTRIBUTION MAIN (6" DIAMETER) [~1,400 FT]
- DISTRIBUTION MAIN (CR 30A) (4" DIAMETER) [~3,400 FT]
- DISTRIBUTION MAIN (CR 30A) (2.5" DIAMETER) [~4,000 FT]
- IRRIGATION PIPE (CR 30A) (< 2" DIAMETER) [~10,000 FT]
- BEACH ZONE
- NEIGHBORHOOD BLOCK & LOT NUMBER
- JURISDICTIONAL WETLANDS [± 20.4 AC]
- UPLAND NATURAL BUFFERS [± 3.1 AC]
- ISOLATED WETLANDS [±0.97 AC]

NOTES:

- THIS MAP IS AN SCHEMATIC EXHIBIT PREPARED ON MAY 7, 2021 FROM VARIOUS SOURCES OF INFORMATION INCLUDING, BUT NOT LIMITED TO, THE ALYS BEACH MASTER PLAN BY KHORY VOGT ARCHITECTS DATED MARCH 10, 2021, THE BACKYARD MASTER PLAN BY HART HOWERTON, VEGETATIVE PRESERVATION MAP, 2021 BY IEC, A 2006 IRRIGATION DESIGN BY PREVOST IRRIGATION DESIGN, VARIOUS DESIGN DRAWINGS BY IEC, CONSUMPTIVE USE PERMIT APPLICATION RECORDS FROM THE NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT AND HISTORICAL AERIALS AND PHOTOGRAPHS.
- THIS MAP IS NOT INTENDED TO INFER SURVEY GRADE ACCURACY. THIS MAP MAY BE UPDATED FROM TIME TO TIME AS WARRANTED.
- AS OF THE DATE OF THIS EXHIBIT, ALYS BEACH IS CONTINUING BUILD-OUT DEVELOPMENT AND THEREFORE, COMMON / RIGHT OF WAY / FINAL LOT CONFIGURATION IS SUBJECT TO CHANGE FOR PORTIONS OF THE PROPERTY.
- BLOCK DD, EE, FF, GG, AB, YY, KK & WW ARE DERIVED FROM THE LATEST PLANNING EXHIBITS AS THESE AREAS HAVE NOT BEEN COMPLETED AS OF THE DATE OF THIS EXHIBIT.
- THIS MAP IS INTENDED TO BE SCHEMATIC AND GRAPHICAL IN NATURE DEPICTING THE IRRIGATION SYSTEM COMPONENTS SPECIFICALLY UNDER THE OWNERSHIP & MAINTENANCE RESPONSIBILITY OF THE SOMERSET COMMUNITY DEVELOPMENT DISTRICT (CDD).
- THESE COMPONENTS INCLUDE FOUR IRRIGATION SUPPLY WELLS, RECHARGE MAIN PIPES FROM WELLS TO THE IRRIGATION LAKE, AN IRRIGATION SUPPLY LAKE (LAKE MARILYN), IRRIGATION PUMP STATION, SELECT IRRIGATION DISTRIBUTION MAINS AS DEPICTED, SERVICE PIPING, IRRIGATION FITTINGS AND SPRAY HEADS PARTICULARLY ALONG THE 30A CORRIDOR.
- IEC HAS CONDUCTED EXHAUSTIVE RESEARCH, SITE ASSESSMENTS, INTERVIEWS AND UTILIZED ALL READILY AVAILABLE DOCUMENTATION BOTH CURRENT AND HISTORICAL TO PORTRAY THE IRRIGATION SYSTEM DEPICTED HEREON AS ACCURATELY AS POSSIBLE. HOWEVER, THE IRRIGATION SYSTEM HAS BEEN CONSTRUCTED AS DESIGN / BUILD / RETROFIT FOR THE MOST PART OVER THE LAST 15 YEARS OR SO. THERE ARE NO ACCURATE SURVEYS OR RECORD DRAWINGS OF THE UNDERGROUND SYSTEM THAT WERE AVAILABLE OR PROVIDED TO IEC. ADDITIONALLY, ALYS BEACH MAINTENANCE STAFF WERE UNSURE OF EXACTLY WHERE MANY OF THE IRRIGATION COMPONENTS ARE. THEREFORE, THIS SCHEMATIC EXHIBIT IS SOLELY FOR THE PURPOSES OF PRESENTING THE IRRIGATION SYSTEM COMPONENTS IN A SCHEMATIC / GRAPHICAL NATURE AND TO PROVIDE ROUGH QUANTITIES OF PIPES. IEC CANNOT CONFIRM THE ACCURACY OF THIS DRAWING.
- THIS CDD IS RESPONSIBLE FOR ALL WELL AND PUMP COMPONENTS, IRRIGATION PUMP STATION COMPONENTS, LAKE MARILYN SUPPLY LAKE, IRRIGATION CONTROL VALVES, FITTINGS, AND OTHER APPURTENANCES IN AND ALONG THE IRRIGATION NETWORK DEPICTED HEREON.

THIS MAP DEPICTS LANDSCAPE & IRRIGATION COMPONENTS WHICH ARE THE RESPONSIBILITY OF THE SOMERSET CDD. ANY AND ALL OTHER LANDSCAPE AREAS OR IRRIGATION COMPONENTS OUTSIDE OF THOSE SPECIFICALLY DEPICTED HEREIN ARE THE RESPONSIBILITY OF OTHERS.

INNERLIGHT ENGINEERING CORPORATION
LANDSCAPE & IRRIGATION O&M MAP
SOMERSET COMMUNITY DEVELOPMENT DISTRICT
120 RICHARD JACKSON BLVD, SUITE 220
PANAMA CITY BEACH, FL 32407

11490 EMERALD COAST PARKWAY, SUITE 2W
MIRAMAR BEACH | FLORIDA | 32550

RECORD DATA
DATE: 09.30.2021
REV. NO: --
REV. DATE: --
DRAWN BY: DCM
REVIEWED BY: JAM

SEAL
NOT VALID WITHOUT SIGNATURE
AND THE ORIGINAL SEAL

SHEET TITLE
LANDSCAPE & IRRIGATION
OPERATION & MAINTENANCE
MAP

SHEET NUMBER
1.0

EXHIBIT "C"
FORM OF ADDITIONAL SERVICES ORDER

**WORK AUTHORIZATION FOR ADDITIONAL LANDSCAPE AND IRRIGATION
MAINTENANCE SERVICES**

THIS WORK AUTHORIZATION (the "**Work Authorization**"), dated _____, 2021 authorizes certain work in accordance with that certain *Landscape and Irrigation Maintenance Services Agreement* (the "**Agreement**"), dated _____, 2021, by and between:

SOMERSET COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government established pursuant to Chapter 190, *Florida Statutes*, being situated in Walton County, Florida, and having offices at c/o Rizzetta & Company, Inc., 120 Richard Jackson Blvd., Suite 220, Panama City Beach, Florida 32407 ("**District**"); and

RIP'S PROFESSIONAL LAWN CARE, INC., a Florida corporation, with a mailing address of 511 North Highway 79, Panama City Beach, Florida 32413 (the "**Contractor**," and collectively with the District, the "**Parties**").

SECTION 1. SCOPE OF SERVICES. In addition to the Services described in the Agreement and any Exhibits and Amendments thereto, the Contractor will provide additional landscape and irrigation maintenance services, as set forth in the attached **Exhibit A**, which is incorporated herein by reference, all in accordance with the terms of the Agreement (collectively, the "**Additional Services**").

SECTION 2. COMPENSATION. It is understood and agreed that the payment of compensation for the Additional Services under this Work Authorization shall be in the amount set forth in the attached **Exhibit A**, and in the manner set forth in the Agreement.

SECTION 3. ACCEPTANCE. Acceptance of this Work Authorization will authorize the Contractor to complete the Additional Services as outlined above and is indicated by the signature of the authorized representative of the District and the Contractor in the spaces provided below. Contractor shall commence the aforesaid Additional Services as provided herein and shall perform the same in accordance with the terms and conditions of the Agreement, which, except to the extent expressly altered or changed in this Work Authorization, remain in full force and effect.

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IN WITNESS WHEREOF, the Parties hereto have caused this Work Authorization to be executed the day and year first above written.

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

Secretary

Chairman, Board of Supervisors

RIP'S PROFESSIONAL LAWN CARE, INC.

Witness

By: _____
Its: _____

Exhibit A: Proposal/Scope of Additional Services











2021-10-01 Somerset CDD - Landscape Maintenance Agreement - Rip's, unexecuted

Final Audit Report

2021-10-02

Created:	2021-09-30
By:	Kim O'Mera (komera@rizzetta.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAEtqJD4gvdMQOpYHGb_1WkQZT5niF31lx

"2021-10-01 Somerset CDD - Landscape Maintenance Agreement - Rip's, unexecuted" History

-  Document created by Kim O'Mera (komera@rizzetta.com)
2021-09-30 - 9:35:57 PM GMT- IP address: 69.47.64.156
-  Document emailed to Andrew O'Connell (andrew@aloconsultingllc.com) for signature
2021-09-30 - 9:36:41 PM GMT
-  Document emailed to Scott Buchewicz (sbuchewicz@alysbeach.com) for signature
2021-09-30 - 9:36:41 PM GMT
-  Document emailed to James R Thompson (ripsplc@aol.com) for signature
2021-09-30 - 9:36:41 PM GMT
-  Email viewed by Andrew O'Connell (andrew@aloconsultingllc.com)
2021-09-30 - 9:59:13 PM GMT- IP address: 71.220.136.109
-  Document e-signed by Andrew O'Connell (andrew@aloconsultingllc.com)
Signature Date: 2021-09-30 - 9:59:37 PM GMT - Time Source: server- IP address: 71.220.136.109
-  Email viewed by James R Thompson (ripsplc@aol.com)
2021-10-01 - 9:20:32 AM GMT
-  Email viewed by Scott Buchewicz (sbuchewicz@alysbeach.com)
2021-10-01 - 12:29:16 PM GMT
-  Document e-signed by Scott Buchewicz (sbuchewicz@alysbeach.com)
Signature Date: 2021-10-01 - 12:30:25 PM GMT - Time Source: server
-  Email viewed by James R Thompson (ripsplc@aol.com)
2021-10-02 - 2:48:42 AM GMT

 Document e-signed by James R Thompson (ripsplc@aol.com)

Signature Date: 2021-10-02 - 2:54:49 AM GMT - Time Source: server

 Agreement completed.

2021-10-02 - 2:54:49 AM GMT



Adobe Sign

Tab 7

VIA EMAIL

September 30, 2021

C. Tess Howard

Alys Beach Neighborhood Association

9581 County Highway 30-A

Alys Beach, Florida 32461

thoward@alysbeach.com

scampbell@alysbeach.com



Subject: Alys Beach, South Walton County, Florida
Beach and Dune Restoration Feasibility Study
Monitoring Surveys, Analysis and Report - Amendment No. 2

Ms. Howard,

Per our discussion, the following amendment is for surveying, analysis and reporting services to monitor the beach conditions over the next 18 months as recommended in Section 9.0 of the report "Alys Beach, Florida, Beach and Dune Restoration Feasibility Study", dated September 2, 2021. This information will be used to update the volume and shoreline changes along Alys Beach, and provide additional information to the CLIENT to assess whether or not a beach and dune restoration project is justified. The following services will be performed by MRD ASSOCIATES, INC. (MRD) for the ALYS Beach Neighborhood Association (CLIENT).

I. SCOPE OF WORK

Task 6.0 Monitoring Surveys, Analysis and Report

Beach and offshore profile surveys will be performed from DEP Reference Monument R-112 through R-119 (8 profiles) in Walton County, Florida. All work shall be conducted under a Florida Licensed Professional Surveyor and be in accordance with "Section 01000 Beach Profiling Topographic Surveying" and "Section 01100 Offshore Profile Surveying" specified in "Monitoring Standards for Beach Erosion Control Projects", prepared by DEP, dated October 2014 (or later), as well as Chapter 5J-17, Florida Administrative Code (FAC). Vertical and horizontal data will be collected and presented in feet based upon the North American Vertical Datum of 1988 (NAVD 88) and Florida State Plane Coordinate System, North American Datum of 1983/1990 (NAD 83/90), respectively. The profile lines may begin at least 200 feet landward of the DEP monument (or at the crest of the dune which is ever more seaward) and extend a minimum of 3,000 feet seaward of the monument. The approximate Mean High Water (MHW) line will also be mapped,

In addition, a drone will be flown to obtain a geo-referenced aerial. Based on the beach and offshore profile surveys and MHW line mapping the volume and shoreline change analysis presented in Sections 4.0 and 5.0 of the report "Alys Beach, Florida, Beach and Dune Restoration Feasibility Study", dated September 2, 2021, will be updated.

Upon execution of this amendment, we estimate Task 6.1. may be completed within 6 weeks of receiving Notice to Proceed – weather dependent. Tasks 6.2., 6.3. and 6.4. will be scheduled for May/June 2022, October 2022, and May/June 2023, respectively. The timing of the surveys will match up with the historic surveys presented in the Feasibility Study Report. Timing of field work will be weather dependent.

II. FEES AND EXPENSES

Total estimated Fees and Expenses for the described services shall be:

Task	Fee Structure	Fees/Expenses
1.0. Consultations and Meetings	Hourly/Costs	Hourly/Costs
6.1. Monitoring surveys and analysis – October 2021	Lump Sum	\$10,000.00
6.2. Monitoring surveys and analysis – May/June 2022	Lump Sum	\$10,000.00
6.3. Monitoring surveys and analysis – October 2022	Lump Sum	\$11,000.00
6.4. Monitoring surveys and analysis – May/June 2023	Lump Sum	\$11,000.00
TOTAL:		\$42,000.00

All conditions of the original Agreement Order will apply to this amendment.

Should you have any questions regarding this matter, please contact me (md@mrd-associates.com) at 850.654.1555.

Sincerely,

mrd associates, inc.



Michael R. Dombrowski, P.E.
Principal Engineer

SIGNED: _____ DATE: _____
C. Tess Howard, President
Alys Beach Neighborhood Association (CLIENT)

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CONTRACT GENERAL CONDITIONS - 2021

SECTION 1 - BASIC SERVICES

1.1. **GENERAL:** **MRD Associates, Inc.** (ENGINEER) shall perform the services as described in the attached AGREEMENT and under these General Conditions for the CLIENT. As used herein the term "this Agreement" refers to the AGREEMENT to which these General Conditions are attached and to these General Conditions, as if they were part of one and the same document.

SECTION 2 - ADDITIONAL SERVICES OF ENGINEER

2.1. The Engineer may provide additional services as may be cited in the AGREEMENT or as agreed upon by the ENGINEER and CLIENT.

2.2. When required by the Contract Documents in circumstances beyond ENGINEER's control, ENGINEER shall perform or obtain from others any of the following Additional Services as circumstances require during construction and without waiting for specific instructions from the CLIENT, and ENGINEER will be paid therefore at the ENGINEER's hourly rates plus Reimbursable Expenses:

a.) Services in connection with work directive changes and change orders to reflect the changes requested by the CLIENT if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

b.) Services in making revisions to Drawings and Specifications occasioned by the CLIENT's acceptance of substitutions proposed by Contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by Contractor; and evaluating an unreasonable or extensive number of claims submitted by Contractor(s) or others in connection with the work.

c.) Services resulting from significant delays, occurring as a direct or indirect result of weather conditions, material, equipment or energy shortages. Additional or extended services during construction made necessary by (1) work damage by fire or other causes during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, (4) default by any Contractor.

SECTION 3 - CLIENT'S RESPONSIBILITIES

3.1. CLIENT shall provide all criteria and full information as to CLIENT's requirements for the PROJECT; designate a person to act with authority on CLIENT's and OWNER's behalf in respect of all aspects of the PROJECT; examine and respond promptly to ENGINEER's submissions; and give prompt written notice to ENGINEER whenever CLIENT observes or otherwise becomes aware of any defect in the work.

3.2. If the following services are not explicitly listed in the ENGINEER's *Agreement for Professional Services*, and if this information is required for the PROJECT, the CLIENT shall do the following and pay all costs incident thereto:

a.) Furnish to ENGINEER borings, probings and subsurface explorations, bathymetric surveys, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic and utility surveys; property descriptions; zoning and deed restrictions; all of which ENGINEER may rely upon in performing services hereunder.

b.) Provide such legal, accounting, independent cost estimating, and insurance counseling services as may be required for the PROJECT, any auditing service required in respect of Contractor(s)

applications for payment, and any inspection services to determine if Contractor(s) are performing the work legally.

c.) Provide engineering surveys to establish reference points for construction.

d.) CLIENT shall pay all costs incident to obtaining bids or proposals from Contractor(s).

e.) If more than one prime contractor is to be awarded for construction, designate a party to have responsibility and authority for coordinating the activities of the various prime contractors.

3.3. The CLIENT shall guarantee access to and make all provisions for ENGINEER to enter public and private property.

SECTION 4 - MISCELLANEOUS

4.1. **REUSE OF DOCUMENTS:** All documents including Drawings and Specifications prepared or furnished by ENGINEER (and ENGINEER's subconsultants) pursuant to this AGREEMENT are instruments of service in respect of the PROJECT and ENGINEER shall retain an ownership and property interest therein whether the PROJECT is completed. CLIENT may make and retain copies for information and reference in connection with the use and occupancy of the PROJECT by CLIENT and/or others. However, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the PROJECT or on any other project.

4.2. **OPINIONS OF PROBABLE COSTS:** ENGINEER's opinions of probable costs provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but ENGINEER cannot and does not guarantee that proposals, bids or actual Total Project or Construction Costs will not vary from opinions of probable cost prepared by ENGINEER. If prior to the Bidding or Negotiating Phase CLIENT wishes greater assurance as to Total Project or Construction Costs, CLIENT shall employ an independent cost estimator as provided in paragraph 3.2. ENGINEER's services to modify the Contract Documents to bring the Construction Cost within any limitation established by CLIENT will be considered Additional Services and paid for as such by CLIENT.

The construction cost of the entire PROJECT (herein referred to as "Construction Cost") means the total cost of those portions of the entire PROJECT designed and specified by ENGINEER, but it will not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this AGREEMENT so specifies, nor will it include the CLIENT's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the PROJECT or the cost of other services to be provided by others to CLIENT pursuant to paragraph 3.2.c.).

4.3. **INVOICES:** Progress invoices will be submitted to the CLIENT monthly and a final invoice will be submitted upon completion of the services. A detailed separation of charges and backup data can be provided at the CLIENT's request. However, each invoice is due within 30-days upon receipt of the invoice. If CLIENT fails to make any payment due ENGINEER for services and expenses within 30-days after invoice date, the ENGINEER will charge an annual interest rate of 18% compounded daily after said 30th day on a prorated basis, and in addition, ENGINEER may suspend services under this AGREEMENT until ENGINEER has been paid in full all amounts due for services, expenses and charges. The CLIENT's obligation to pay for the contracted work is no way dependent upon the CLIENT's ability to obtain financing, governmental approvals, or upon the successful completion of the PROJECT.

CONTRACT GENERAL CONDITIONS - 2021

4.4. PROFESSIONAL HOURLY RATE SCHEDULE:

Principal Engineer	@ \$240/hour
Senior Engineer	@ \$200/hour
Engineer III	@ \$175/hour
Engineer II	@ \$150/hour
Engineer I	@ \$130/hour
Environmental Specialist	@ \$175/hour
Technical Reviewer	@ \$120/hour
Engineering Technician II	@ \$105/hour
Engineering Technician I	@ \$80/hour
Administrative II	@ \$65/hour
Administrative I	@ \$55/hour
Reimbursable Expenses	Cost + 10%

MRD reserves the right to revise the above Schedule on an annual basis (January 1).

4.5. REIMBURSABLE EXPENSES: Actual expenses incurred by ENGINEER or ENGINEER's independent professional subconsultants directly or indirectly in connection with the PROJECT, such as expenses for: transportation, lodging and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); special materials and equipment unique to the PROJECT; toll telephone calls; reproduction of reports, Drawings, Specifications, Bidding Documents and similar PROJECT related items.

4.6. INSURANCE: The ENGINEER maintains Employer's Liability Insurance in conformance with state law. In addition, the ENGINEER maintains Comprehensive General Liability Insurance and Automobile Liability Insurance with bodily injury of \$1,000,000 limit each occurrence, \$1,000,000 limit aggregate and property damage of \$ 1,000,000 limit each occurrence, \$2,000,000 aggregate and professional liability insurance of \$1,000,000. Should the CLIENT require additional coverage, the ENGINEER will secure additional coverage at the CLIENT's expense, provided such insurance is commercially available.

4.7. LIMITS OF LIABILITY: In recognition of relative risks and benefits of the PROJECT to both parties, the risk have been allocated such that the CLIENT agrees to the fullest extent permitted by law to limit the liability of the ENGINEER and subconsultants to the CLIENT for any and all claims. Losses, costs, damages of any nature or claims, expenses from any cause or causes so that the total aggregate liability of MRD Associates, Inc. to the CLIENT shall not the limits of the ENGINEER's insurance coverage contained in Section 4.6. It is intended that this limitation apply to any and all liability or cause of action (not limited to negligence, errors or omissions, strict liability, breach of contract or warranty) however alleged or arising unless prohibited by law.

4.8. INDEMNIFICATION: The ENGINEER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the CLIENT, its officers, directors and employees against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the ENGINEER's negligent performance of professional services under this AGREEMENT and that of their subconsultants or anyone for whom the ENGINEER is legally liable.

The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the ENGINEER, its officers, directors, employees and subconsultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the CLIENT's negligent acts in connection with the PROJECT and the acts of its contractors, subcontractors or consultants or anyone for whom the CLIENT is legally liable.

Neither the CLIENT nor the ENGINEER shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

4.9. PERSONAL LIABILITY: In NO event shall the CLIENT's, officers, employees, subconsultants, or agents of MRD Associates, Inc. be personally liable for any damages, claims or causes arising out of, or allegedly arising out of performance of services under this contract. Such damages, claims and/or causes include, but are not limited to negligence, professional errors or omissions, strict liability, breach of contract, punitive damages, penalties, consequential damages, indirect or incidental damages.

4.10. SUCCESSORS AND ASSIGNS:

4.10.1. CLIENT and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of CLIENT and ENGINEER (and to the extent permitted by paragraph 4.10.2. the assigns of CLIENT and ENGINEER) are hereby bound to the other party to this AGREEMENT and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this AGREEMENT.

4.10.2. Neither CLIENT nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due, this AGREEMENT without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this AGREEMENT. Nothing contained in this paragraph shall prevent ENGINEER from employing such independent professional subconsultants as ENGINEER may deem appropriate to assist in the performance of services hereunder.

4.10.3. Nothing under this AGREEMENT shall be construed to give any rights or benefits in this AGREEMENT to anyone other than CLIENT and ENGINEER, and all duties and responsibilities undertaken pursuant to this AGREEMENT will be for the sole and exclusive benefit of CLIENT and ENGINEER and not for the benefit of any other party.

4.10.4. This AGREEMENT is between the CLIENT and ENGINEER, and unless specifically stated and agreed to in writing by both parties, a third-party administrator or project manager acting as the CLIENT's representative will not be allowed.

4.11. TERMINATION: The obligation to provide further services under this AGREEMENT may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, ENGINEER will be paid for all services rendered to the date of termination, all Reimbursable Expenses and termination expenses.

4.12. PERMITTING: ENGINEER can make no guarantee as to the obtainment or timing of permits or approvals. Our interpretation of the rules and laws governing this PROJECT are based on our experience as Engineers. Any conclusions or representation of these rules and laws should be confirmed by the CLIENT's legal counsel.

4.13. CONTROLLING LAW: This AGREEMENT is to be governed by the law of the principal place of business of ENGINEER which is Okaloosa County, Florida or otherwise mutually agreed upon.

END OF CONTRACT GENERAL CONDITIONS

Alys Beach, Florida

Beach and Dune Restoration Feasibility Study



Source: Alys Beach, Florida, Facebook (undated)

PREPARED FOR:



Alys Beach Neighborhood Association
9581 County Highway 30-A
Alys Beach, Florida 32461

PREPARED BY:



September 2, 2021
MRD Project No. 20-129.002

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Executive Summary

Alys Beach, Walton County, Florida (Figure 1) is located on the Gulf of Mexico. MRD Associates, Inc. (MRD) was retained by the Alys Beach Neighborhood Association to develop and assess conceptual design(s) to restore the beach, provide an increased level of storm protection, enhance recreation, and preserve natural resources. The primary focus of this feasibility study is along the approximately 1,500 foot gulf-front shoreline along Alys Beach development extending from Department of Environmental Protection (DEP) Reference Monument R-114.7 to R-116.2 (Figure 1).

Beach cusps are crest-shaped troughs spaced at more or less regular intervals along the shoreline (refer to cover photo). The initial formation of beach cusps are not fully understood but they do periodically appear and disappear along the north Gulf Coast from Gulf Shores, Alabama to Franklin County, Florida. The formation of these features typically occur in a regular pattern with cusps of fairly equal size and spacing between horns and the cusps can be up to 200 feet across or greater. A “Hot Spot” is an isolated segment of shoreline that experiences accelerated erosion. A hot spot can be 500-feet to ½ -mile in length and will typically form in roughly the same location. These features have been observed to migrate or be stable along the shoreline and will appear and disappear over time with no set frequency.

Over the 24-year period between 1998 and 2021, the Alys Beach shoreline has accreted by approximately 14,000 cubic yards (an average of 580 cubic yards per year) with an average shoreline (MHW) change rate of -0.1 ft/yr. The erosion along the Alys Beach shoreline appears to be due to the episodic formation of the beach cusps and erosional hot spots.

A dune nourishment project consists of the placement and grading of approximately 1,500 cubic yards of beach compatible sand to restore the storm-related damage at the base of the dune. The preliminary estimated cost for this alternative is \$80,000, which includes \$60,000 (based on \$40 per cubic yard in 2021 dollars) and \$5,000 for 5,000 native dune plants. These costs also include engineering, design, permitting, and bidding; and constructing phase services at an estimated cost of \$15,000.

A 100-foot adjusted width option appears to be the most cost-effective alternative for a beach restoration project. A 4,500-foot beach fill (extending 1,500 feet east and west of Alys Beach) is projected to last 55% longer than the 1,500-foot beach fill constructed within the limits of the Alys Beach gulf front. The 1,500-foot beach fill project is estimated to cost \$11 million and may last up to 5-years before the next nourishment project and \$24 million dollars for the 4,500-foot long beach fill that may last up to 7.5 to 8 -years. The loss of sand will depend on which alternative is selected and the intensity and frequency of future storm events. Although the beach will continue to form the beach cusps and hot spots, a beach restoration will offset the cusps/hot spots further seaward thereby maintaining a buffer between the dune walkovers and shoreline, and will provide a wider recreational beach.

At this time, our recommendation is to monitor the shoreline over the 12- to 18-months to determine the rate of shoreline recovery. This can be accomplished by MHW line surveys, drone aeriels or photo documentation from a set point on the uplands such as a dune walkover.

1.0 Introduction

Alys Beach, Walton County, Florida (Figure 1) is located on the Gulf of Mexico, approximately 2 miles west of the Walton/Bay County line. The study limits for this investigation are the 7,000 feet of shoreline between the Florida Department of Environmental Protection (DEP) Reference Monument R-112 (west) and R-119 (east). The primary focus of this feasibility study is along the 1,500 foot gulf-front shoreline along Alys Beach development extending from R-114.7 to R-116.2 (Figure 1). This investigation will develop and assess conceptual design(s) which may re-allocate or increase the supply of sand along the beach, provide an increased level of storm protection, enhance recreation, and preserve natural resources.

The Florida Department of Environmental Protection, Office of Resilience and Coastal Protection (aka Beaches) has long recognized the condition of the shoreline and as a result has designated the eastern 4.2-miles of Walton County shoreline between DEP Monument R-105.5 and R-127.4 (included in the Study Area) as “Critically Eroded” (Figure 2). A Critically Eroded shoreline is *“where natural processes or human activity have caused or contributed to erosion and recession of the beach or dune system to such a degree that upland development, recreational interests, wildlife habitat, or important cultural resources are threatened or lost.”*

One valuable set of information that is mentioned frequently throughout this document are the DEP Range Monuments. “R-Monuments” or Range Monuments are reference points spaced approximately 1,000 feet apart along the gulf shoreline. These DEP maintained monuments are geo-referenced to vertical and horizontal datums and are used to monitor various shoreline changes within the littoral zone and upland topography, and are also used to reference the location of features.



Figure 1. Location map

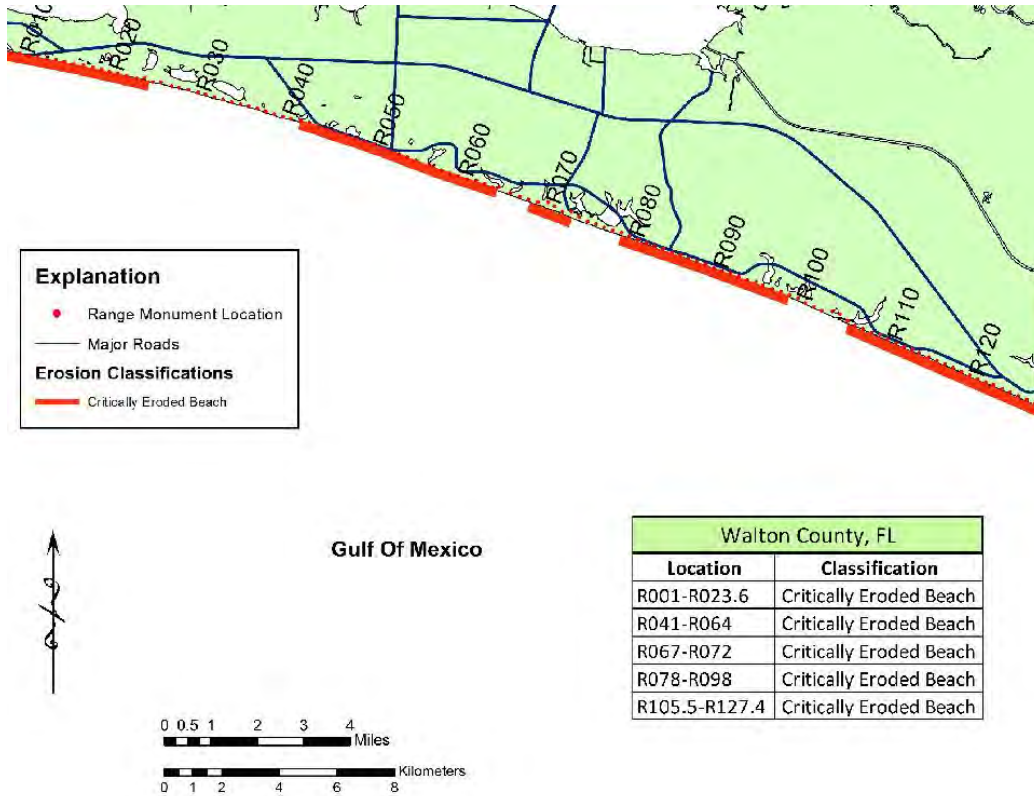


Figure 2. Walton County “Critically Eroding” Beaches

2.0 Oceanographic Data

2.1 Tidal Datums

The tidal ranges along the Gulf of Mexico are primarily diurnal, becoming mixed during the 1/4 and 3/4 moon phases. Tidal datums for the area were obtained from NOAA Station 8729210 Panama City Beach, Florida located approximately 10 miles east-southeast of the project site. This data is summarized in Table 1 in feet, NAVD88.

Table 1. Tidal datums in the vicinity of Alys Beach, Florida.

Datum	Tidal Elevation (feet, NAVD 88)
Mean Higher High Water (MHHW)	+0.86
Mean High Water (MHW)	+0.78
Mean Tide Level (MTL)	+0.16
Mean Low Water (MLW)	-0.47
Mean Lower Low Water (MLLW)	-0.54
Mean Tide Range	1.25

2.2 Storm Surge

Predicted storm surge elevations were obtained from the revised report entitled, “*Combined Total Storm Tide Frequency Analysis for Walton County, Florida*” (Wang et al., 2007 and Wang et al., 2009). This report was further revised to include tropical storms in 2009.

Table 2. Combined total storm surge elevations near Alys Beach.

Return Period (years)	Combined Total Storm Tide Level (feet, NAVD 88)
15	6.6
25	7.7
50	9.1
100	10.6

3.0 DEP Shoreline and Profile Data

Two sets of shoreline and profile data are used in this study to document and analyze shoreline movement and volume changes along the 7,000 foot study limits between R-112 and R-119: 1) historic (shoreline) mean high water line (MHWL) position tables; and 2) beach and offshore profile surveys. These data sets are based on DEP Reference (R-) monuments spaced approximately 1,000 feet apart along the gulf shoreline (R-112 to R-119). This data is available from DEP’s website: <https://floridadep.gov/rcp/beaches-inlets-ports/content/historic-shoreline-database>. Additionally, a supplemental survey was conducted by Dewberry Engineers, Inc. to provide a more recent dataset. The five surveys used in this analysis were collected: January 23-24 (upland) to April 1998 (offshore); September 20, 2005; September 18 (upland) to October 18 (offshore), 2013; October 28, 2018 (upland and offshore); and July 14-15, 2021 (upland and offshore).

3.1 Shoreline (MHWL) Position Data

A historic shoreline position documents the location of the shoreline at one particular point in time. A comparison of such shoreline positions can suggest erosional or accretional trends. For this investigation, the shoreline position was taken as the line where the plane of MHWL (+0.8 feet, NAVD88) intersects the beach. For the historic years selected in this study, the DEP MHWL database tabulates shoreline position based on historic beach profile surveys performed at DEP monuments. These profile surveys have an accuracy in shoreline position within one (1) foot. In addition to the DEP surveys, the recent Dewberry survey was included in this analysis. The MHWL changes for this dataset were measured in AutoCAD.

3.2 Depth of Closure

“Depth of Closure” is defined as the water depth at which no appreciable movement of sediment by wave action occurs (NRC, 1995). Understanding the location of the depth of closure on a profile is important for several reasons including interpreting survey data, estimating fill adjustment and the siting of potential borrow areas. For example, proposed borrow areas should be located

seaward of the estimated depth of closure to minimize or eliminate any potential adverse impact to the restored beach. Beach fill material could be transported offshore back into the borrow areas if excavated too close to the shoreline.

The depth of closure for a given profile is estimated by noting where the survey data appears to converge. Based on a comparison of the 1998 and 2005 profile data between R-112 and R-119, the approximate depth of closure was estimated to be about -25 feet (Appendix A – Historic Profiles). The U.S. Army Corps of Engineers (USACE)-Mobile District (1994) estimated a depth of closure of -20 feet for the Panama City Beach restoration project located to the east of Alys Beach.

3.3 Beach and Offshore Profile Data

Beach and offshore profile surveys which extend to -25 feet, NAVD 88 or deeper are used in this analysis to document the recent volume changes both above and below the MHWL. These profile surveys and measured volume changes are used to obtain a reasonable estimate of episodic and long-term volume changes along the shoreline.

4.0 Shoreline Changes

Mean High Water Line (MHWL) shoreline change rates along the study limits are documented based on historical DEP shoreline position table data for the following time intervals: 1) 1998 to 2005; 2) 2005 to 2013; 3) 2013 to 2018; and 2018 to 2021. Table 3 and Figure 7 plot the shoreline change rates for the entire study limits between R-112 and R-119. The MHWL is located at approximately the +0.8 foot, NAVD88 contour.

4.1 Shoreline Changes

- a) **1998 to 2005:** The rate of shoreline (MHWL) changes over the approximate 7-year, 7-month period between January 23-24, 1998, and September 20, 2005 (R-112 to R-119) ranged between -8.7 feet per year (ft/yr) at R-113 and -1.4 ft/yr at R-114, with an average of -3.7 ft/yr. The 2005 survey data was collected approximately two-months after Hurricane Dennis made landfall as a Category 3 hurricane near Navarre Beach at approximately 1:30PM on July 10th. The point of landfall was approximately 55-miles west of Alys Beach and resulted in significant beach and dune erosion and structural damage along the coast. A second major storm, Hurricane Katrina, made landfall in New Orleans on August 29th that generated storm waves along the Florida Gulf Coast which also contributed to the shoreline erosion.
- b) **2005 to 2013:** The rate of shoreline (MHWL) changes over the approximate 8-year period between September 20, 2005, and September 18, 2013, based on DEP beach profile data are shown in Table 3. The change rates over the entire project shoreline (R-112 to R-119) ranged between 0.0 ft/yr at R-116 and +4.5 ft/yr at R-118, with an average of +3.0 ft/yr. The 2005 to 2013 time period was a relative calmer period of storm activity with the majority of events in the Gulf of Mexico occurring in 2008 (Hurricanes Gustav and Ike) approximately 5-years prior to the September 2013 surveys. During this last 5-years the beach would have had time to recover which may be reflected in the documented accretion rates for this time period.

- c) **2013 to 2018:** The rate of shoreline (MHWL) changes over the approximate 5-year, 1month period between September 18, 2013, and October 28, 2018, based on DEP beach profile data are shown in Table 3. The change rates over the entire project shoreline (R-112 to R-119) ranged between -5.3 ft/yr at R-112 and 5.5 ft/yr at R-116, with an average of -1.1 ft/yr. The October 28, 2018, survey was performed after Tropical Storms Alberto and Gordon, and approximately two weeks after Hurricane Michael made landfall in Panama City on October 10th. These storms had an accumulative effect on the erosion rates along the study area.
- d) **2018 to 2021:** The rate of shoreline (MHWL) was slightly accretional over the approximate 2-year, 9-month period between October 28, 2018, and July 15, 2021, based on a comparison of the DEP beach profile data and Dewberry survey as shown in Table 3. The change rates over the entire project shoreline (R-112 to R-119) ranged between +0.1 ft/yr at R-113 and +1.0 ft/yr at R-114, with an average of +0.5 ft/yr. During this period, the Alys Beach shoreline was impacted by numerous storms, including Nestor (2019); Fay (2020); Omar (2020); and Sally (2020).

Table 3. Shoreline change rates (ft/yr).

DEP R-Monument	1998 to 2005 ft/yr	2005 to 2013 ft/yr	2013 to 2018 ft/yr	2018 to 2021 ft/yr
R-112	-3.7	3.4	-5.3	0.9
R-113	-8.7	4.4	0.2	0.1
R-114	-1.4	3.0	-4.9	1.0
R-115	-1.7	2.1	-3.0	0.7
R-116	-2.7	0.0	5.5	0.2
R-117	-4.6	3.3	-3.0	0.3
R-118	-3.5	4.5	-0.4	0.4
R-119	-3.0	3.0	1.8	0.5
Average	-3.7	3.0	-1.1	0.5

4.2. Beach Cusps and Hot Spots

Beach cusps or Caletas are shoreline formations composed of beach material separated by crest-shaped troughs spaced at more or less regular intervals along the shoreline. Typically, the horns (seaward protruding features) are composed of coarser material and the embayment contains finer sediment. These coastal features are found all over the world and are most noticeable on shorelines with relatively low wave energy and finer beach sand. The initial formation of beach cusps are not fully understood but they do periodically appear and disappear along the north Gulf Coast from Gulf Shores, Alabama to Franklin County, Florida. The formation of these features typically occur in a regular pattern with cusps of fairly equal size and spacing between horns and the cusps can be up to 200 feet across or greater.



Figure 3. Beach cusps (12/01/20).

A “Hot Spot” is an isolated segment of shoreline that experiences accelerated erosion compared to the adjacent shoreline. A hot spot can be 500-feet to ½ -mile in length and will typically form in roughly the same location. These features have been observed to migrate or be stable along the shoreline and will appear and disappear over time with no set frequency.

Appendix B includes four (4) scale rectified aerials taken in July 2007, January 2010, February 2016, and January 2019. The 2007 and 2019 aerial shows a fairly straight shoreline, but the 2010 and 2016 aerials illustrate the beach cusps described herein. Just to the east (right) of DEP Monument R-115 (Figure B-2), a beach cusp formed in 2010 and 2016, and again in late 2020 (Figures 3 and 4). This may, in part, due to the presence of harder black peat deposit that was exposed in 2005 (Figure 6) and in 2020. The offshore peat deposit may refract/ diffract wave patterns and focus wave energy on this section of beach thereby creating a hot spot. Figure 5 documents the recent trend to recovery of the erosion hotspot in the vicinity of Alys Beach over the approximate 7-month period between December 2020 and July 2021.



Figure 4. Erosion “hot spot” in the vicinity of the Alys Beach Gulf Green walkover (12/23/20).



Figure 5. Recovery of erosion “hot spot” in the vicinity of the Alys Beach Gulf Green walkover (07/15/21).



Figure 6. Exposed black “peat” along Alys Beach (01/24/05).

The locations of these beach cusps in relation to the DEP survey profile lines can have a significant impact on the measured shoreline and volume change rates. If a profile line is surveyed along or near a horn and then at a later date the embayment migrates to the profile line and is surveyed, a comparison of the two profiles would show erosion when in fact the average changes across the shoreline could actually be accretion or erosion.

5.0 Volume Changes

Volumetric changes were calculated using the Cross Sections and Volumes tool within HYPACK® at each profile for the study area (R-112 to R-119). Profile surveys and measured volume changes are generally used to obtain a reasonable estimate of episodic and long-term volume changes over an extended period of time and usually consider numerous time frames. The volume changes presented in this section reflect the actual measured rates based on the profile survey data. It should be noted that there were five (5) complete sets of survey data available for the study area resulting in four measured time periods. Caution should be exercised such that possible episodic changes are not interpreted for long-term patterns and these data are only a point in time.

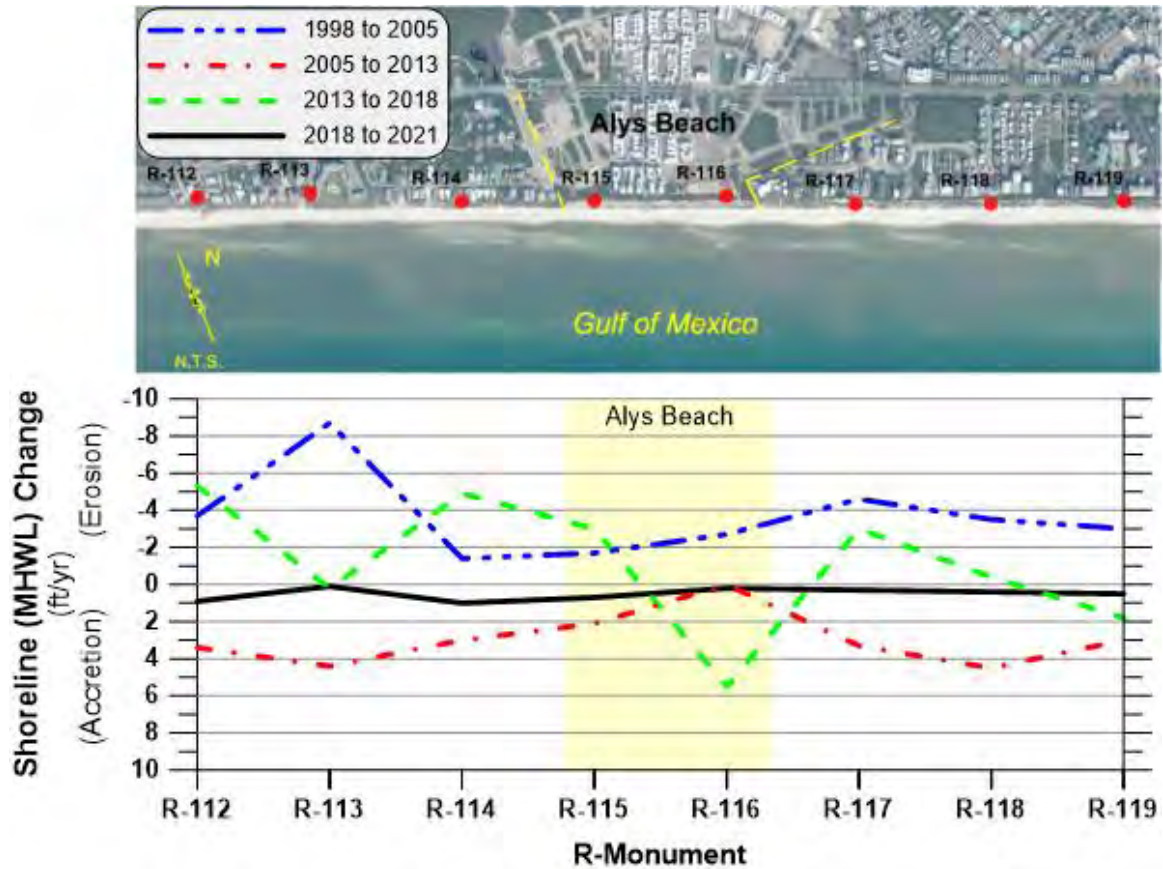


Figure 7. Shoreline change rates(ft/yr)

The volume above MHWL appears to be significantly more stable over time when compared to the volume below MHWL. The volume change rate above MHWL varies from -2.2 cubic yards per linear foot per year ($\text{yds}^3/\text{lf}/\text{yr}$) (1997 to 2005, DEP R-113 and DEP R-117) to +1.8 $\text{yds}^3/\text{lf}/\text{yr}$ (2005 to 2013 and 2018 to 2021, DEP R-118) whereas the volume change rate below MHWL varies from -14.8 $\text{yds}^3/\text{lf}/\text{yr}$ (2013 to 2018, R-115) to +9.8 $\text{yds}^3/\text{lf}/\text{yr}$ (1997 to 2005, R-115). This can be more easily visualized in Figure 7. Based on the years analyzed in this study, R-115 seems to be a hotspot for accretion and erosion. This may be attributed to the prevalence of beach cusps in the vicinity of the study area, which migrate along the shoreline over time as described in Section 4.2. Or this may, in part, due to the presence of harder black peat deposit that was exposed in 2005 (Figure 6) and in 2020 thereby creating a hot spot. The “Dune to MHW” is measured from the base of the dune and does not include the dune constructed in 2006.

Table 4. Total volume change rates (yds³/lf/yr).

DEP R-Monument	1997 to 2005 yds ³ /lf/yr	2005 to 2013 yds ³ /lf/yr	2013 to 2018 yds ³ /lf/yr	2018 to 2021 yds ³ /lf/yr
R-112	5.0	0.4	-0.7	-10.6
R-113	0.2	-1.1	2.1	-10.3
R-114	1.3	1.0	0.0	-6.5
R-115	8.9	8.2	-15.1	-8.5
R-116	-2.9	3.0	0.1	-5.8
R-117	1.3	1.2	1.1	-9.3
R-118	0.3	3.4	-1.5	-9.9
R-119	8.9	3.3	-3.1	-7.2
Average R-112 to R-119	2.9	2.4	-2.1	-8.5

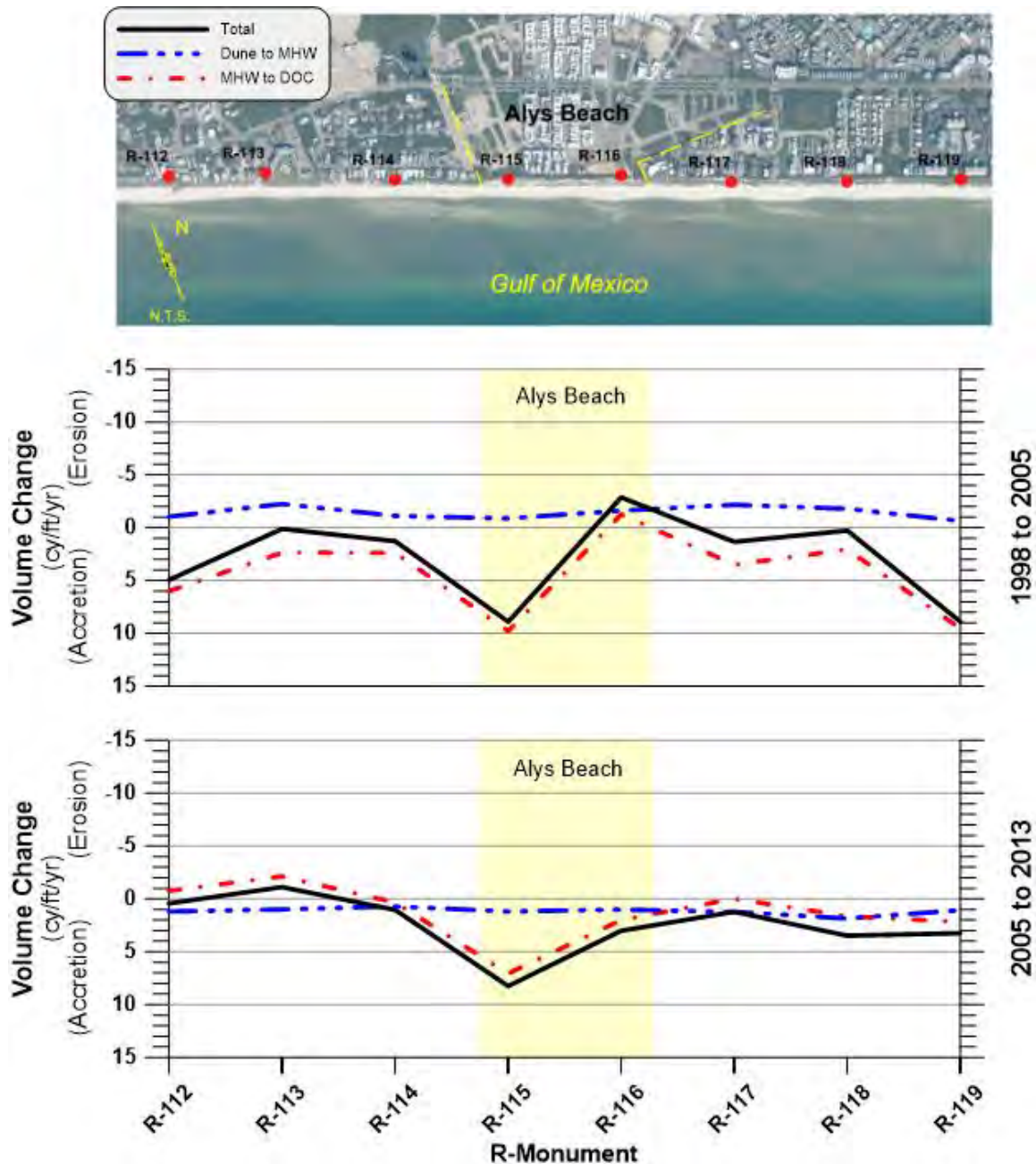
Table 5. Volume change rates (dune to MHW) (yds³/lf/yr).

DEP R-Monument	1997 to 2005 yds ³ /lf/yr	2005 to 2013 yds ³ /lf/yr	2013 to 2018 yds ³ /lf/yr	2018 to 2021 yds ³ /lf/yr
R-112	-1.0	1.2	-0.6	-0.4
R-113	-2.2	1.0	-0.4	0.8
R-114	-1.1	0.7	0.0	1.1
R-115	-0.9	1.2	-0.3	0.9
R-116	-1.6	1.0	0.3	-0.1
R-117	-2.2	1.2	-0.2	1.6
R-118	-1.8	1.8	-0.6	1.8
R-119	-0.6	1.1	-0.3	1.7
Average R-112 to R-119	-1.4	1.2	-0.3	0.9

Table 6. Volume change rates (MHW to -30 ft) (yds³/lf/yr).

DEP R-Monument	1997 to 2005 yds ³ /lf/yr	2005 to 2013 yds ³ /lf/yr	2013 to 2018 yds ³ /lf/yr	2018 to 2021 yds ³ /lf/yr
R-112	6.0	-0.8	-0.1	-10.2
R-113	2.4	-2.1	2.5	-11.1
R-114	2.4	0.3	0.0	-7.6
R-115	9.8	7.1	-14.8	-9.4
R-116	-1.3	2.0	-0.2	-5.7
R-117	3.5	0.0	1.3	-10.9
R-118	2.1	1.6	-0.9	-11.7
R-119	9.5	2.2	-2.8	-8.9
Average R-112 to R-119	4.3	1.3	-1.9	-9.4

Within the limits of Alys Beach (R-115 to R-116), the shoreline has accreted approximately 14,000 cubic yards over the 24-year period between 1998 to 2021. Between 2018 to 2021 (Table 4) Alys Beach experienced an average loss of -7.2 yds³/lf/yr or a total volume loss of approximately 32,400 cubic yards over the 3-year period. However, as seen in Table 4, the relatively large volume loss is below the MHWL line out to the -30 foot contour at R-115.



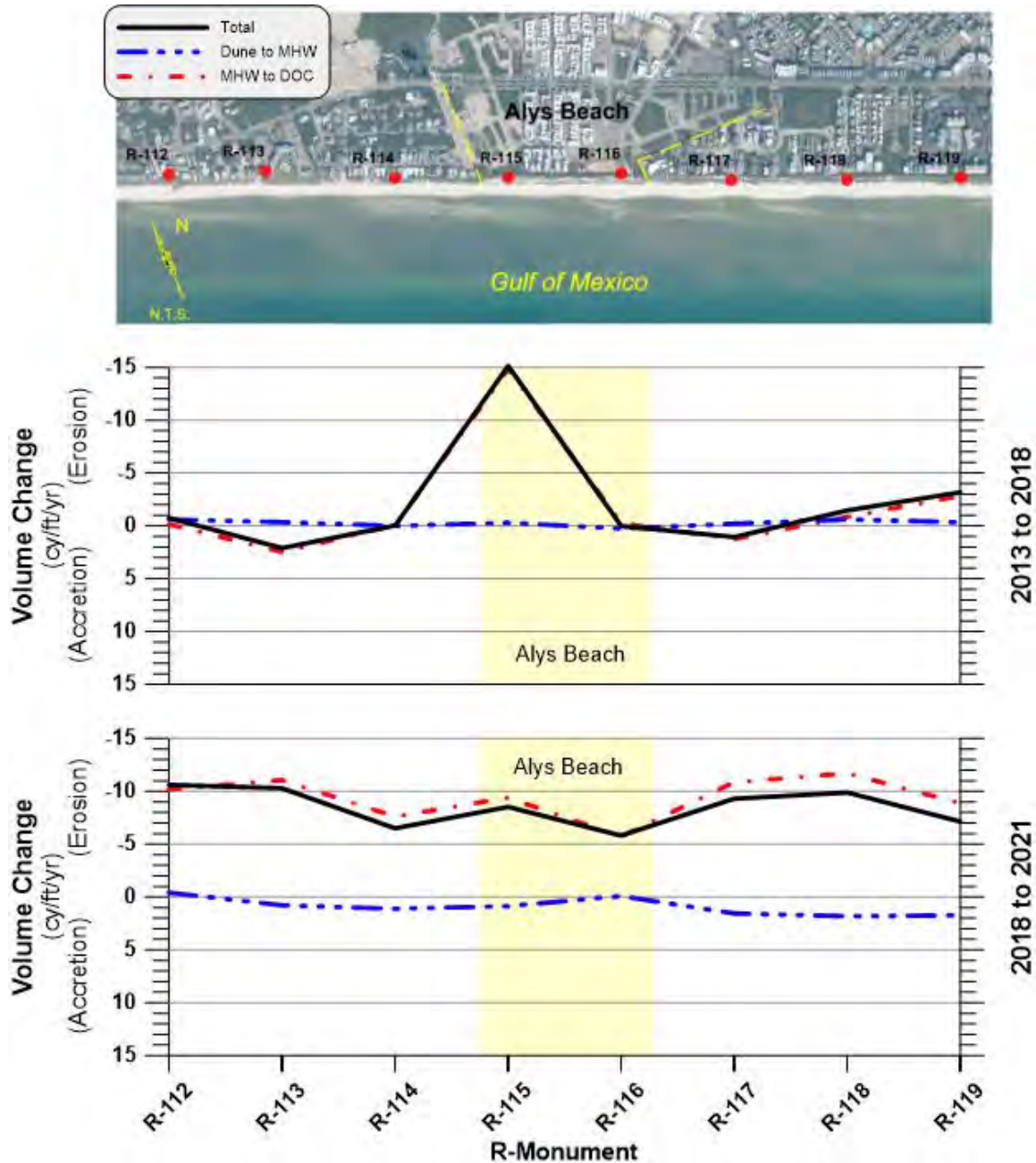


Figure 9. Volume changes 2013 to 2021(cy/ft/yr).

6.0 Native Beach Sand

Native Beach sediment data for Alys Beach was obtained from the report entitled “A Sedimentological and Granulometric Atlas of the Beach Sediments of Florida’s Northwest Coast and Big Bend”, dated July 2011, prepared by the Florida Department of Environmental Protection, Florida Geological Survey (FGS). Sample WL-24 was collected from the berm (dry beach) approximately 800 feet east of Alys Beach. The mean grain size (d_{50}) average for sample WL-24 is 0.32mm (1.66 phi) with a sorting value of 0.37 phi. The

sorting of a sand sample refers to the range of grain sizes in the sample and is defined as the standard deviation (Dean and Dalrymple, 2002). A perfectly sorted sample has a standard deviation equal to zero (0), well-sorted is ~ 0.5 and poorly sorted is greater than 1. The native beach sample with a sorting value of 0.37 phi is between 0.32 phi and 0.53 phi which by Dean (2002) and Folks (1968) are classified as well- to very well sorted. All samples contained less than 5% silt (passing the #230 sieve). The percent of carbonate found within the native beach samples was undetectable. The color of the native beach sand for Alys Beach is white to light gray (Munsell Color value of 10YR 8/1).

7.0 Beach Restoration 101

The following sections present the design criteria and standards applied in this study to evaluate beach and dune restoration alternatives to meet the design goals.

7.1 Construction Template Criteria

A typical berm crest height is estimated from historic profile data. The proposed design berm height should be approximately the same as this natural berm crest elevation. In addition to providing an enhanced recreational beach, a wide beach berm may provide an increased level of storm protection by preventing significant wave run-up and overtopping of the backshore. However, excessively high berm elevations often result in the formation of vertical escarpments which adversely affect pedestrian use and marine turtle nesting. Limiting the berm height to approximately the natural berm height will help minimize these berm scarps as the beach fill adjusts. The berm height and width have a direct effect on the volume of fill required and therefore the project cost.

7.2 Restoration Volume

The total volume of sand required to construct a beach and dune restoration project consists of four elements: a) design volume; b) advanced nourishment; c) overfill; and d) dune dimensions.

- a) **Design Volume:** The design volume is the minimum quantity of sand required to maintain the “design” template in order to provide storm protection and recreation benefits and should be present continuously throughout the project life-cycle (Figure 8). The design volume is estimated by translating the entire active profile seaward by the desired design berm width. The design volume may also consist of “make-up” volume to offset the expected losses over the current period (existing conditions) and the initial restoration project, (pre-construction conditions). It is expected that the borrow area material will be slightly coarser than the native material resulting in a steeper profile, and therefore intersect the bottom closer to the shoreline and thus require slightly less fill material.
- b) **Advanced Nourishment Volume:** The volume to maintain the minimum design dimensions until the first periodic maintenance interval is referred to as advanced nourishment (Figure 8). Advanced nourishment consists of placing additional beach fill to offset the expected losses from the initial construction of the restoration project to the first scheduled maintenance interval and is generally representative of background erosion rates. However,

even though the project shoreline is generally stable (minimal background erosion), the “alongshore spreading losses” (Section 7.3.b) are anticipated to be significant for this project.

- c) **Overfill Volume:** The overfill volume accounts for differences in the grain-size distribution characteristics of the borrow area material compared to the native beach sand (Figure 8). In general, the material placed as fill will be re-worked and sorted by wave action. If there is a higher percentage of fine sand in the borrow material than the native beach sand, more volume is required to maintain the design profile. If the borrow material is coarser than the native beach sand, less volume may be required to produce comparable performance to the native material (Refer to Section 6.0).
- d) **Dune Dimensions:** Sand dunes behind the active profile provide additional storm protection to uplands by reducing storm tide flooding, wave run-up and overtopping of the back-barrier. The dune crest height along the back beach should be at or above the limit of wave run-up and not be completely eroded by the desired design storm. A review of historic dune elevations is useful in estimating dune crest heights.

7.3 Beach Fill Adjustment

Following the placement of beach fill, the nourished beach will adjust toward an equilibrium condition in response to wave activity and longshore currents. There are three components by which a nourished shoreline changes: a) cross-shore “adjustment” of sand from the upper to the lower portion of the profile (Figure 9); b) “alongshore spreading losses” (Figure 10); and c) “background erosion rates” (Figure 10) (Dean and Dalrymple, 2002). These processes occur simultaneously, however their time scales are quite different. The greatest adjustment of the profile toward equilibrium is typically within the first year; “alongshore spreading losses” on the order of decades; and losses due to background conditions continue at the same rate as before the placement of fill material.

- a) **Equilibrium Beach Profiles:** The construction template provides a temporarily wider beach, however due to the dynamic action of waves, sand movement will be initiated immediately after placement and the fill will be partially transported offshore. Over a period of time, the profile will approach an equilibrium slope. Equilibrium profiles can be used to predict the form of the nourished beach following adjustment of the placed fill. In general, as the mean diameter of the fill material increases compared to the existing native beach material, the nourished profile will be steeper.

A coarser borrow material effectively accomplishes two design considerations: 1) requires a lesser fill volume placed to achieve a given berm width; and 2) the adjusted toe of the nourished profile intersects the existing profile closer to shore. Equilibration of the project shoreline profiles may also be minimized, given the steep nearshore slope of the existing beach, on the order of 1:10 to 1:15 (V:H) above MHWL and 1:20 (V:H) below the MHWL.

- b) **“Alongshore Spreading Losses”:** Sand placed during a beach nourishment project will result in a planform anomaly when compared to the adjacent shoreline. Waves will transport

sediment away from this anomaly which will result in a smoothing or spreading of the fill material onto the shoreline adjacent to the nourished segment (Figure 10). The percent of beach fill remaining within the project limits over a given time period can be estimated using a one-line model such as DNRBS (Dean and Grant, 1989) or GENESIS (Hanson and Kraus, 1989).

- c) **Background Erosion Rates:** The need for a beach nourishment project is usually due to the effect of historical background erosion and the resulting storm vulnerability. The placement of fill will not reduce the long-term erosion rate experienced within the project limits, but rather allow additional protection to upland structures and improvements by moving the point of erosion waterward. Considering the shoreline has been documented to be stable, no advanced fill to compensate for background erosion will be required.

7.4 Level of Storm Protection

The design templates are evaluated for (statistically-based) predicted storms of 15-, 25-, and 50-year return periods. Storm surge elevations (Table 2) are applied to determine the hypothetical frequency storm events. The numerical model SBEACH is employed to predict the time-dependent erosion of numerous profiles through an iterative process as well as to determine the most effective design template outlined in Section 7.2.a). The minimum or “design” template will provide the minimum protection to the uplands just before the template is re-nourished (Appendix B).

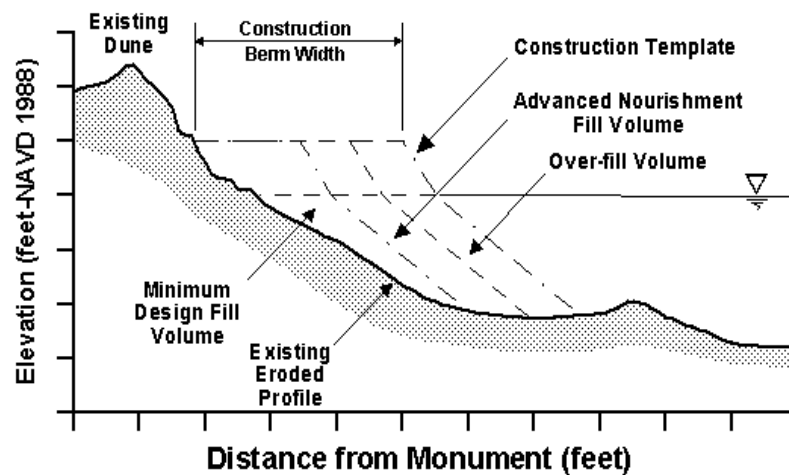


Figure 10. Typical construction template and fill volumes.

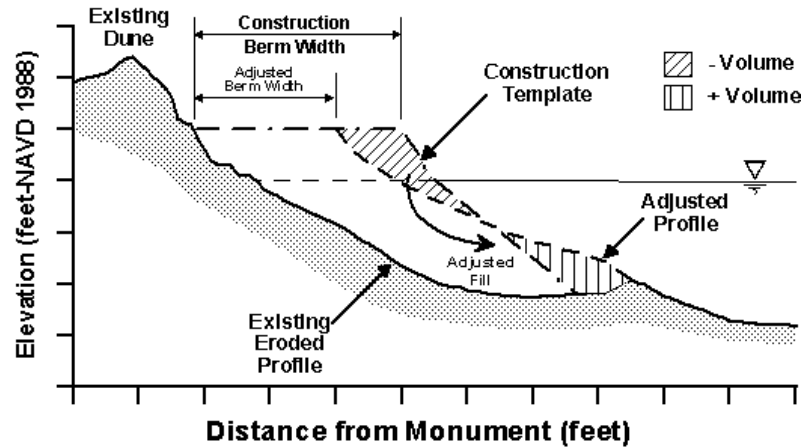


Figure 11. Cross-section view illustrating offshore “adjustment” of fill.

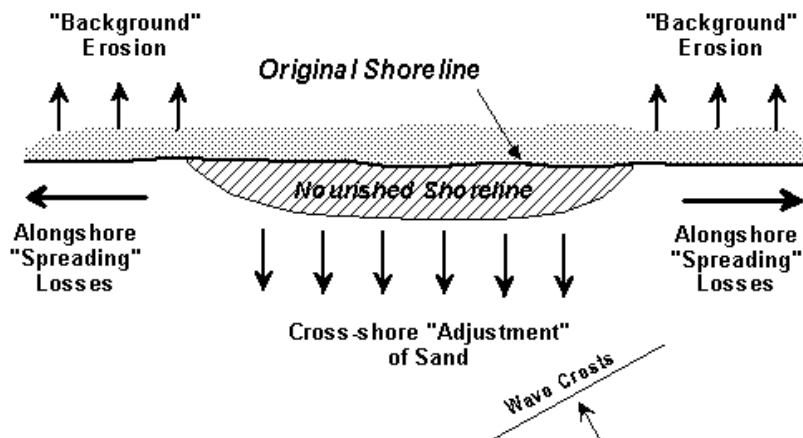


Figure 12. Plan view illustrating: a) cross-shore “adjustment”; b) alongshore “spreading” losses; and c) “background” erosion.

8.0 Alternative Designs

The primary objective of this assessment is to identify feasible alternatives which mitigate the erosion occurring along Alys Beach, provide an increased level of storm protection for upland structures, enhance recreation, and preserve natural resources. The alternatives that have been evaluated are as follows:

- Alternative 1: no action
- Alternative 2: dune restoration only
- Alternative 3: beach restoration only
- Alternative 4: beach and dune restoration

Each of the above alternatives has been evaluated to establish the feasible alternative most likely to yield maximum economic benefits while addressing natural resource preservation. Due to the similarities in Alternative 3: beach restoration and Alternative 4: beach and dune restoration these two have been combined into one.

8.1 Alternative 1: No New Action

“No New Action” is always an alternative and can often compare favorable in a purely economic analysis. However, there can also be significant non-economic impacts from such an approach which makes a straight-forward evaluation more difficult. This alternative preserves the existing “status quo” by reacting to historic shoreline and storm erosion after the fact rather than taking a proactive approach. The alternative would consist of taking no physical action to mitigate for historical erosional trends or reduce storm related damage to the upland property and structures.

8.1.1 Performance Evaluation

“No New Action” preserves the existing “status quo” of environmental impacts versus benefit, whatever that balance might be. Performance of the “No Action” alternative was modeled using the SBEACH (Storm-induced BEACH Change) within CEDAS (Coastal Engineering Design & Analysis System). The July 2021 survey data was used as the initial condition for this model, and subjected to 15-, 25-, and 50-year storm events. The existing beach and dune conditions under the “No Action” alternative provided adequate upland protection for these storms, although beach and dune erosion was prevalent.

8.1.2 Permitting

Not applicable for this alternative.

8.1.3 Construction Costs

There are no direct costs associated with new construction for the “No New Action” alternative. However, over time there will be costs to periodically maintain the existing dune by placing sand and native dune vegetation, and repair storm related damage to dune walkovers.

8.1.4 Summary

The benefits of the “No Action” alternative include no direct or in-direct impacts to the existing coastal system as the shoreline would evolve as nature dictates. There would also be no initial capital outlay for this alternative. However, one must weigh the benefits of a recreational beach and the level of storm protection when choosing an appropriate alternative. As seen in Sections 4.1 – Shoreline Changes and 5.0 – Volume Changes, the shoreline has accreted approximately 580 cubic yards per year or 14,000 cubic yards over the 1,500 feet of Alys Beach shoreline over the 24-year period between 1998 and 2021. The average shoreline (MHWL) change is -0.1 ft/yr over this same period. The erosion along the Alys Beach shoreline appears to be due to the episodic formation of the beach cusps and erosional hot spots presented in Section 4.2, and storm related erosion.

8.2 Alternative 2: Dune Restoration Only

This alternative consists of evaluating the performance of a dune restoration, with no enhancements to the beach. Fill would be placed in the existing escarpments at the toe of the dune to restore the dune to the “pre-storm” condition and provide a more natural appearance.

8.2.1 Performance Evaluation

Performance of the “Dune Restoration Only” alternative was modeled using SBEACH (Storm-induced BEACH Change) tools within CEDAS (Coastal Engineering Design & Analysis System). Please refer to Appendix D for the modeling results. The July 2021 survey data was used as the initial condition for this model, and subjected to 15-year, 25-year, and 50-year storm events. The “Dune Restoration Only” alternative provided adequate upland protection for these storms, although beach and dune erosion was prevalent.

8.2.2 Permitting

A DEP Coastal Construction Control Line (CCCL) permit will be required. DEP encourages the placement of beach quality sand and native dune plantings to restore the dune system. Coordination with the U.S. Fish and Wildlife Service (USFWS) will be required due to this shoreline segment being within the federal designated “critical beach mouse habitat”. Permits and authorization can be obtained in less than 6-months.

8.2.3 Construction Costs

The preliminary estimated cost for this alternative is \$80,000, which includes: placement and grading of approximately 1,500 cubic yards of beach compatible sand (\$60,000 based on \$40 per cubic yard in 2021 dollars) to restore the dune at the toe. Approximately 5,000 native dune plants (\$5,000) will be installed to stabilize the sand and fill in gaps within the existing vegetation. These costs also include engineering, design, permitting, and bidding; and constructing phase services (\$15,000).

8.2.4 Summary

The benefit of the dune restoration alternative is that it would further reduce the risk of upland storm damage. Placing fill in the existing escarpments would provide additional stability to the dune system and minimize the undermining of the dune walkovers. This alternative is the least expensive option relative to the no action alternative. Although the recreational beach will continue to form the beach cusps and hot spots, a dune enhancement project will maintain the dune feature and provide a level of storm protection to the uplands.

8.3 Alternative 3: Beach and Dune Restoration

This alternative combines the beach restoration only and beach and dune restoration alternatives into one. The dune enhancements are addressed in Alternative 2.

8.3.1 Performance Evaluation

The beach fill project was modeled using the planform evolution model RMAP (Regional Morphology Analysis Package) within CEDAS (Coastal Engineering Design & Analysis System). The modeling effort included 50-foot, 100-foot, and 150-foot “adjusted” equilibrium shorelines for both a 1,500 foot and 4,500 foot project. These beach widths are measured from the initial mean high water line to the post-construction equilibrated mean high water line (Section 7.3.a). The 1,500 foot long project would place beach compatible sand along the Alys Beach shoreline with a berm height of +5.0 feet, NAVD88 and construction template would range in width between 150-feet (50-foot adjusted width), 195-feet (100-foot adjusted width) and 250-feet (150-foot adjusted width). The performance of a beach restoration project is dependent on the length of the fill (in miles) along the shoreline.

“...the longevity of a project in terms of the time required to lose a certain percentage of the sediment from the project area varies directly as the square of the length of the project and inversely as the 2.4 power of the wave height.”

Keeping the wave height constant but increasing the “length of the project” by 3,000 linear feet (1,500 feet to the east and west) for a total of 4,500 feet will increase the performance of the project by approximately 55%.

A 1,500 linear foot long beach project is short and is not anticipated to perform very well. Disregarding significant storm events, a 1,500 foot long project is estimated to last <3 years (50-foot adjusted width), 5-years (100-foot adjusted width) and 6-years (150-foot adjusted width) as shown in Figures C-1, C-2 and C-3, respectively. While a 4,500 foot long project is estimated to last <5 years (50-foot adjusted width), 7.5-years (100-foot adjusted width) and 9-years (150-foot adjusted width) as shown in Figures C-4, C-5 and C-6, respectively. One note of caution, any estimated projection in beach fill performance greater than 6 years is uncertain for these relative short lengths of fill.

In addition to a planform evolution model, an erosion analysis applying SBEACH was conducted for a 100-foot adjusted equilibrium berm width with a +5.0 foot NAVD 88 height for 15-year, 25-year, and 50-year storm events at R-115 and R-116. The proposed adjusted fill provided adequate beach width to completely mitigate dune erosion for the 15-year and 25-year storms. The dune did experience minor erosion under the 50-year condition as expected, but this was minor in comparison to the pre-nourished case (Section 8.1). A typical section for the proposed fill can be found in Figure 13.

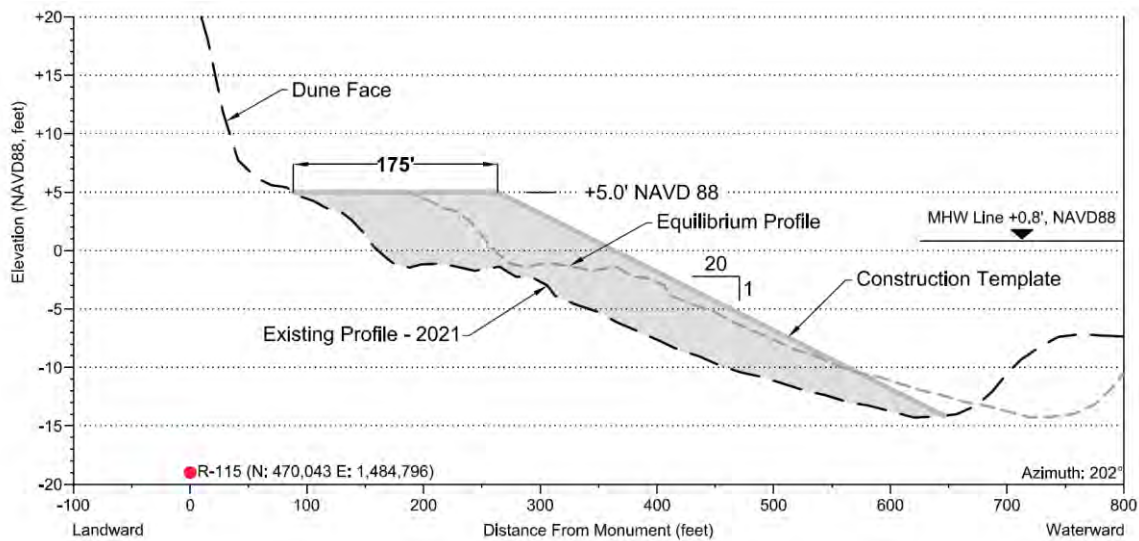


Figure 13. Typical section of proposed fill for the beach and dune restoration alternative.

8.3.2 Permitting

Placement of beach fill below the MHWL will require a DEP Joint Coastal Permit (JCP) and Department of the Army – USACE Standard Permit (SP). The DEP JCP can be obtained within 18-months, but the USACE SP typically takes 2 to 3 years due to the amount of federal red-tape and the required coordination with commenting agencies such as the USFWS and National Marine Fisheries Service (NMFS). This assumes the sand to construct this project will be obtained from an upland borrow area (sand pit), trucked to the site and placed from the uplands. The borrow material will be required to meet or exceed the quality of the native sand presented in Section 6.0. Walton County has a permitted offshore borrow area located near the Okaloosa/Walton County line. However, using this borrow area is cost-prohibited due to the hauling distance of over 20 miles between Alys Beach and the borrow area. Mobilization/demobilization costs for a hopper dredge to construct this project can be between \$2.5 and \$4.5 million.

Because sand will be placed seaward of the MHWL, the State of Florida will require the establishment of an Erosion Control Line (ECL) delineating the boundary between upland private property and the State of Florida. The ECL is established along the MHWL at the time of the survey (typically 6-months of establishment). Any dry beach created seaward of that line will be public property and can be passively used by the general public including activities such as sunbathing, fishing, etc.

If the longer 4,500 foot project is selected, then construction easements will have to be obtained from the adjacent property owners, and DEP and the USACE may require these landowners to be co-applicants. At this point it may be beneficial for Walton County to be the applicant. In addition, post-construction monitoring may be required by the DEP permit conditions which will consist of beach and offshore surveys and analysis.

8.3.3 Opinion of Probable Construction Costs

The 100-foot adjusted width option appears to be the most cost-effective alternative for a beach fill project. The 1,500-foot and 4,500-foot long projects were analyzed, and sand volumes are summarized in Table 5. In general, the existing beach berm and dune provides the desired level of storm protection therefore the “design volume” (Section 7.2.a) is equal to zero, the “dune dimensions volume” (Section 7.2.d) was estimated at 1,500 cubic yards (Section 8.2.3) which leaves the “advanced fill volume” (Section 7.2.b) and the “overfill volume” (Section 7.2.c). The “advanced fill volume” is made up of the volume of fill expected to erode between nourishment intervals or “background erosion rates” (Section 7.3.c) and “alongshore spreading losses” (Section 7.3.b). Based on the volume change analysis in Section 5.0., the Alys Beach shoreline has gained approximately 580 cubic yards per year or 14,000 cubic yards of sand between 1998 and 2021 therefore the “background erosion” was set to zero. The “alongshore spreading losses” are estimated from the planform evolution model RMAP and are presented in Table 5.

A 4,500-foot beach fill (extending 1,500 feet east and west of Alys Beach) is projected to last 55% longer than the 1,500-foot beach fill constructed within the limits of the Alys Beach gulf front. The 100-foot wide, 1,500-foot beach fill project is estimated to cost \$11 million (2021 dollars) and may last 5-years before the next nourishment project and \$24 million (2021 dollars) for the 4,500-foot long beach fill that may last 7.5 to 8 -years. Both options include 500-foot tapers at the ends of the beach fill, placement of sand trucked in from an upland borrow area, grading the beach berm to a +5.0 foot, NAVD 88 elevation, and placement and grading of approximately 1,500 cubic yards of sand to restore the base of the dune. In addition, the costs also include construction surveys, engineering, design, permitting, and bidding; and constructing phase services. Planview and conceptual construction templates for this alternative can be found in Appendix E. A pre-construction survey would be utilized to identify the locations and volumes of the dune escarpments to be filled. In addition, the post-construction monitoring may cost approximately \$50,000 per year for a 3- to 5- year period depending on DEP permit conditions.

8.3.4 Summary

The benefit of the beach restoration alternative is that it would further reduce the risk of upland storm damage and provide a wider recreational beach. The toe of the dune would also be filled to minimize that the base of dune walkovers are protected from minor storm events. This alternative will add sand to the beach and dune system at a cost between \$11 million and \$24 million dollars for a project that may last between 5- to 7.5-years before the next nourishment interval is required. The loss of sand will depend on which alternative is selected and the intensity and frequency of future storm events. Although the beach will continue to form the beach cusps and hot spots, a beach restoration will

offset the cusps/hot spots further seaward thereby maintaining a buffer between the dune walkovers and shoreline, and will provide a wider recreational beach.

Table 7. Estimated fill volumes (cubic yards) and estimated costs (in 2021 dollars).

Parameter	1,500-foot long, 100-foot wide project	4,500-foot long, 100-foot wide project
Design volume	185,200	463,000
Dune dimensions volume	1,500	1,500
Background erosion volume	0	0
Alongshore spreading losses	231,250	508,750
Overfill volume	23,125	50,875
Total Volume:	255,875	561,125
Total Estimated Sand Cost:	\$10,235,000	\$22,445,000
Engineering, Permitting and Construction Phase Services	\$765,000	\$1,683,375
Total Estimated Cost:	\$11,000,000	\$24,128,375

Note: Sand costs at \$40 per cubic yard in 2021 dollars.

9.0 Summary and Recommendations

The formation of the beach cusps and hot spots appear to be episodic along the Alys Beach shoreline as they have been documented along other beaches of the north Gulf Coast. Over the 24-year period of beach and offshore survey data (1998 to 2018), the Alys Beach shoreline has gained an average of approximately 580 cubic yards per year or a total of 14,000 cubic yards between 1998 and 2021 with a small shoreline (MHW) erosion rate of about -0.1 per year. The formation of the beach cusps are not well understood but these features do fill in and the beach width is maintained over an extended period of time.

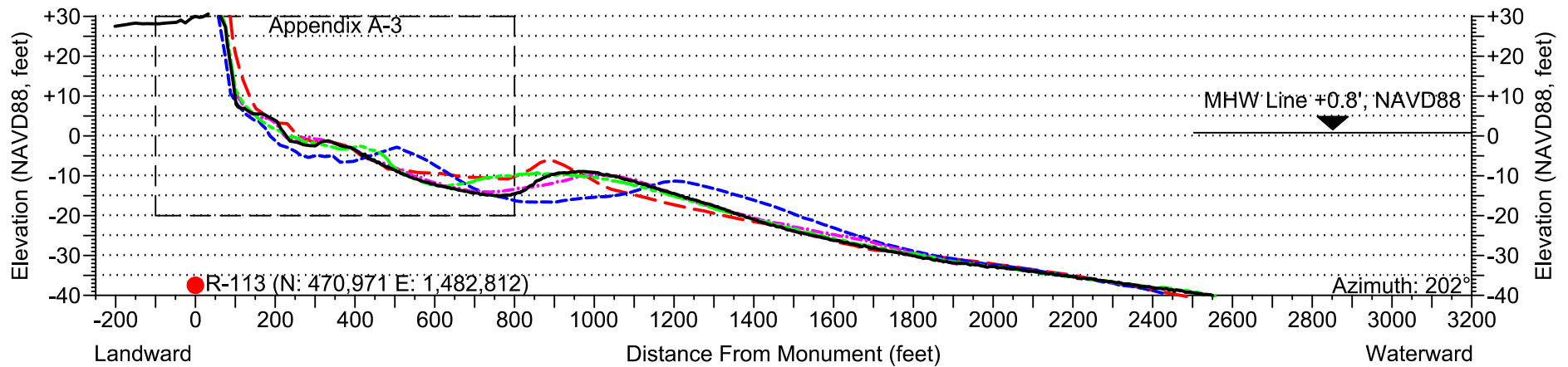
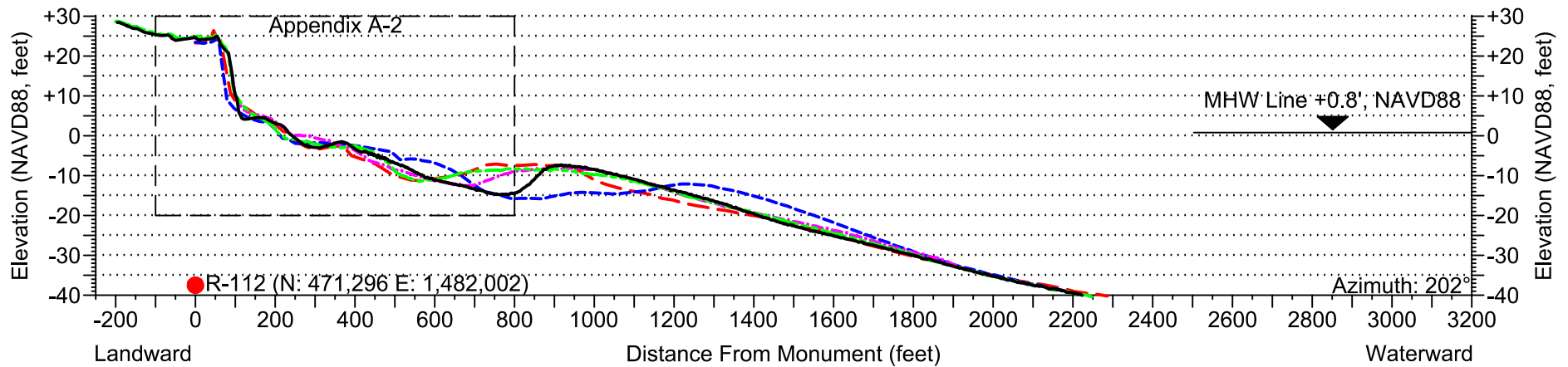
At this time, our recommendation is to monitor the shoreline over the next 12- to 18-months to determine the rate of shoreline recovery. This can be accomplished by MHW line surveys, drone aeriels or photo documentation from a set point on the uplands such as a dune walkover.

10.0 References

- Bodge, K. R., 2006. "Alternative Computation of Dean's Overfill Ratio" *J. Waterway, Port, Coastal and Ocean Engineering*. ASCE. 132 (2). March/April 2006.
- Clark, R. and Weeks, W., 2020. *Critically Eroded Beaches in Florida*. Division of Water Resource Management, Florida Department of Environmental Protection
- Coastal Engineering Design and Analysis System (CEDAS), 2005. Veri-Tech, Inc. <http://www.veritechinc.net/products/cedas/index.htm>
- Dean, R. G., 1974. "Compatibility of borrow material texture for beach fill." Proceedings, 14th International Conference on Coastal Engineering, ASCE, Reston, Va., 1319–1333.
- Dean, R.G. and Grant J., 1989. *Development of methodology for thirty year shoreline projections in the vicinity of beach nourishment projects*. UFL/COEL-89/026. Coastal and Oceanographic Engineering Department, University of Florida, Gainesville, Florida, 153p.
- Dean, R.G., and Dalrymple, R.A., 2002. *Coastal processes with emphasis on engineering applications*. Cambridge University Press, Cambridge, U.K.
- Dean, R. G. 2002 . Beach nourishment theory and practice, Advanced series on ocean engineering, Volume 18, World Scientific, Singapore.
- Florida Geological Survey, 2011. "A Sedimentological and Granulometric Atlas of the Beach Sediments of Florida's Northwest Coast and Big Bend", Florida Department of Environmental Protection, July 2011.
- Folk, R.L., 1968. Petrology of Sedimentary Rocks. Austin, Texas: Hemphill's.
- Hanson, Hans and Kraus, N., 1989. *GENESIS: Generalized Model for Simulating Shoreline Change. Report 1*. Technical Reference. Department of the Army. Waterways Experiment Station, Vicksburg, Mississippi.
- Kraus, Nicholas C., 1993. *SBEACH - Numerical model for Simulating Storm-Induced Beach Change*.
- Leadon, M. and Nguyen, N., 2009. *SBEACH Calibration and Erosion Analysis for Walton County and Okaloosa County, Florida*. Beaches and Shores Resource Center, Florida State University.
- National Research Council (NRC), 1995. *Beach Nourishment and Protection*. National Academy Press, Washington, D.C.
- U.S. Army Corps of Engineers (USACE), 1989. *SBEACH: Numerical Model for Simulating Storm-Induced Beach Change, Report 1*. Washington, D.C., July 1989. 256p., plus appendices.
- Pilarczyk, K. (2003). Design of Low Crested (submerged) structures - an overview. *6th International Conference on Coastal and Port Engineering in Developing Countries*. Colombo, Sri Lanka.

APPENDIX A

Historic Profiles



LEGEND

- January 23-24, 1998 (upland); April 1998 (offshore)
- September 20, 2005
- September 18, 2013 (upland); October 18, 2013 (offshore)
- October 28, 2018
- July 15-26, 2021

Vertical Scale: 1" = 40'
Horizontal Scale: 1" = 400'



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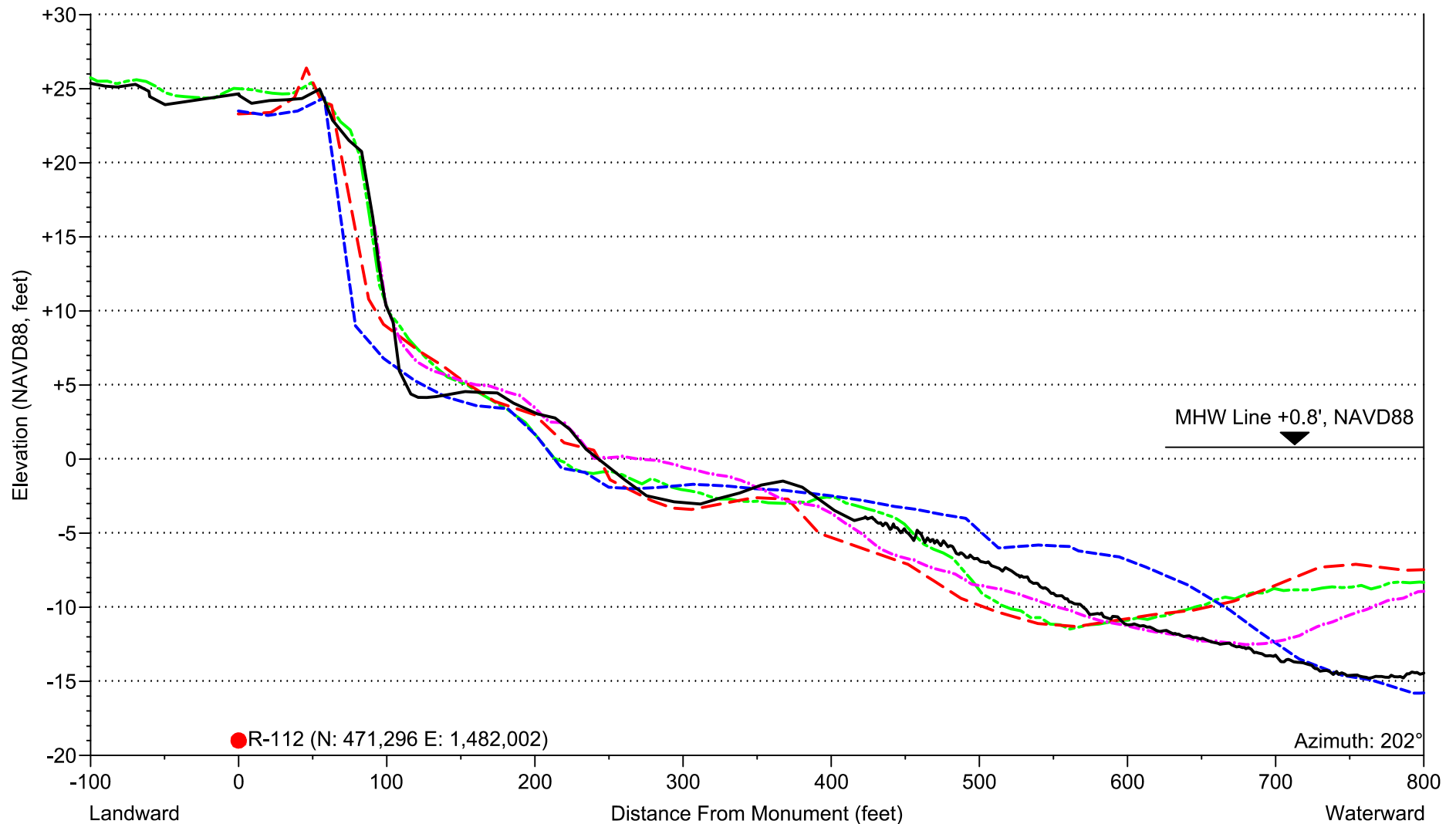
MONITORING PROFILES (FULL) - DEP R-112 & R-113 Alys Beach Feasibility Study

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Michael R. Dombrowski, P.E.
Florida P.E. Number 55255

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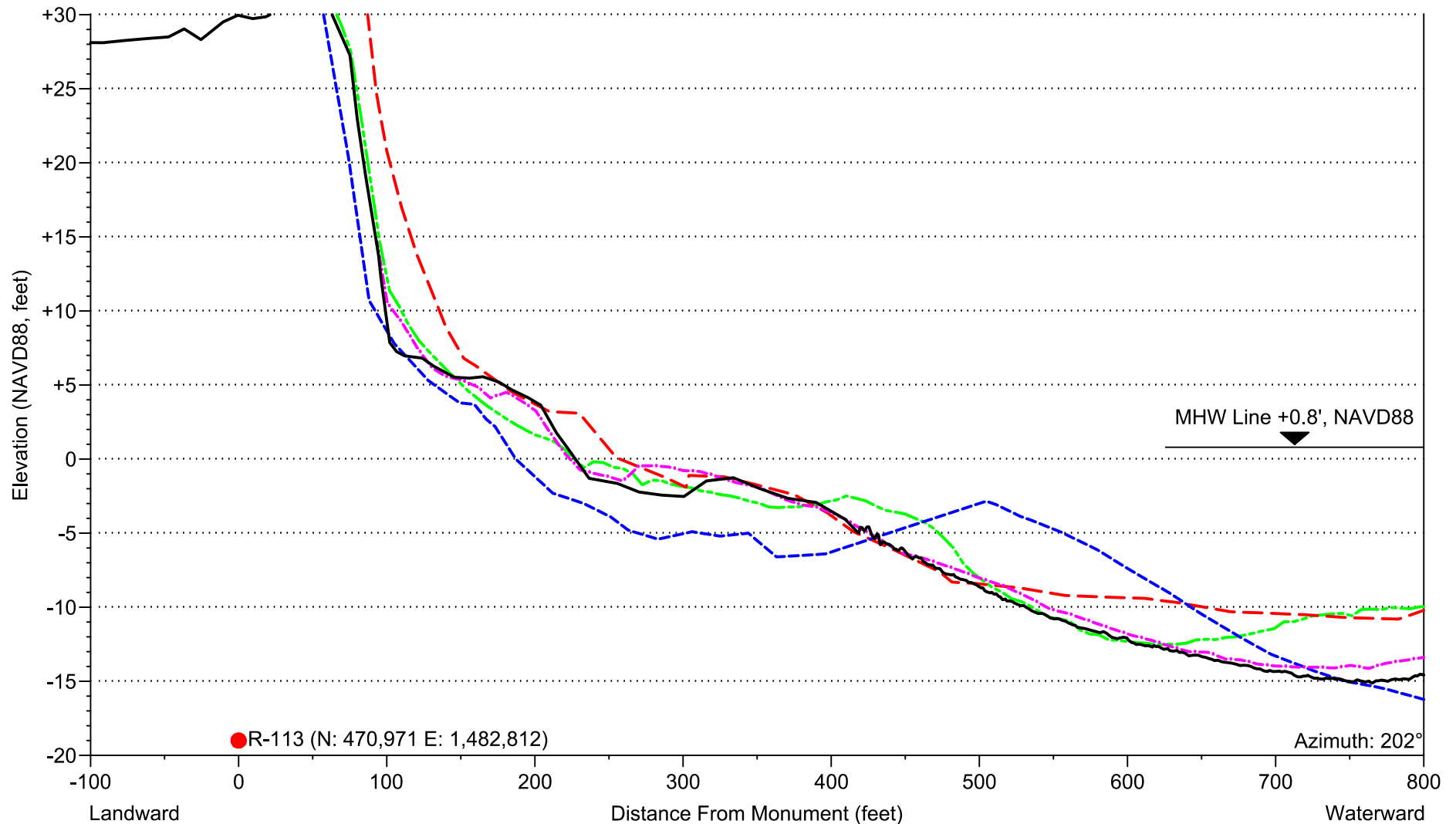
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A-2



LEGEND

- January 23-24, 1998 (upland); April 1998 (offshore)
- September 20, 2005
- September 18, 2013 (upland); October 18, 2013 (offshore)
- October 28, 2018
- July 15-16, 2021

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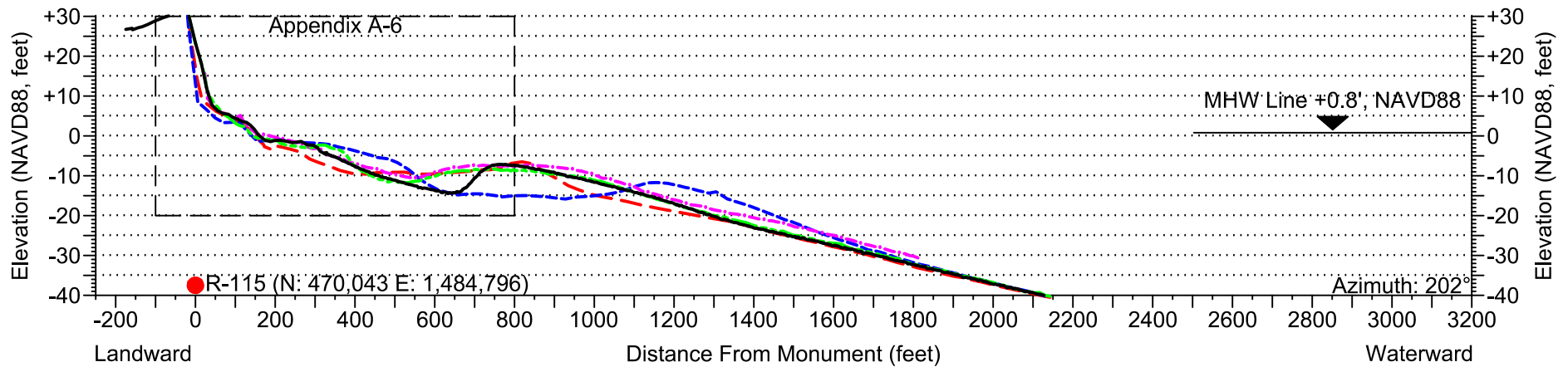
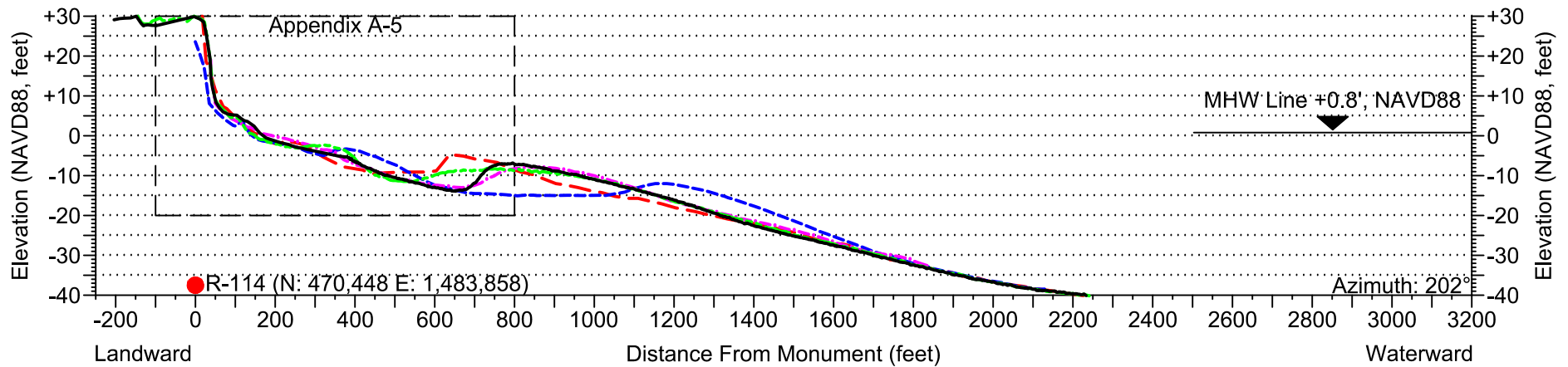
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PROJECT NUMBER 20-129.002	APPENDIX A-3
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LEGEND

- January 23-24, 1998 (upland); April 1998 (offshore)
- September 20, 2005
- September 18, 2013 (upland); October 18, 2013 (offshore)
- October 28, 2018
- July 15-26, 2021

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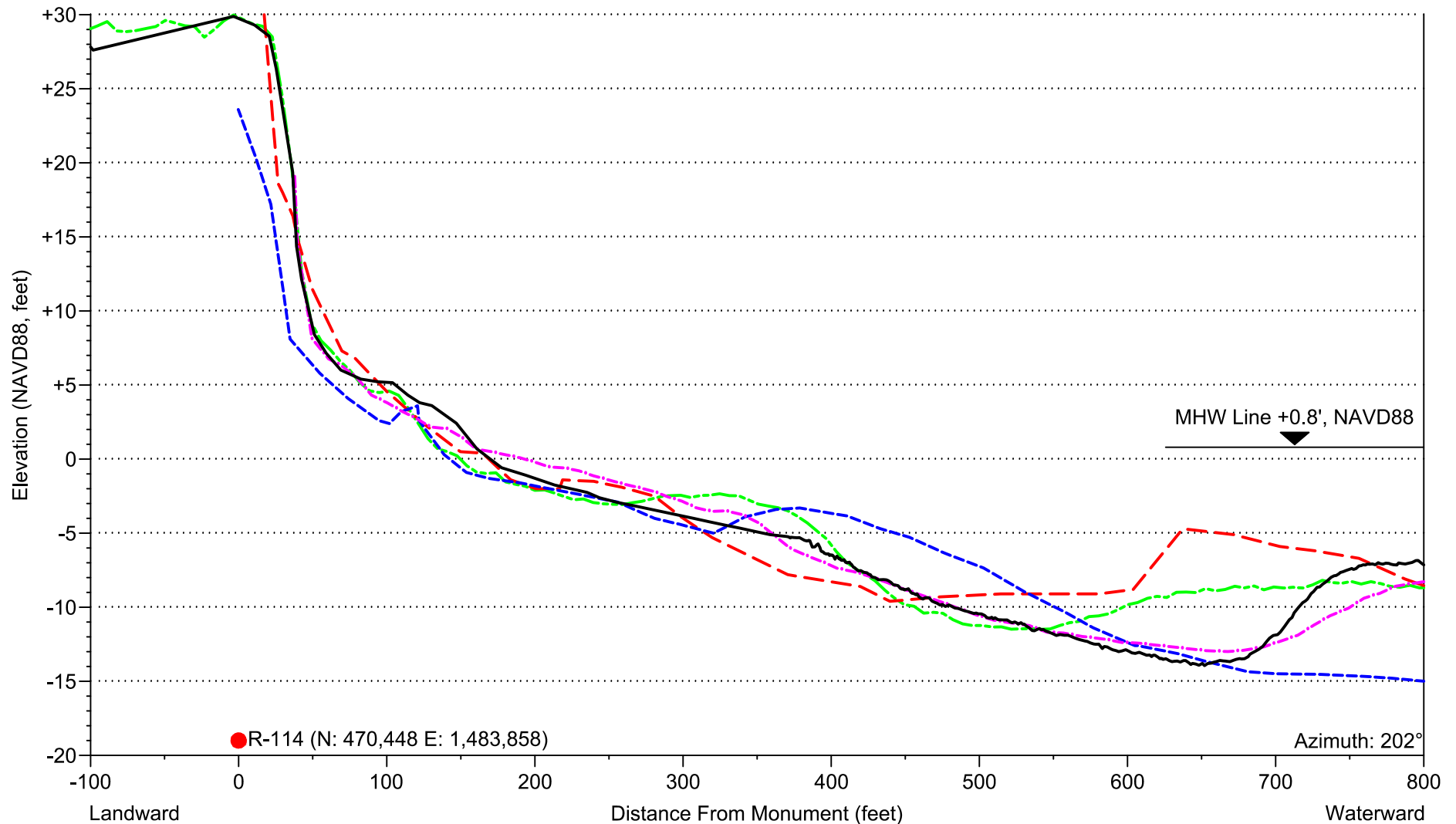
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LEGEND

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- September 20, 2005
- September 18, 2013 (upland); October 18, 2013 (offshore)
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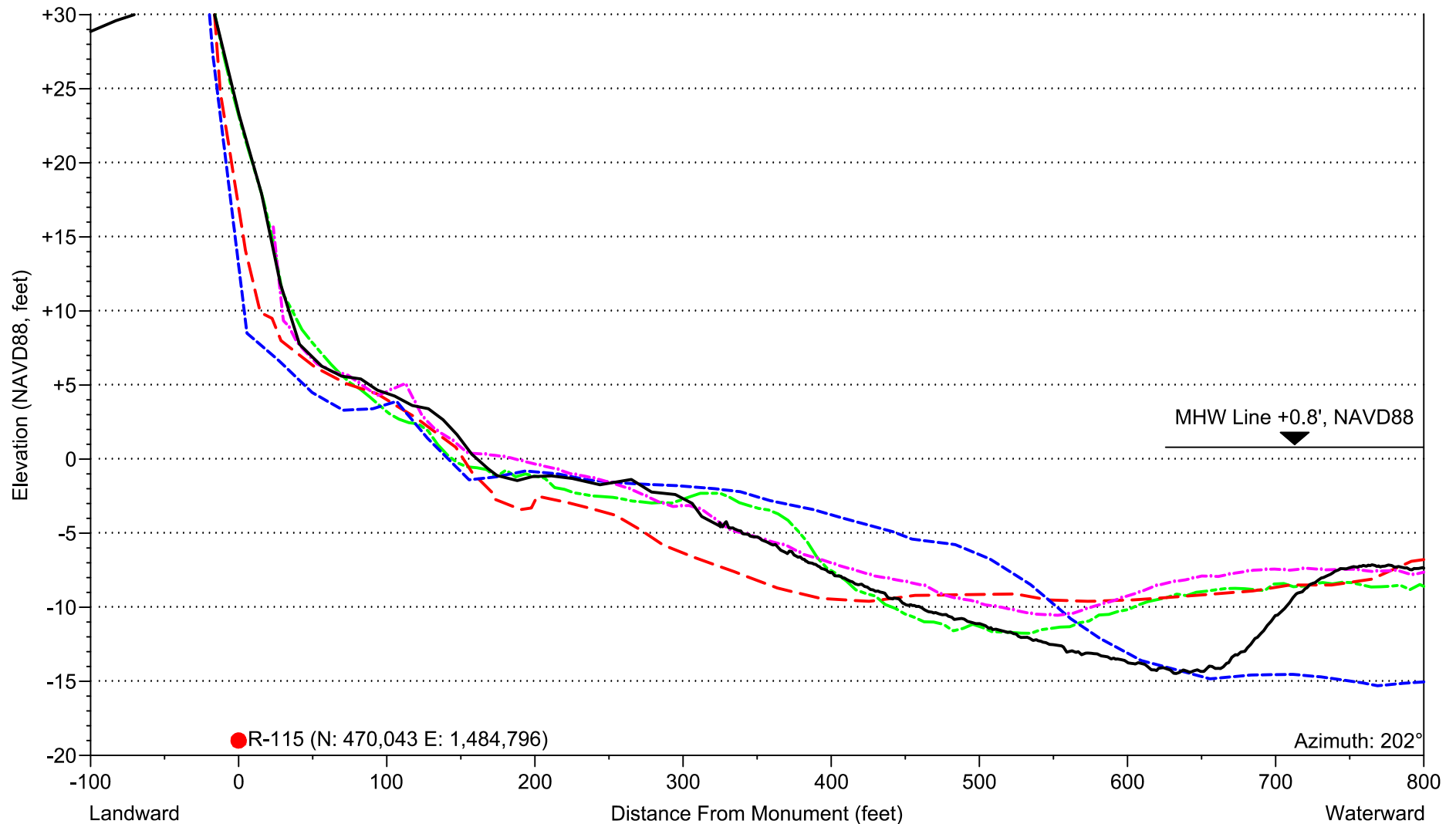
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- October 28, 2018
- July 15-16, 2021

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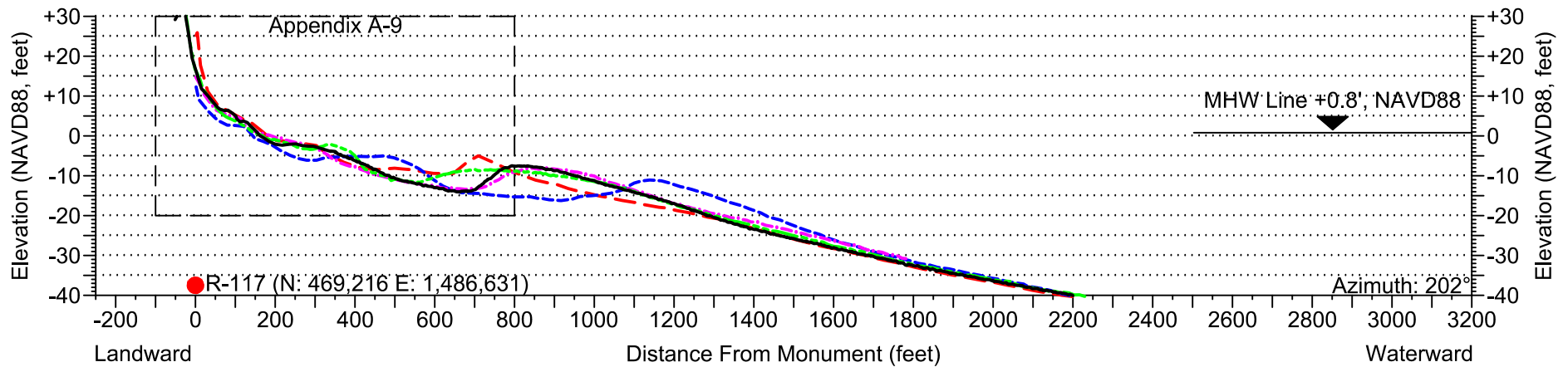
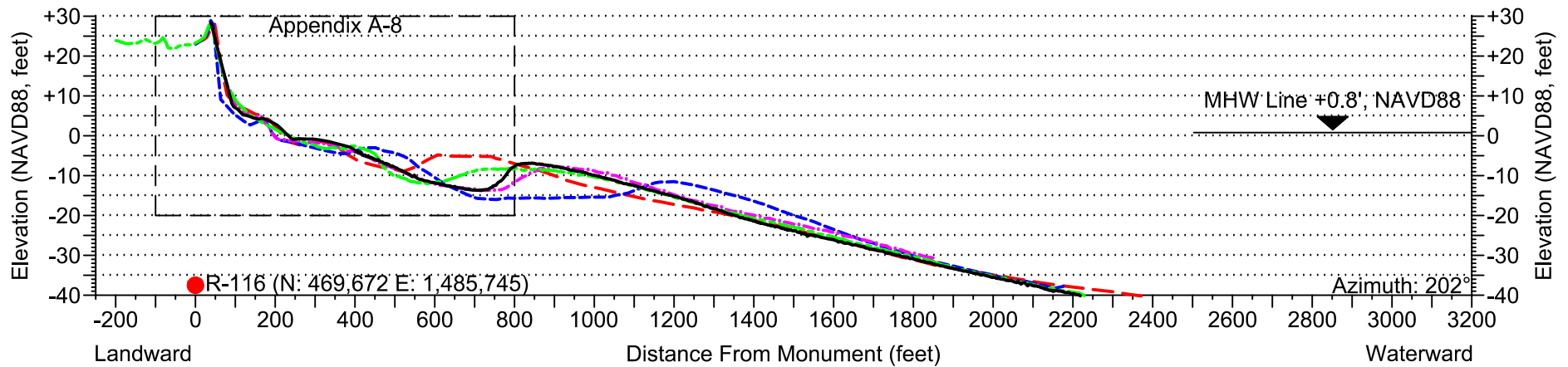
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LEGEND

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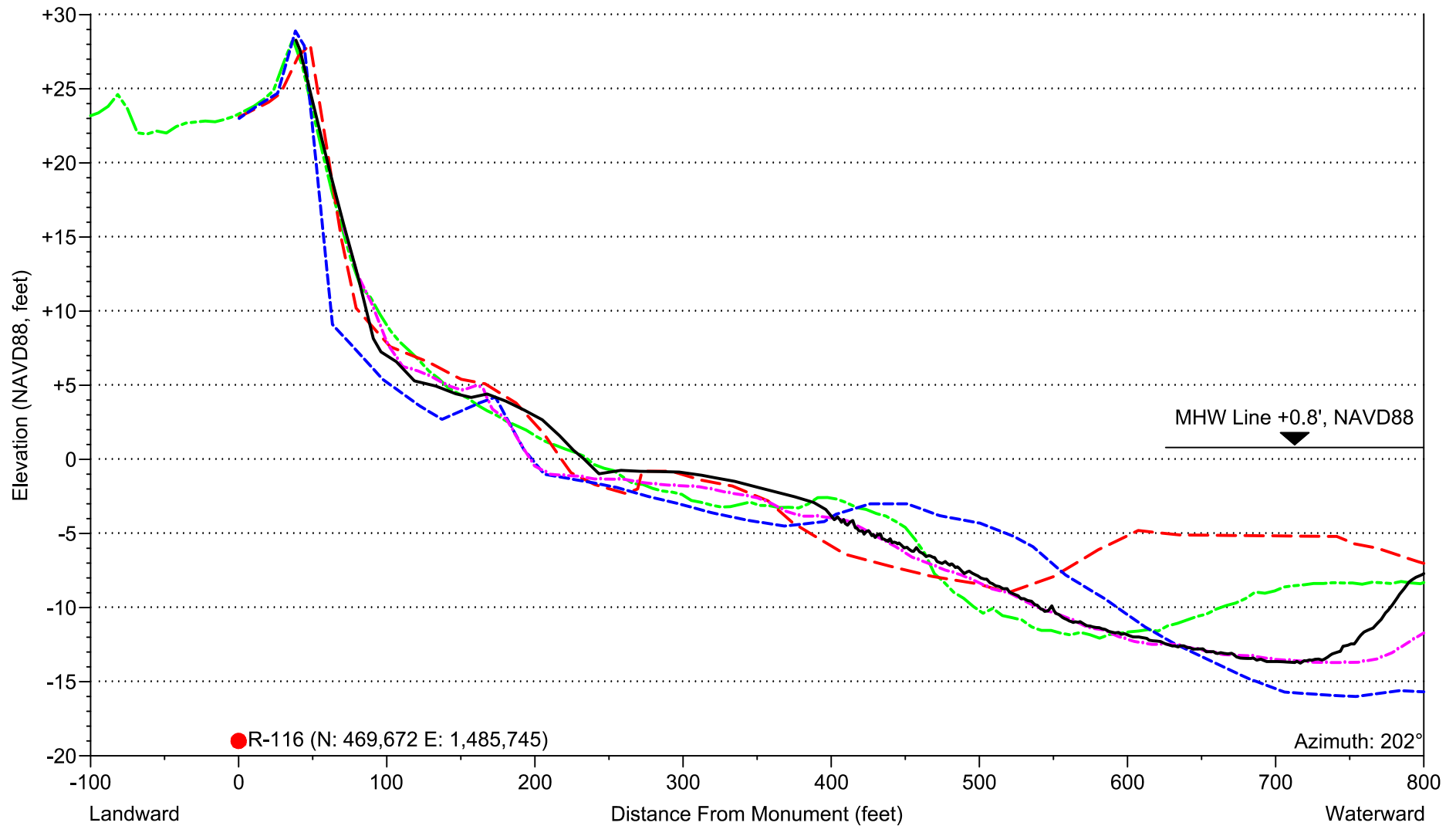
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LEGEND

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- September 20, 2005
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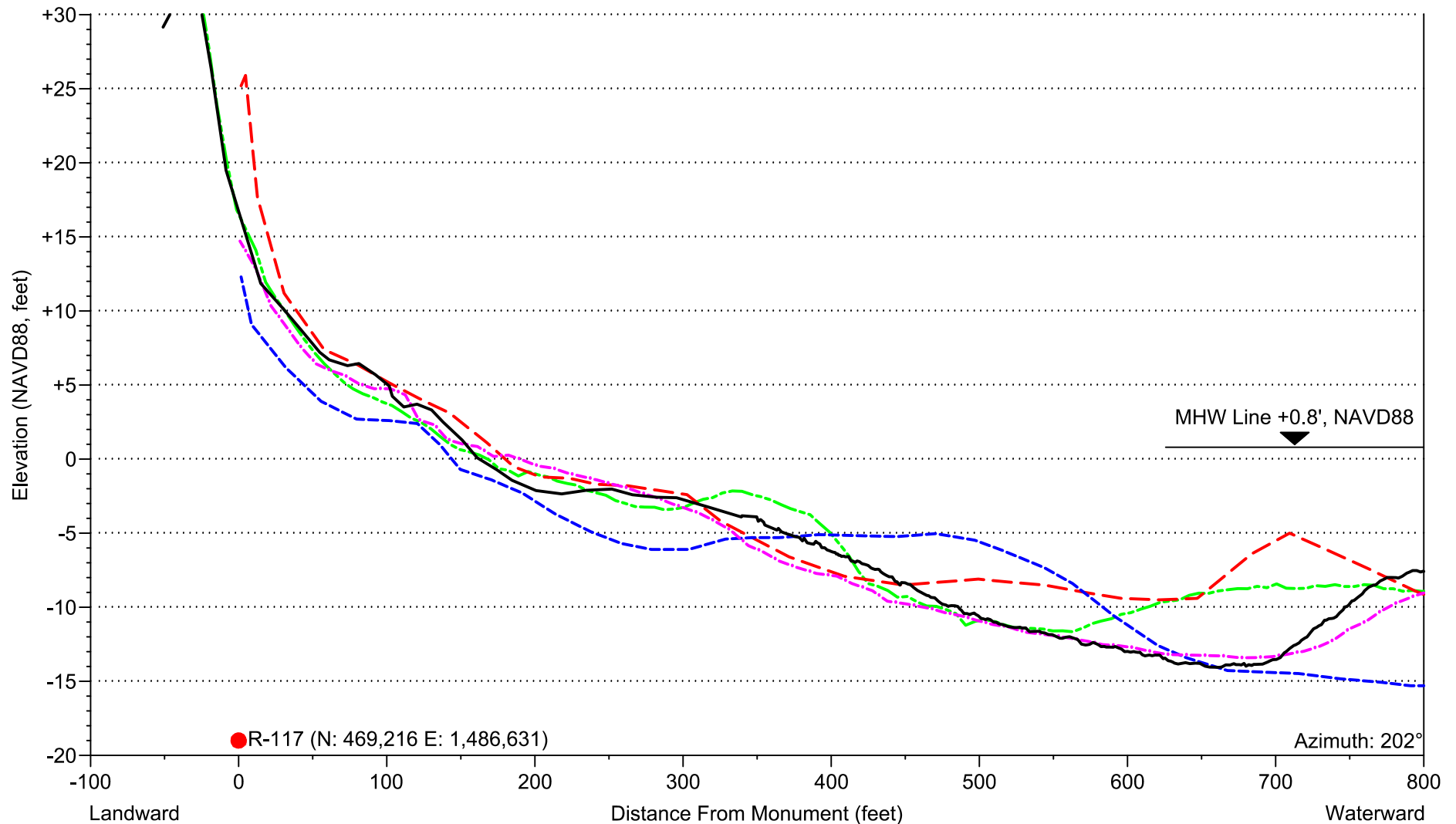
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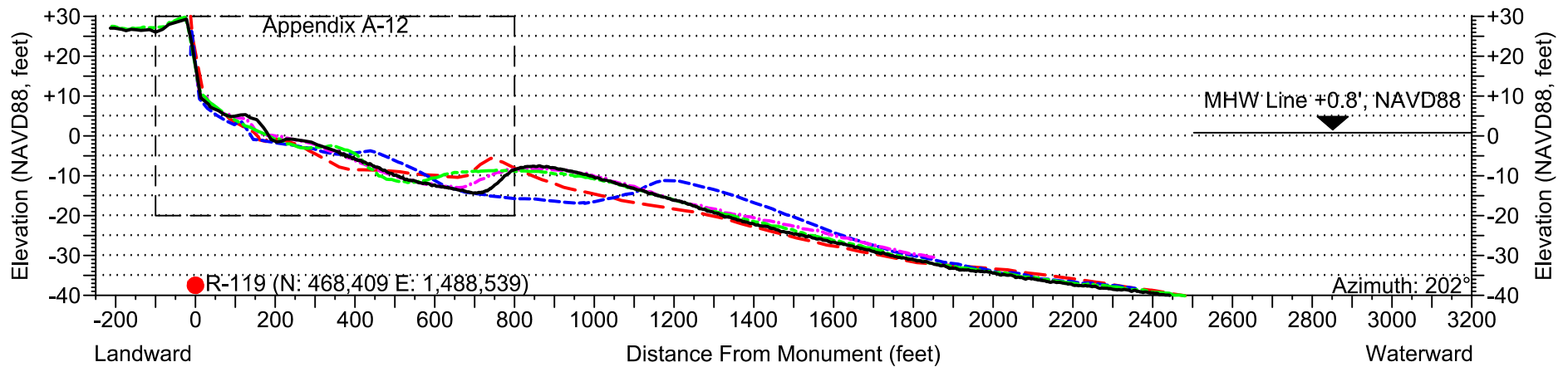
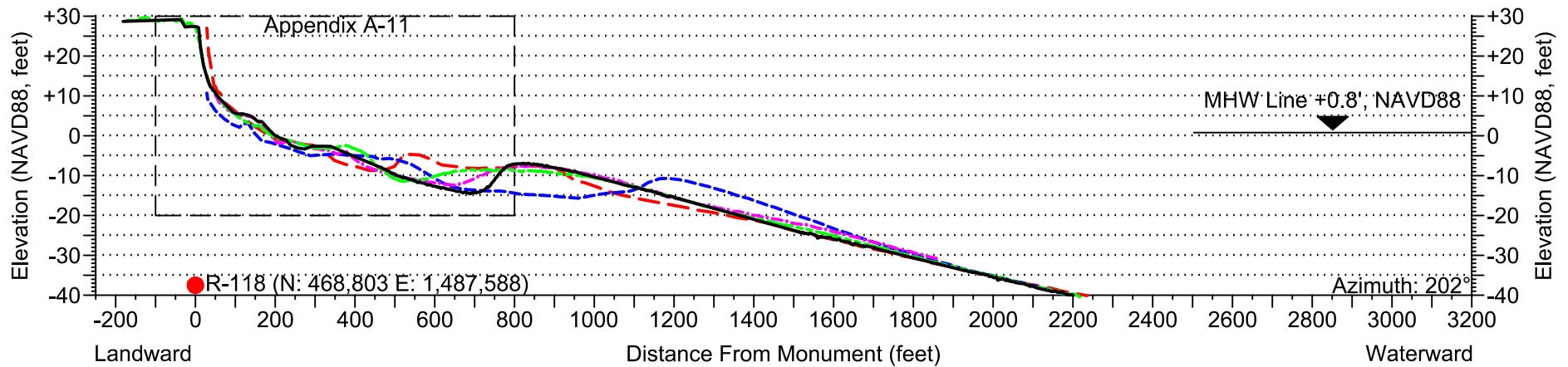
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PROJECT NUMBER 20-129.002	APPENDIX A-9
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LEGEND

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MONITORING PROFILES (FULL) - DEP R-118 & R-119 Alys Beach Feasibility Study

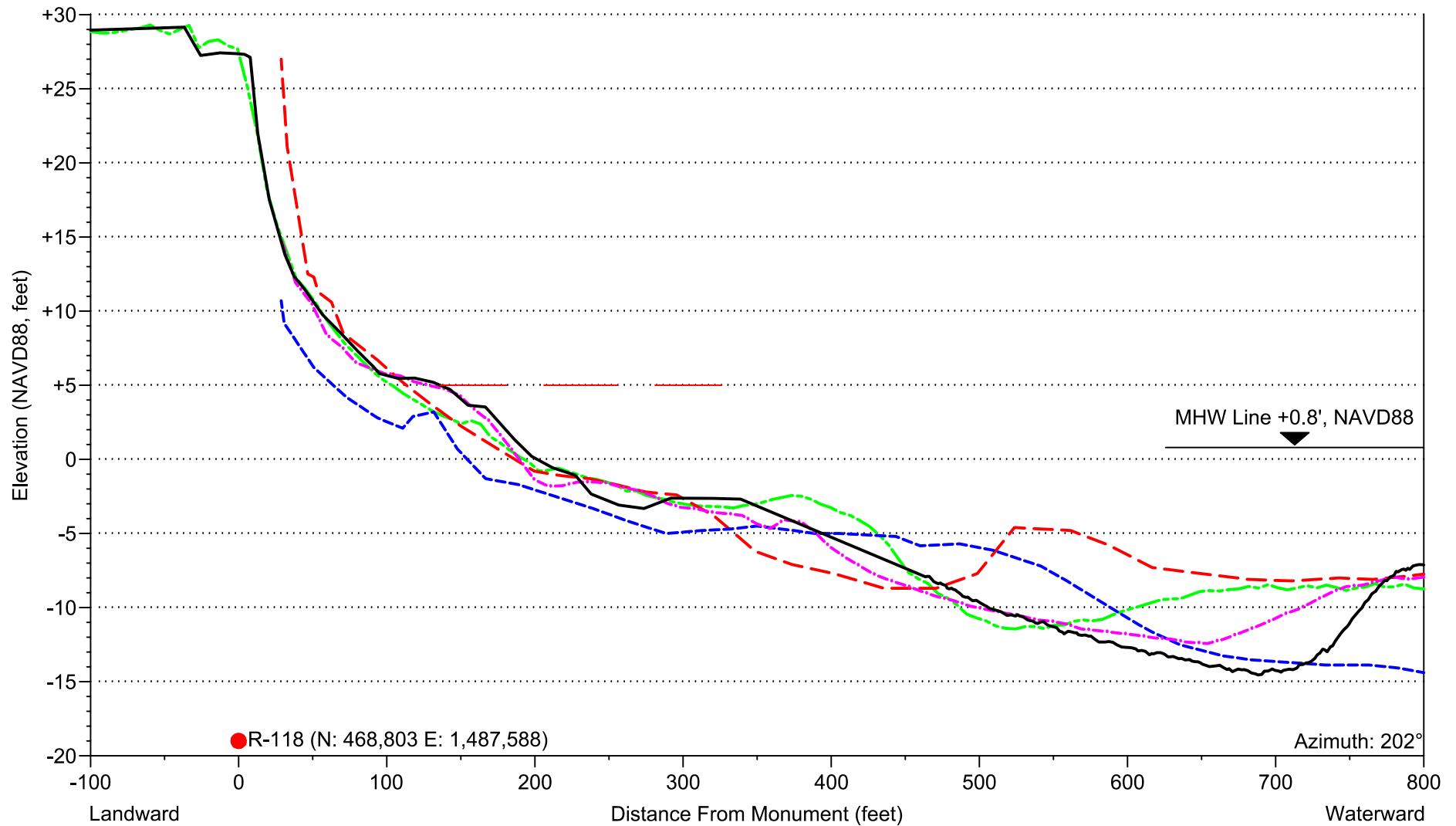
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APPENDIX
A-10



LEGEND

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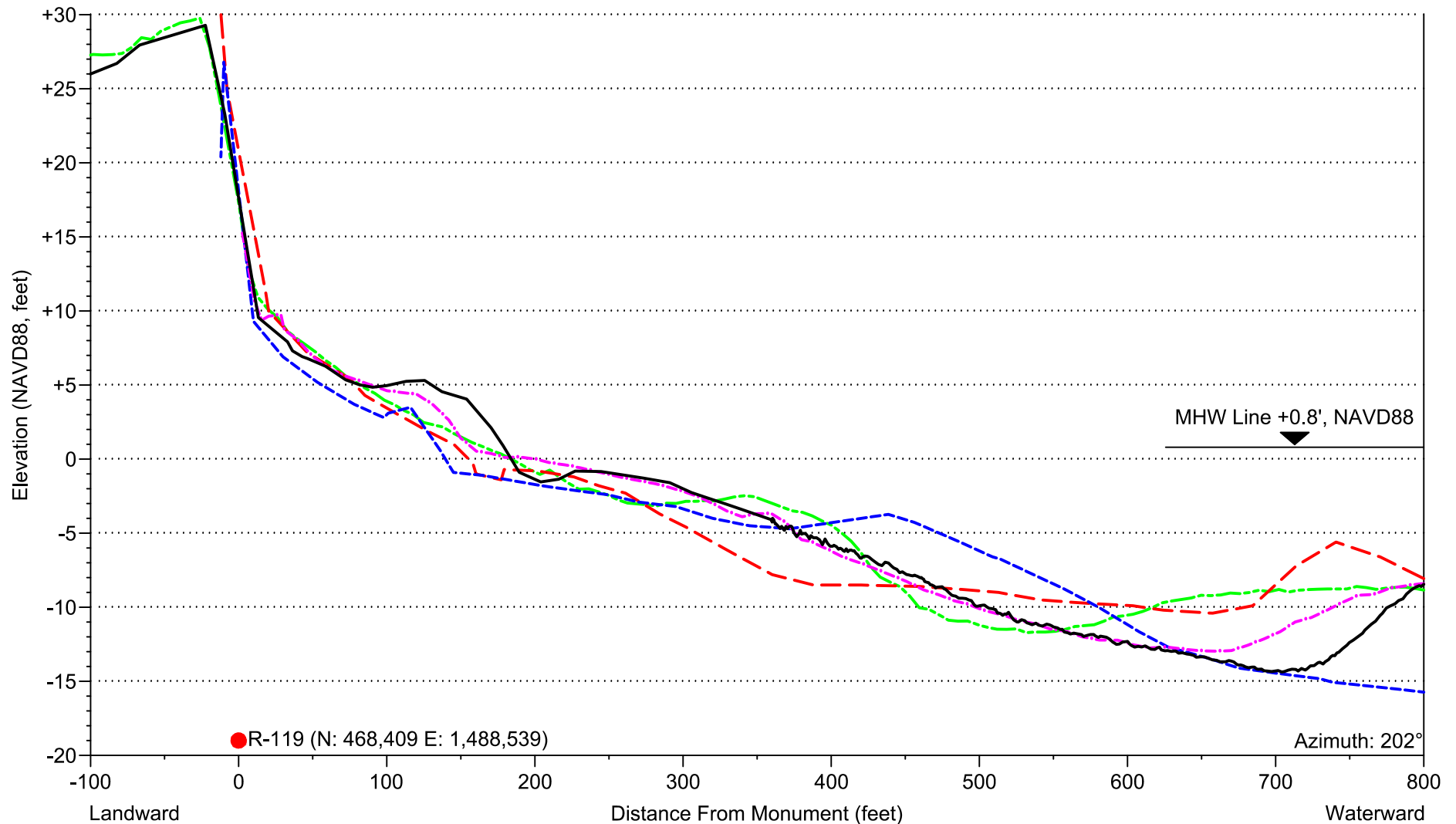
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APPENDIX
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LEGEND

- January 23-24, 1998 (upland); April 1998 (offshore)
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- October 28, 2018
- July 15-16, 2021

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MONITORING PROFILES (NEARSHORE DETAIL) - DEP R-119 Alys Beach Feasibility Study

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Sheet Rev Date: September 2, 2021

PROJECT NUMBER 20-129.002	APPENDIX A-12
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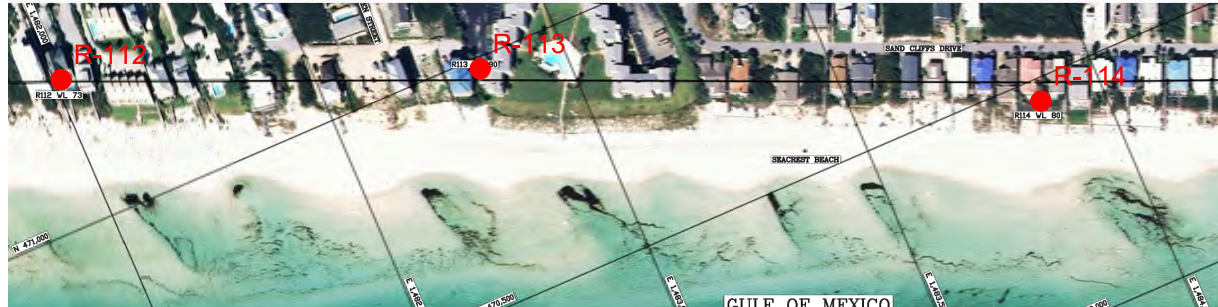
APPENDIX B

Historic Aerials

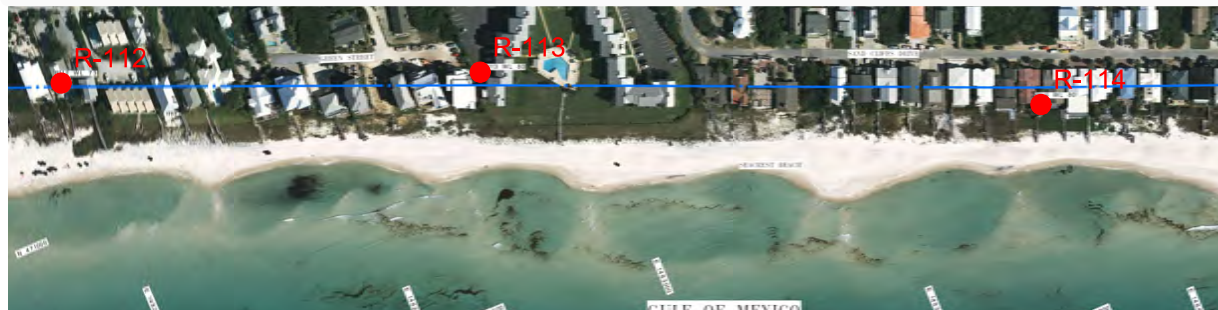
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Jan. 2010



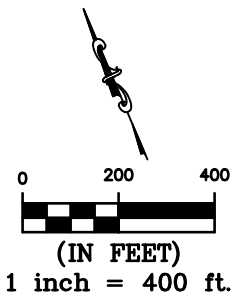
Feb. 2016



Jan. 2019



MATCHLINE APPENDIX B-2



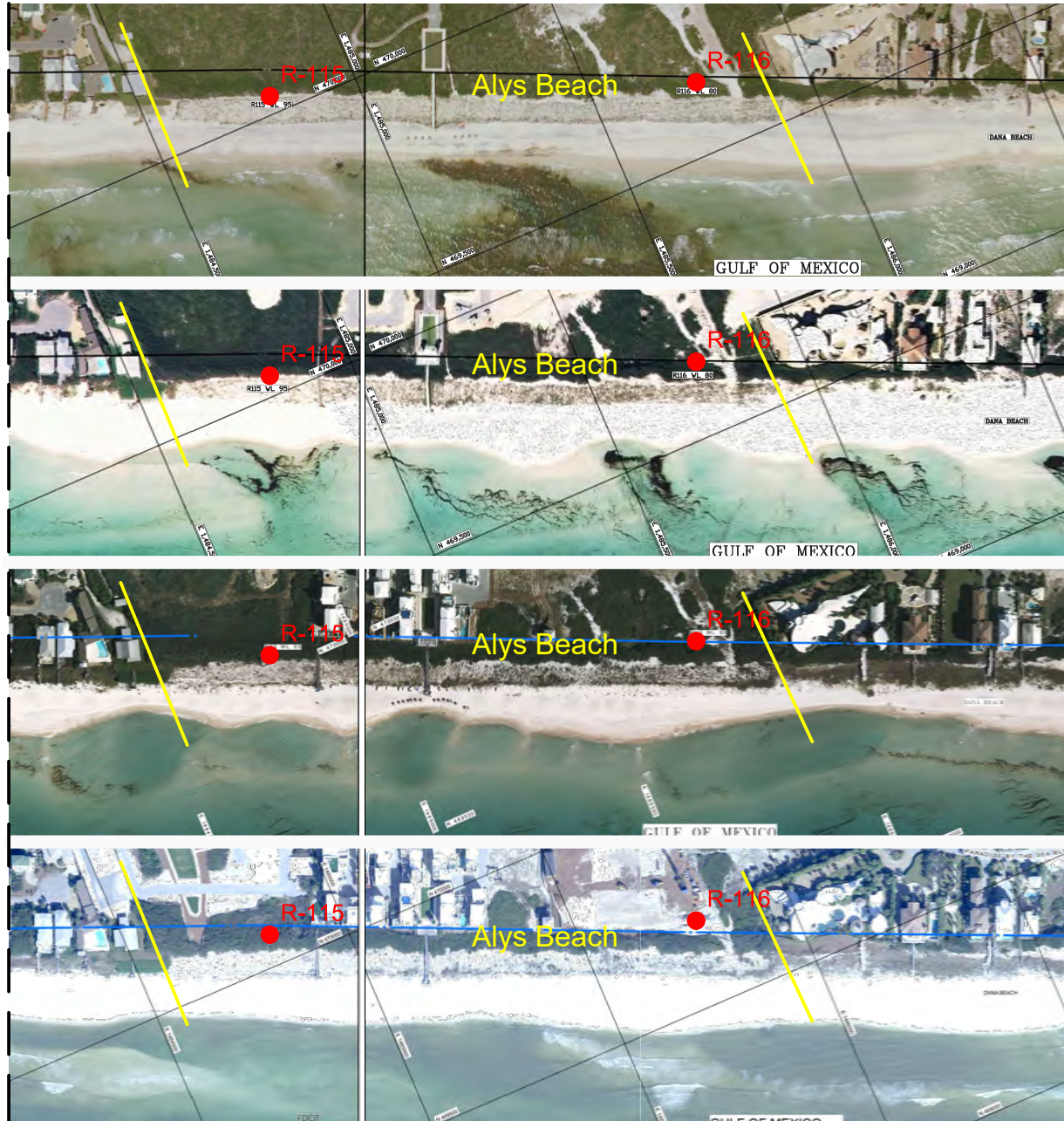
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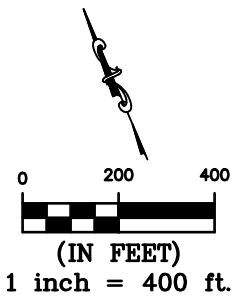
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MATCHLINE APPENDIX B-1



MATCHLINE APPENDIX B-3



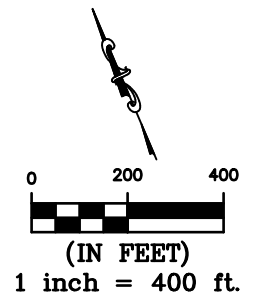
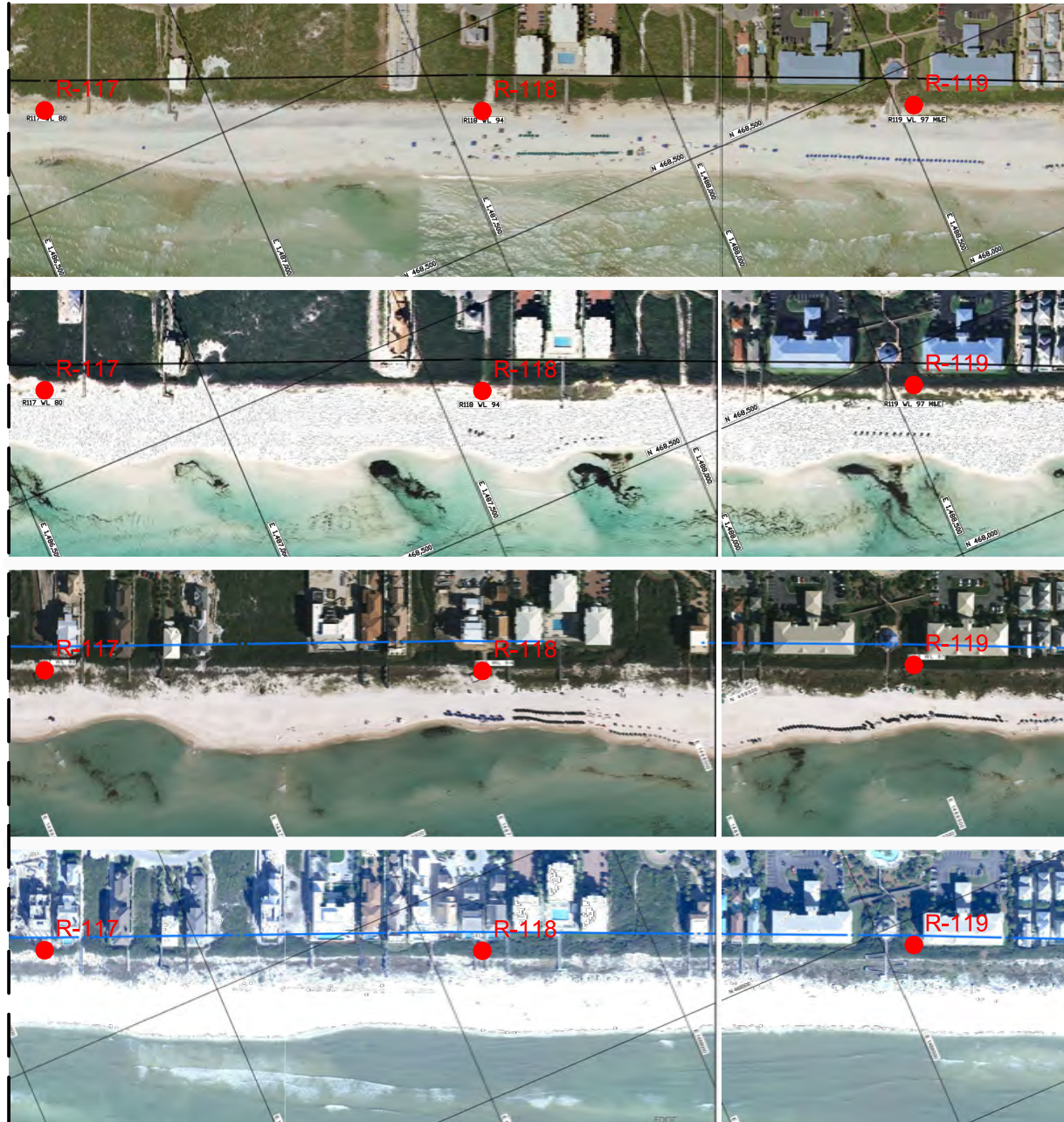
July 2007

Jan. 2010

Feb. 2016

Jan. 2019

MATCHLINE APPENDIX B-2



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HISTORIC AERIALS - DEP R-117 to R-119
Alys Beach Feasibility Study

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Sheet Rev Date:	
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APPENDIX C

RMAP Modeling

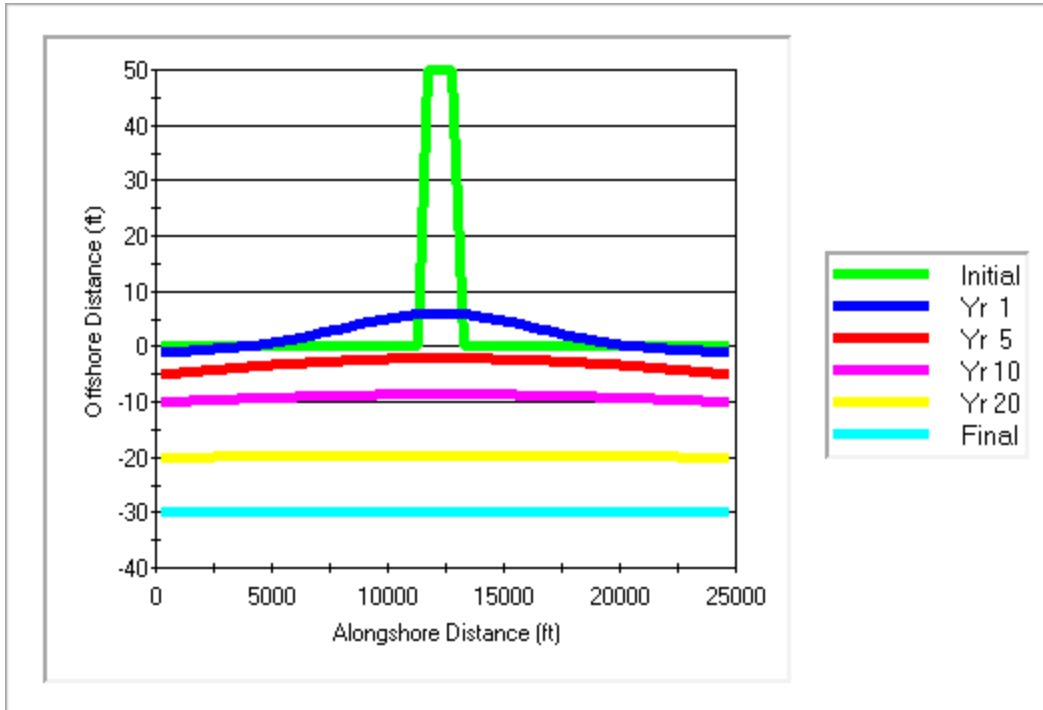


Figure C-1. 1,500 foot length, 50 foot width

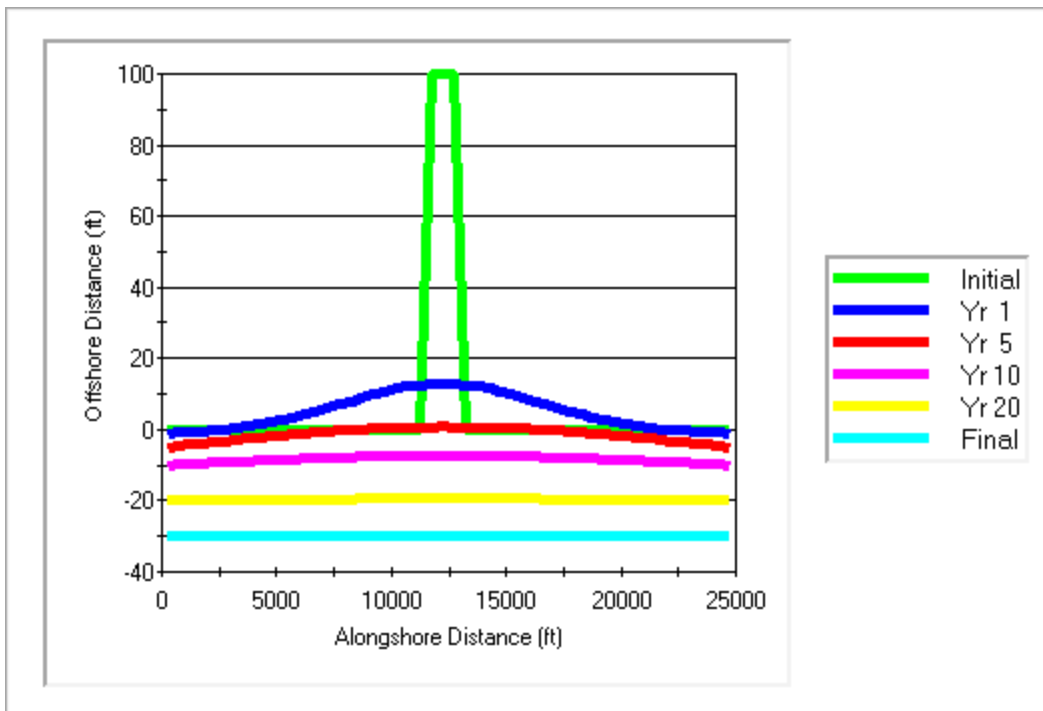


Figure C-2. 1,500 foot length, 100 foot width

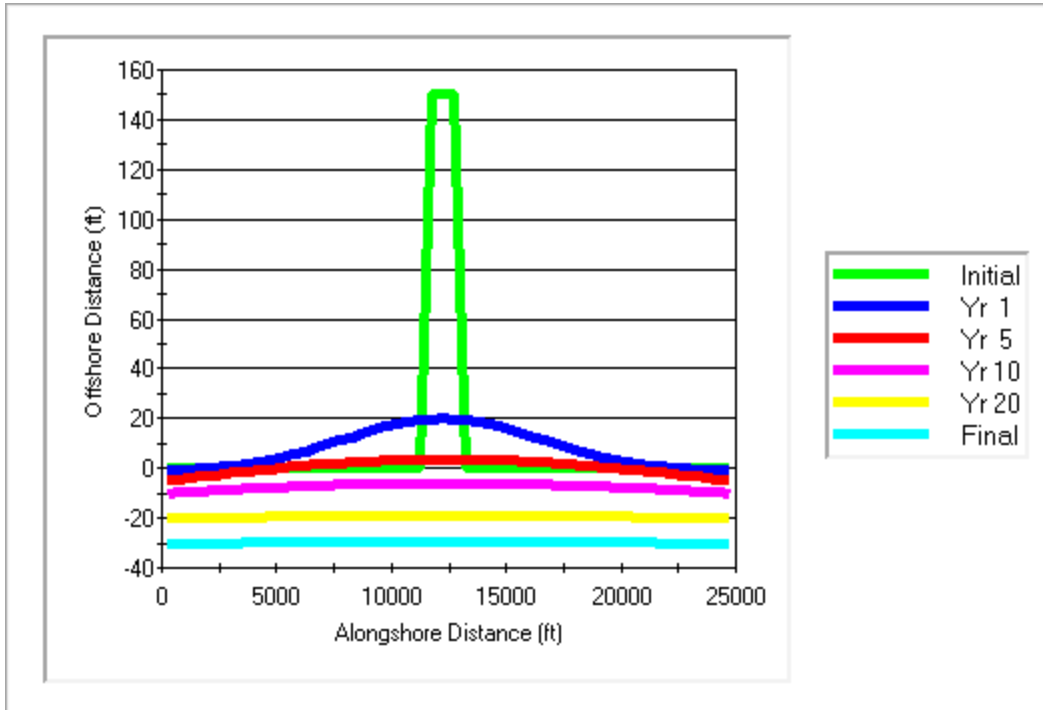


Figure C-3. 1,500 foot length, 150 foot width

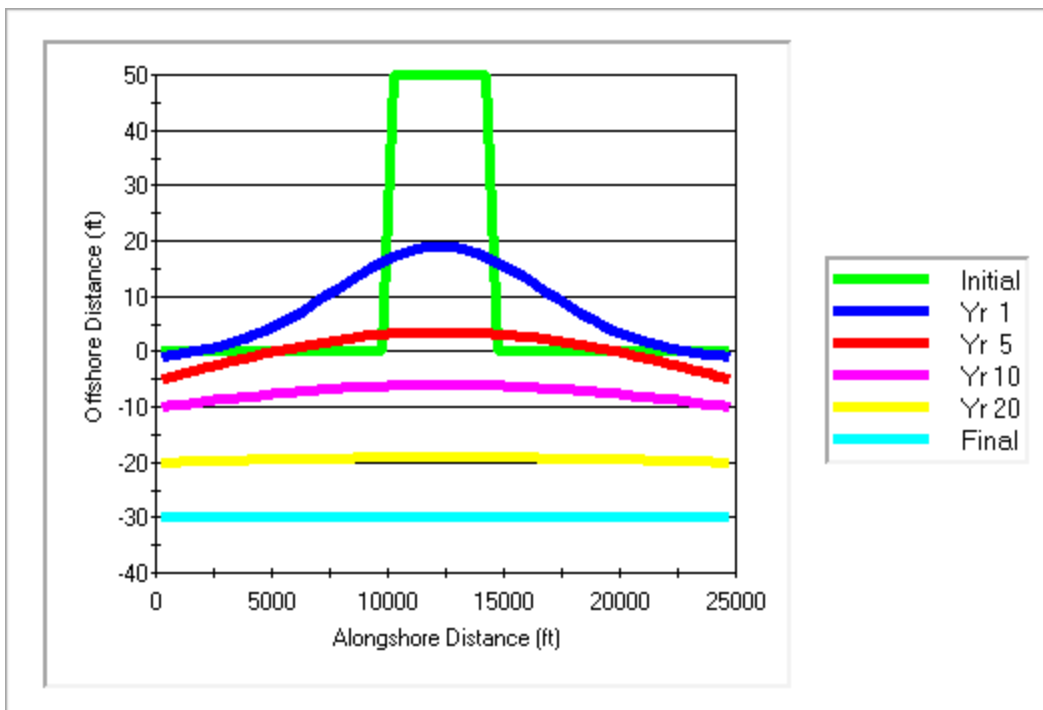


Figure C-4. 4,500 foot length, 50 foot width

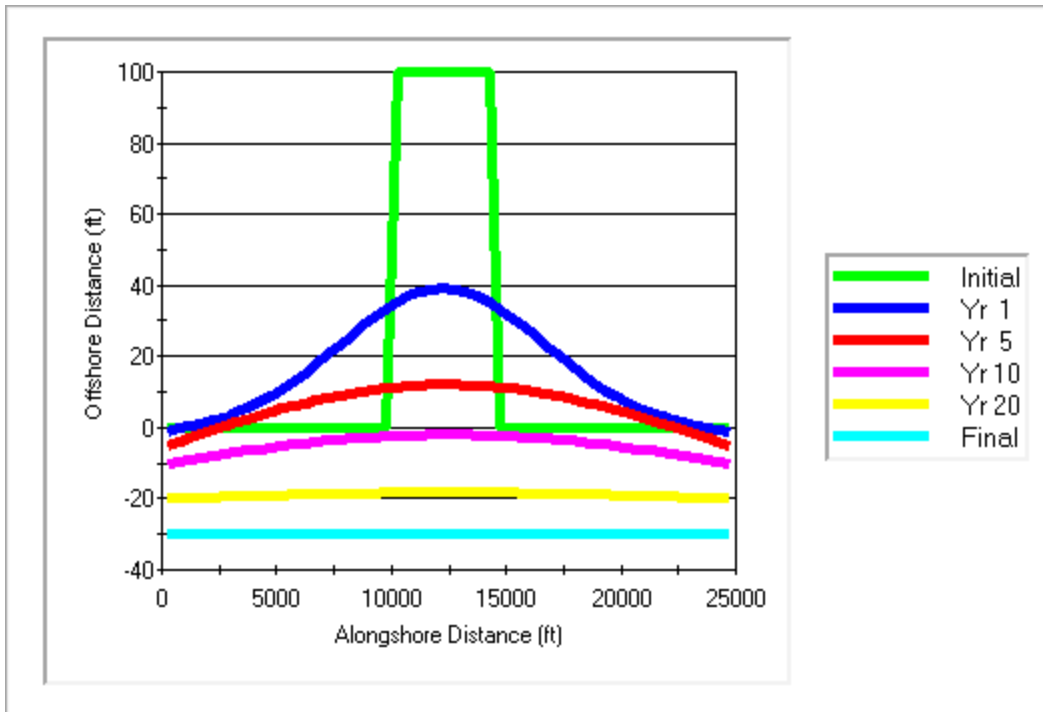


Figure C-5. 4,500 foot length, 100 foot width

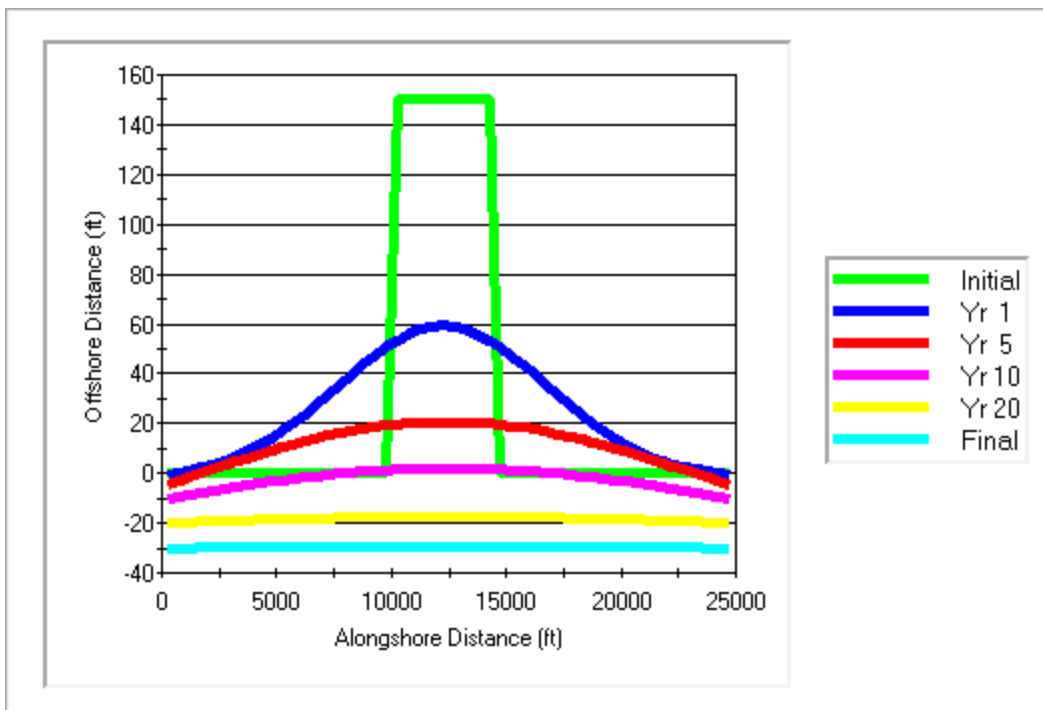


Figure C-6. 4,500 foot length, 150 foot width

APPENDIX D

SBEACH Modeling

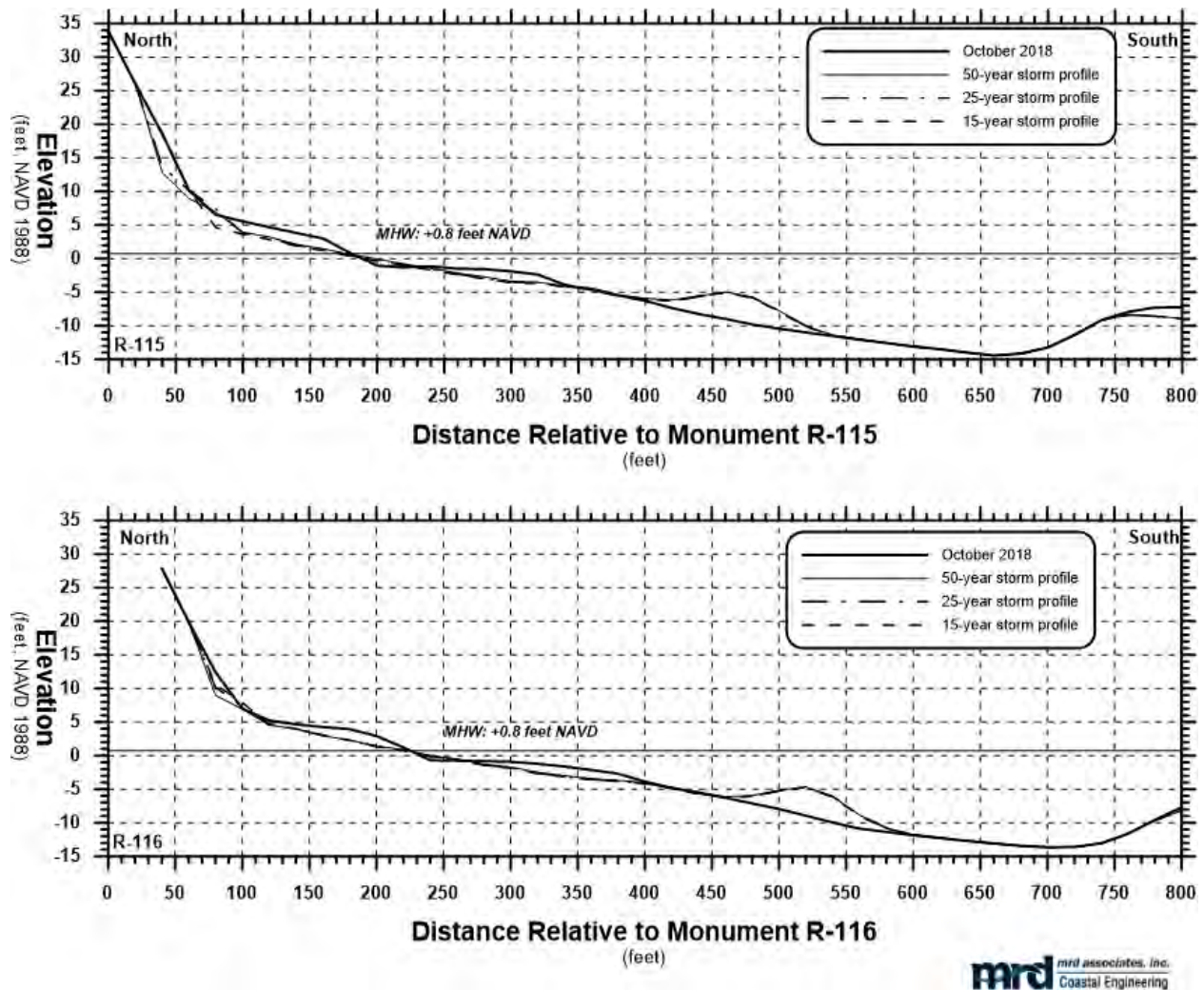


Figure D-1. No Action and Dune Restoration storm profiles.

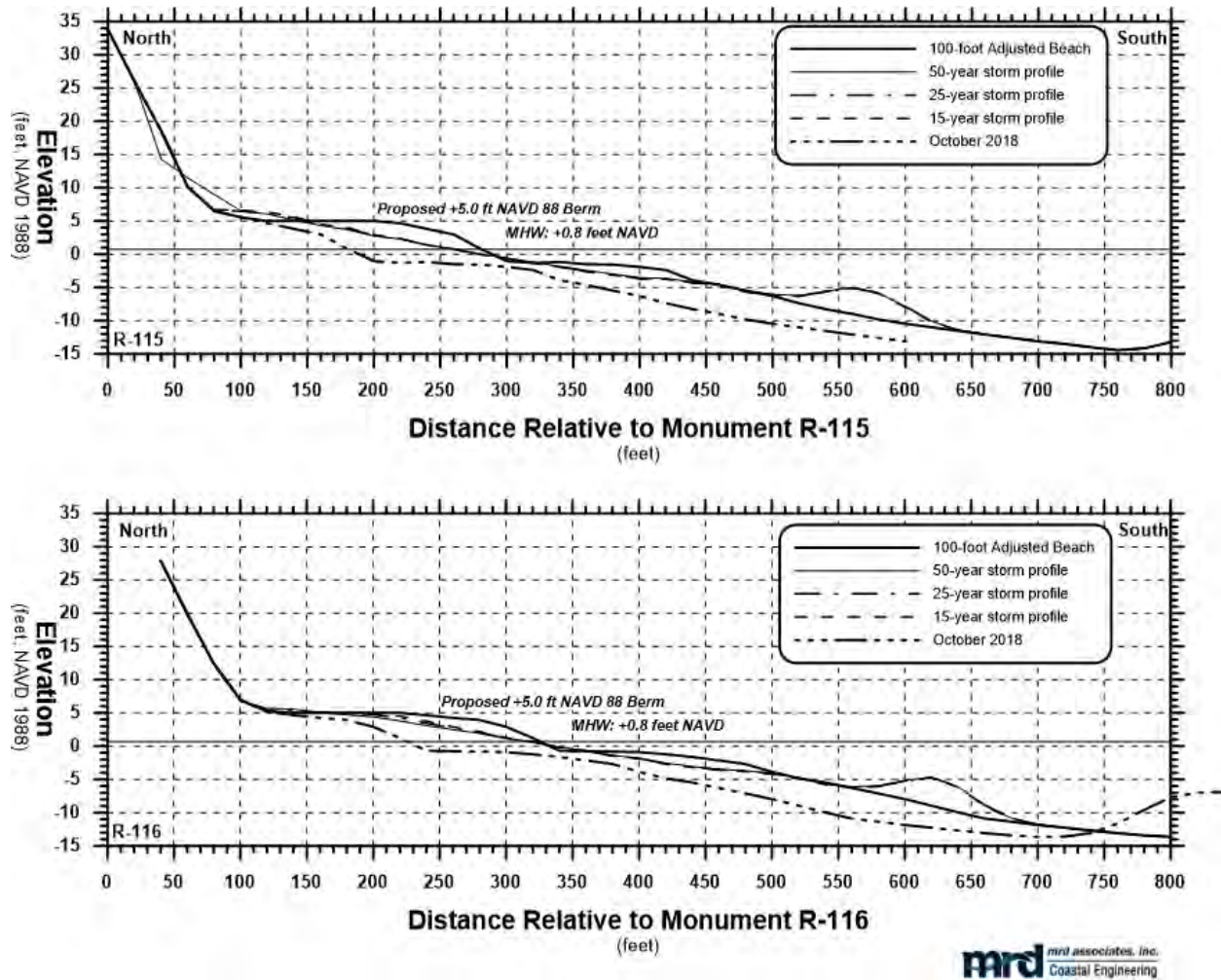


Figure D-2. Beach Restoration, and Beach and Dune Restoration storm profiles.

**MEMORANDUM OF UNDERSTANDING BETWEEN THE ALYS BEACH
NEIGHBORHOOD ASSOCIATION, INC., AND THE SOMERSET COMMUNITY
DEVELOPMENT DISTRICT RELATIVE TO MAINTENANCE RESPONSIBILITY
FOR VARIOUS IMPROVEMENTS LOCATED THROUGHOUT THE ALYS BEACH
DEVELOPMENT**

This **MEMORANDUM OF UNDERSTANDING** (“**MOU**”) is entered into as of this 1st day of October, 2021, by and between the following:

ALYS BEACH NEIGHBORHOOD ASSOCIATION, INC., a Florida not-for-profit corporation whose mailing address is 120 Richard Jackson Boulevard, Suite 220, Panama City Beach, Florida 32407 (the “**Association**”); and

SOMERSET COMMUNITY DEVELOPMENT DISTRICT, a local unit of special-purpose government located in Walton County, Florida, with a mailing address of 120 Richard Jackson Boulevard, Suite 220, Panama City Beach, Florida 32407 (the “**District**” and together with the Association, the “**Parties**”).

RECITALS

WHEREAS, the District is a local unit of special-purpose government established, pursuant to the Uniform Community Development District Act of 1980, as codified in Chapter 190, *Florida Statutes*, by ordinance of the Board of County Commissioners in and for Walton County, Florida, for the purpose of financing, acquiring, constructing and maintaining public infrastructure improvements on certain of the lands located within the Alys Beach development in Walton County, Florida (hereinafter, “**Alys Beach**”); and

WHEREAS, the Association is governed and operated pursuant to those certain *Second Amended and Restated Declarations of Covenants, Conditions and Restrictions* dated July 17, 2017 and recorded in the Official Records of Walton County at Book 3047, Page 4124; and

WHEREAS, the Parties each own and/or operate and maintain certain improvements (the “**Improvements**”) within the Alys Beach, which Improvements are described in more detail on Exhibit A; and

WHEREAS, the Parties pay for their respective operation and maintenance through the levy and collection of assessments from homeowners and other landowners within Alys Beach; and

WHEREAS, it is in the best interest of the Parties, and the homeowners and landowners of Alys Beach, to operate as efficiently and effectively as possible; and

WHEREAS, in an effort to operate as efficiently and effectively as possible, the Parties desire to enter into this MOU to clearly and logically delineate responsibilities between the Association and the District for the maintenance, repair and/or replacement of the Improvements.

NOW, THEREFORE, based upon good and valuable consideration and the mutual covenants of the parties, the receipt of which and sufficiency of which is hereby acknowledged, the Parties agree as follows, to the extent not inconsistent with applicable law, the Ordinance(s) of Walton County, Florida, establishing the District and its obligations or the Governing Documents of Alys Beach:

1. **INCORPORATION OF RECITALS.** The Recitals stated above are true and correct and are incorporated herein as a material part of this MOU.
2. **DIVISION OF RESPONSIBILITY FOR THE IMPROVEMENTS.**
 - A. **ASSOCIATION.** The Association shall be responsible for the routine repair and/or maintenance, and the extraordinary repair and/or replacement of those Improvement components identified on the attached **Exhibit A** as "Association" (hereinafter, the "**Association Components**"). The Association shall annually budget and collect assessments for the routine repair and/or maintenance, and the extraordinary repair and/or replacement of the Association Components. The funds budgeted for the extraordinary repair and/or replacement of the Association Components shall only be expended for the extraordinary repair and/or replacement of such improvements.
 - B. **DISTRICT.** The District shall be responsible for the routine repair and/or maintenance, and the extraordinary repair and/or replacement of those Improvement components identified on the attached **Exhibit A** as "District" (hereinafter, the "**District Components**"). The District shall annually budget and collect assessments for the routine repair and/or maintenance, and the extraordinary repair and/or replacement of the District Components. The funds budgeted for the extraordinary repair and/or replacement of the District Components shall only be expended for the extraordinary repair and/or replacement of such improvements.
3. **LICENSE; RIGHT OF ACCESS.** The District hereby agrees to accept, and Association hereby agrees to grant to the District and its various maintenance contractors, a non-exclusive license to access, operate and maintain the District Components located on Association-owned property.
4. **NOTICE OF TERMINATION.** The parties shall provide a minimum of eighteen (18) months' written notice of its intent to terminate the MOU, to each of the parties hereto.
5. **PUBLIC RECORDS.** The Association understands and agrees that all documents of any kind provided to the Districts or to the Districts' staff in connection with the activities contemplated under this MOU are public records pursuant to Chapter 119, *Florida Statutes*, and are treated as such in accordance with Florida law.
6. **ENFORCEMENT.** In the event that a party is required to enforce this MOU by court proceedings or otherwise, the parties agree that the substantially prevailing party shall be entitled to recover from the defaulting party all fees and costs incurred, including

reasonable attorneys' fees, paralegal fees and expert witness fees, and costs for trial, alternative dispute resolution, or appellate proceedings.

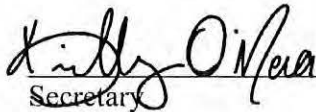
7. **AUTHORIZATION.** By execution below, the undersigned represent that they have been duly authorized by the appropriate body or official of their respective entity to execute this MOU, and that each party has complied with all the requirements of law and has full power and authority to comply with the terms and provisions of this instrument.
8. **AMENDMENTS; ASSIGNMENT.** Amendments to and waivers of the provisions contained in this MOU may be made only by an instrument in writing which is executed by the Parties hereto. None of the Parties may assign their rights, duties or obligations under this MOU without the prior written approval of the other. Any purported assignment without said written authorization shall be void.
9. **SEVERABILITY.** The invalidity or unenforceability of any one or more provisions of this MOU shall not affect the validity or enforceability of the remaining portions of this MOU, or any part of this MOU not held to be invalid or unenforceable.
10. **EXECUTION IN COUNTERPARTS.** This MOU 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. Signature and acknowledgment pages, if any, may be detached from the counterparts and attached to a single copy of this document to physically form one document.
11. **FINAL AGREEMENT.** This instrument shall constitute the final and complete expression between the District and the Association relating to the subject matter of this MOU.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned have executed this MOU effective as of the date set forth above.

ATTEST:

SOMERSET COMMUNITY DEVELOPMENT DISTRICT


Secretary


Andrew O'Connell (Sep 24, 2021 12:51 CDT)
Chairman, Board of Supervisors

WITNESS:

ALYS BEACH NEIGHBORHOOD ASSOCIATION, INC.,
a Florida not-for-profit corporation


Scott Buchewicz (Sep 24, 2021 11:58 CDT)
Witness Signature


President, Board of Directors

EXHIBIT A: Designation of Responsibilities

Attachment A: Map of Irrigation Recharge Pipes and Distribution Mains

Attachment B: Map of Streetlighting and Pedestrian Lighting Improvement Locations

Exhibit A

A. Designation of Responsibilities Relative to Alys Beach Stormwater Management System

<u>Facility</u>	<u>Maintenance</u>	<u>Repair</u>	<u>Replacement/ Reconstruction</u>
Roadway Curbs and Gutters	Association	Association	Association
Roadway Inlets, Including Grates and Inlet Covers	District	District	District
Underground Inlet Boxes	District	District	District
Swales/Berms on Association Common Areas	Association	Association	Association
Swales/Berms on Property Owned by District	District	District	District
Stormwater Management Pipes and Overflow Outlet Structures	District	District	District

B. Designation of Responsibilities Relative to Alys Beach Irrigation System

<u>Facility</u>	<u>Maintenance</u>	<u>Repair</u>	<u>Replacement/ Reconstruction</u>
Irrigation Improvements along 30A within the limits of Alys Beach	District	District	District
Irrigation Wells (4) and Irrigation Pump Station and Lake Marilyn	District	District	District
Irrigation Recharge Pipes and Distribution Mains (see map attached as Attachment A)	District	District	District
Secondary Irrigation System beyond point of connection with Distribution Mains (with the exception of secondary irrigation improvements w/in 30A)	Association	Association	Association

C. Designation of Responsibilities Relative to Beach and Dune Improvements

<u>Event</u>	<u>Entity Responsible</u>
<p>Renourishment – any action taken to protect, maintain, preserve or enhance the Beaches and Dunes locating within the District, including, but not limited to, restoring or nourishing beach and dune systems, dune protection and restoration activities, construction of erosion control structures, supporting engineering and environmental studies, project monitoring, mitigation and removal of derelict structures</p> <p>‘Beaches’ – means the zone of unconsolidated material that extends landward from the mean high-water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation.</p> <p>‘Dunes’ – means a mound or ridge of loose sediments, usually sand-sized sediments, lying landward of the Beach and deposited by natural or artificial means.</p>	District
To the extent it does not interfere with the activities of the District, aesthetic maintenance of the Beaches and Dunes that does not otherwise constitute “Renourishment” as defined above.	Association

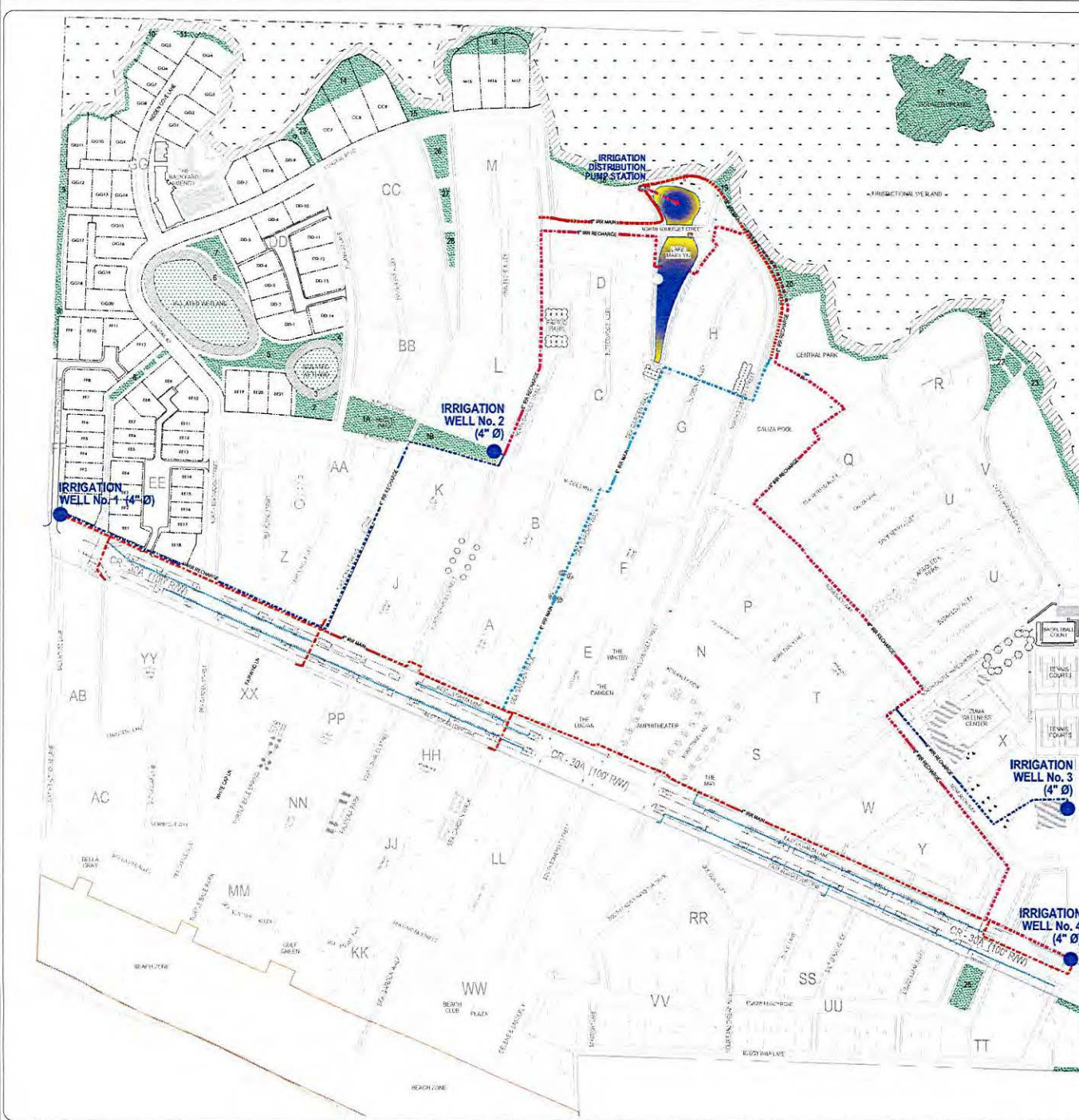
D. Designation of Responsibilities Relative to Lighting System

<u>Facility</u>	<u>Maintenance</u>	<u>Repair</u>	<u>Replacement/ Reconstruction</u>
Installed Streetlighting and Pedestrian Pathway Lighting and Utilities Associated with Same (see Attachment B for Fixture Locations)	District	District	District

E. Designation of Responsibilities Relative to Improvements Along 30A Within the Limits of Alys Beach

<u>Facility</u>	<u>Maintenance</u>	<u>Repair</u>	<u>Replacement/ Reconstruction</u>
Irrigation Improvements	District	District	District
Landscape Improvements	District	District	District
Lighting Improvements	District	District	District
Slip Lane Pavers	District	District	District
Pedestrian Crossing Improvements	District	District	District
Pedestrian Paths	Association	Association	Association
Entry Monumentation/Structures	Association	Association	Association
Signage Not Associated w/ Traffic	Association	Association	Association
Roadways	County	County	County
Traffic Regulation Signage	County	County	County

Attachment A:
Map of Irrigation Recharge Pipes and Distribution Mains



LEGEND

- ALYS BEACH SITE BOUNDARY (±158.5 AC)
- LAKE MARILYN (IRRIGATION STORAGE / SUPPLY)
- COUNTY ROAD 30A (± 6.7 AC)
- 4 IN DIAMETER IRRIGATION SUPPLY WELL
- LAKE RECHARGE PIPE (6" DIAMETER) [~3,900 FT]
- LAKE RECHARGE PIPE (4" DIAMETER) [~2,200 FT]
- DISTRIBUTION MAIN (8" DIAMETER) [~1,100 FT]
- DISTRIBUTION MAIN (6" DIAMETER) [~1,400 FT]
- DISTRIBUTION MAIN (CR 30A) (4" DIAMETER) [~3,400 FT]
- DISTRIBUTION MAIN (CR 30A) (2.5" DIAMETER) [~4,000 FT]
- IRRIGATION PIPE (CR 30A) (< 2" DIAMETER) [~10,000 FT]
- BEACH ZONE
- NEIGHBORHOOD BLOCK & LOT NUMBER
- JURISDICTIONAL WETLANDS (± 20.4 AC)
- UPLAND NATURAL BUFFERS (± 3.1 AC)
- ISOLATED WETLANDS (± 0.97 AC)
- UPLAND NATURAL BUFFERS (ISOLATED WILD) (± 0.67 AC)
- UPLAND VEGETATIVE PRESERVATION (± 5.1 AC)

NOTES:

- THIS MAP IS A SCHEMATIC EXHIBIT PREPARED ON MAY 7, 2021 FROM VARIOUS SOURCES OF INFORMATION INCLUDING, BUT NOT LIMITED TO, THE ALYS BEACH MASTER PLAN BY KNOX VOGT ARCHITECTS DATED MARCH 10, 2021, THE BACKYARD MASTER PLAN BY HART HORTWORTH, VEGETATIVE PRESERVATION MAP, 2021 BY IEC, A 2006 IRRIGATION DESIGN BY PREVOST IRRIGATION DESIGN, VARIOUS DESIGN DRAWINGS BY IEC, CONSUMPTIVE USE PERMIT APPLICATION RECORDS FROM THE NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT AND HISTORICAL AERIALS AND PHOTOGRAPHS.
- THIS MAP IS NOT INTENDED TO INFER SURVEY GRADE ACCURACY. THIS MAP MAY BE UPDATED FROM TIME TO TIME AS WARRANTED.
- AS OF THE DATE OF THIS EXHIBIT, ALYS BEACH IS CONTINUING BUILD-OUT DEVELOPMENT AND THEREFORE, COMMON / RIGHT OF WAY / FINAL LOT CONFIGURATION IS SUBJECT TO CHANGE FOR PORTIONS OF THE PROPERTY.
- THIS MAP IS NOT INTENDED TO INFER SURVEY GRADE ACCURACY. THIS MAP MAY BE UPDATED FROM TIME TO TIME AS WARRANTED.
- AS OF THE DATE OF THIS EXHIBIT, ALYS BEACH IS CONTINUING BUILD-OUT DEVELOPMENT AND THEREFORE, COMMON / RIGHT OF WAY / FINAL LOT CONFIGURATION IS SUBJECT TO CHANGE FOR PORTIONS OF THE PROPERTY.
- THIS MAP IS INTENDED TO BE SCHEMATIC AND GRAPHICAL IN NATURE DEPICTING THE IRRIGATION SYSTEM COMPONENTS SPECIFICALLY UNDER THE OWNERSHIP & MAINTENANCE RESPONSIBILITY OF THE SOMERSET COMMUNITY DEVELOPMENT DISTRICT (CDD).
- THESE COMPONENTS INCLUDE FOUR IRRIGATION SUPPLY WELLS, RECHARGE MAIN PIPES FROM WELLS TO THE IRRIGATION LAKE, AN IRRIGATION SUPPLY LAKE (LAKE MARILYN), IRRIGATION PUMP STATION, SELECT IRRIGATION DISTRIBUTION MAINS AS DEPICTED, SERVICE PIPING, IRRIGATION FITTINGS AND SPRAY HEADS PARTICULARLY ALONG THE 30A CORRIDOR. IEC HAS CONDUCTED EXHAUSTIVE RESEARCH, SITE ASSESSMENTS, INTERVIEWS AND UTILIZED ALL READILY AVAILABLE DOCUMENTATION BOTH CURRENT AND HISTORICAL TO PORTRAY THE IRRIGATION SYSTEM DEPICTED HEREON AS ACCURATELY AS POSSIBLE. HOWEVER, THE IRRIGATION SYSTEM HAS BEEN CONSTRUCTED AS DESIGN / BUILD / RETROFIT FOR THE MOST PART OVER THE LAST 15 YEARS OR SO. THERE ARE NO ACCURATE SURVEYS OR RECORD DRAWINGS OF THE UNDERGROUND SYSTEM THAT WERE AVAILABLE OR PROVIDED TO IEC. ADDITIONALLY, ALYS BEACH MAINTENANCE STAFF WERE UNSURE OF EXACTLY WHERE MANY OF THE IRRIGATION COMPONENTS ARE. THEREFORE, THIS SCHEMATIC EXHIBIT IS SOLELY FOR THE PURPOSES OF PRESENTING THE IRRIGATION SYSTEM COMPONENTS IN A SCHEMATIC / GRAPHICAL NATURE AND TO PROVIDE ROUGH QUANTITIES OF PIPES. IEC CANNOT CONFIRM THE ACCURACY OF THIS DRAWING.
- THIS CDD IS RESPONSIBLE FOR ALL WELL AND PUMP COMPONENTS, IRRIGATION PUMP STATION COMPONENTS, LAKE MARILYN SUPPLY LAKE, IRRIGATION CONTROL VALVES, FITTINGS, AND OTHER APPURTENANCES IN AND ALONG THE IRRIGATION NETWORK DEPICTED HEREON.

Attachment B:
Map of Streetlighting and Pedestrian Lighting Improvement Locations










2021-10-01 - Memorandum of Understanding - Maintenance Responsibilities - HOA, unexecuted - Reduced size

Final Audit Report

2021-09-24

Created:	2021-09-24
By:	Kim O'Mera (komera@rizzetta.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAeak03ctgtMAZ8Q3IU4h4m-u7dlbC7o9X

"2021-10-01 - Memorandum of Understanding - Maintenance Responsibilities - HOA, unexecuted - Reduced size" History

-  Document created by Kim O'Mera (komera@rizzetta.com)
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-  Document emailed to Andrew O'Connell (andrew@aloconsultingllc.com) for signature
2021-09-24 - 4:19:38 PM GMT
-  Document emailed to Tess Howard (thoward@alysbeach.com) for signature
2021-09-24 - 4:19:38 PM GMT
-  Document emailed to Scott Buchewicz (sbuchewicz@alysbeach.com) for signature
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Document e-signed by Andrew O'Connell (andrew@aloconsultingllc.com)

Signature Date: 2021-09-24 - 5:51:10 PM GMT - Time Source: server- IP address: 71.220.142.60



Agreement completed.

2021-09-24 - 5:51:10 PM GMT



Adobe Sign

Tab 8

RESOLUTION 2022-01

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE SOMERSET COMMUNITY DEVELOPMENT DISTRICT ADOPTING AMENDED AND RESTATED RULES OF PROCEDURE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, Chapter 190, *Florida Statutes*, authorizes the District to adopt rules to govern the administration of the District and to adopt resolutions as may be necessary for the conduct of District business; and

WHEREAS, the District has previously adopted Rules of Procedure to govern the administration of the District; and

WHEREAS, to provide for efficient and effective District operations and to maintain compliance with recent changes to Florida law, the Board of Supervisors finds that it is in the best interests of the District to adopt by resolution the Amended and Restated Rules of Procedure attached hereto as **Exhibit A** for immediate use and application; and

WHEREAS, the Board of Supervisors has complied with applicable Florida law concerning rule development and adoption.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE SOMERSET COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. The attached Amended and Restated Rules of Procedure are hereby adopted pursuant to this resolution as necessary for the conduct of District business. These Amended and Restated Rules of Procedure replace all prior versions of the Rules of Procedure and shall stay in full force and effect until such time as the Board of Supervisors may amend these rules in accordance with Chapter 190, *Florida Statutes*.

SECTION 2. If any provision of this resolution is held to be illegal or invalid, the other provisions shall remain in full force and effect.

SECTION 3. This resolution shall become effective upon its passage and shall remain in effect unless rescinded or repealed.

PASSED AND ADOPTED this 8th day of November, 2021.

ATTEST:

**SOMERSET COMMUNITY DEVELOPMENT
DISTRICT**

Secretary

Chairman, Board of Supervisors

Exhibit A: Amended and Restated Rules of Procedure

EXHIBIT A:
AMENDED AND RESTATED RULES OF PROCEDURE

**AMENDED AND RESTATED
RULES OF PROCEDURE
SOMERSET COMMUNITY DEVELOPMENT DISTRICT**

EFFECTIVE AS OF NOVEMBER 4, 2021

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Rule 1.0 General.

- (1) The Somerset Community Development District (the “District”) was created pursuant to the provisions of Chapter 190 of the Florida Statutes, and was established to provide for the ownership, operation, maintenance, and provision of various capital facilities and services within its jurisdiction. The purpose of these rules (the “Rules”) is to describe the general operations of the District.
- (2) Definitions located within any section of these Rules shall be applicable within all other sections, unless specifically stated to the contrary.
- (3) Unless specifically permitted by a written agreement with the District, the District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.
- (4) A Rule of the District shall be effective upon adoption by affirmative vote of the District Board. After a Rule becomes effective, it may be repealed or amended only through the rulemaking procedures specified in these Rules. Notwithstanding, the District may immediately suspend the application of a Rule if the District determines that the Rule conflicts with Florida law. In the event that a Rule conflicts with Florida law and its application has not been suspended by the District, such Rule should be interpreted in the manner that best effectuates the intent of the Rule while also complying with Florida law. If the intent of the Rule absolutely cannot be effectuated while complying with Florida law, the Rule shall be automatically suspended.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 190.011(5), 190.011(15), Fla. Stat.

Rule 1.1 Board of Supervisors; Officers and Voting.

- (1) Board of Supervisors. The Board of Supervisors of the District (the “Board”) shall consist of five (5) members. Members of the Board (“Supervisors”) appointed by ordinance or rule or elected by landowners must be citizens of the United States of America and residents of the State of Florida. Supervisors elected or appointed by the Board to elector seats must be citizens of the United States of America, residents of the State of Florida and of the District and registered to vote with the Supervisor of Elections of the county in which the District is located and for those elected, shall also be qualified to run by the Supervisor of Elections. The Board shall exercise the powers granted to the District under Florida law.
 - (a) Supervisors shall hold office for the term specified by Section 190.006 of the Florida Statutes. If, during the term of office, any Board member(s) vacates their office, the remaining member(s) of the Board shall fill the vacancies by appointment for the remainder of the term(s). If three or more vacancies exist at the same time, a quorum, as defined herein, shall not be required to appoint replacement Board members.
 - (b) Three (3) members of the Board shall constitute a quorum for the purposes of conducting business, exercising powers and all other purposes. A Board member shall be counted toward the quorum if physically present at the meeting, regardless of whether such Board member is prohibited from, or abstains from, participating in discussion or voting on a particular item.
 - (c) Action taken by the Board shall be upon a majority vote of the members present, unless otherwise provided in the Rules or required by law. Subject to Rule 1.3(10), a Board member participating in the Board meeting by teleconference or videoconference shall be entitled to vote and take all other action as though physically present.
 - (d) Unless otherwise provided for by an act of the Board, any one Board member may attend a mediation session on behalf of the Board. Any agreement resulting from such mediation session must be approved pursuant to subsection (1)(c) of this Rule.
- (2) Officers. At the first Board meeting held after each election where the newly elected members take office, the Board shall select a Chairperson, Vice-Chairperson, Secretary, Assistant Secretary, and Treasurer.
 - (a) The Chairperson must be a member of the Board. If the Chairperson resigns from that office or ceases to be a member of the Board, the Board shall select a Chairperson. The Chairperson serves at the pleasure of the Board. The Chairperson shall be authorized to execute resolutions and contracts on the District’s behalf. The Chairperson shall convene and conduct all meetings of the Board. In the event the Chairperson is unable

to attend a meeting, the Vice-Chairperson shall convene and conduct the meeting. The Chairperson or Vice-Chairperson may delegate the responsibility of conducting the meeting to the District's manager ("District Manager") or District Counsel, in whole or in part.

- (b) The Vice-Chairperson shall be a member of the Board and shall have such duties and responsibilities as specifically designated by the Board from time to time. The Vice-Chairperson has the authority to execute resolutions and contracts on the District's behalf in the absence of the Chairperson. If the Vice-Chairperson resigns from office or ceases to be a member of the Board, the Board shall select a Vice-Chairperson. The Vice-Chairperson serves at the pleasure of the Board.
- (c) The Secretary of the Board serves at the pleasure of the Board and need not be a member of the Board. The Secretary shall be responsible for maintaining the minutes of Board meetings and may have other duties assigned by the Board from time to time. An employee of the District Manager may serve as Secretary. The Secretary shall be bonded by a reputable and qualified bonding company in at least the amount of one million dollars (\$1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in at least the amount of one million dollars (\$1,000,000) that names the District as an additional insured.
- (d) The Treasurer need not be a member of the Board but must be a resident of the State of Florida. The Treasurer shall perform duties described in Section 190.007(2) and (3) of the Florida Statutes, as well as those assigned by the Board from time to time. The Treasurer shall serve at the pleasure of the Board. The Treasurer shall either be bonded by a reputable and qualified bonding company in at least the amount of one million dollars (\$1,000,000), or have in place a fidelity bond, employee theft insurance policy, or a comparable product in at least the amount of one million dollars (\$1,000,000) that names the District as an additional insured.
- (e) In the event that both the Chairperson and Vice-Chairperson are absent from a Board meeting and a quorum is present, the Board may designate one of its members or a member of District staff to convene and conduct the meeting. In such circumstances, any of the Board members present are authorized to execute agreements, resolutions, and other documents approved by the Board at such meeting. In the event that the Chairperson and Vice-Chairperson are both unavailable to execute a document previously approved by the Board, the Secretary or any Assistant Secretary may execute such document.

- (f) The Board may assign additional duties to District officers from time to time, which include, but are not limited to, executing documents on behalf of the District.
 - (g) The Chairperson, Vice-Chairperson, and any other person authorized by District Resolution may sign checks and warrants for the District, countersigned by the Treasurer or other persons authorized by the Board.
- (3) Committees. The Board may establish committees of the Board, either on a permanent or temporary basis, to perform specifically designated functions. Committees may include individuals who are not members of the Board. Such functions may include, but are not limited to, review of bids, proposals, and qualifications, contract negotiations, personnel matters, and budget preparation.
- (4) Record Book. The Board shall keep a permanent record book entitled "Record of Proceedings," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, and corporate acts. The Records of Proceedings shall be located at a District office and shall be available for inspection by the public.
- (5) Meetings. For each fiscal year, the Board shall establish a schedule of regular meetings, which shall be published in a newspaper of general circulation in the county in which the District is located and filed with the local general-purpose governments within whose boundaries the District is located. All meetings of the Board and Committees serving an advisory function shall be open to the public in accord with the provisions of Chapter 286 of the Florida Statutes.
- (6) Voting Conflict of Interest. The Board shall comply with Section 112.3143 of the Florida Statutes, so as to ensure the proper disclosure of conflicts of interest on matters coming before the Board for a vote. For the purposes of this section, "voting conflict of interest" shall be governed by the Florida Constitution and Chapters 112 and 190 of the Florida Statutes, as amended from time to time. Generally, a voting conflict exists when a Board member is called upon to vote on an item which would inure to the Board member's special private gain or loss or the Board member knows would inure to the special private gain or loss of a principal by whom the Board member is retained, the parent organization or subsidiary of a corporate principal, a business associate, or a relative including only a father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law.
 - (a) When a Board member knows the member has a conflict of interest on a matter coming before the Board, the member should notify the Board's Secretary prior to participating in any discussion with the Board on the matter. The member shall publicly announce the conflict of interest at the meeting. This announcement shall appear in the minutes.

If the Board member was elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, the Board member may vote or abstain from voting on the matter at issue. If the Board member was elected by electors residing within the District, the Board member is prohibited from voting on the matter at issue. In the event that the Board member intends to abstain or is prohibited from voting, such Board member shall not participate in the discussion on the item subject to the vote.

The Board's Secretary shall prepare a Memorandum of Voting Conflict (Form 8B) which shall then be signed by the Board member, filed with the Board's Secretary, and provided for attachment to the minutes of the meeting within fifteen (15) days of the meeting.

- (b) If a Board member inadvertently votes on a matter and later learns he or she has a conflict on the matter, the member shall immediately notify the Board's Secretary. Within fifteen (15) days of the notification, the member shall file the appropriate Memorandum of Voting Conflict, which will be attached to the minutes of the Board meeting during which the vote on the matter occurred. The Memorandum of Voting Conflict shall immediately be provided to other Board members and shall be read publicly at the next meeting held subsequent to the filing of the Memorandum of Voting Conflict. The Board member's vote is unaffected by this filing.
- (c) It is not a conflict of interest for a Board member, the District Manager, or an employee of the District to be a stockholder, officer or employee of a landowner or of an entity affiliated with a landowner.
- (d) In the event that a Board member elected at a landowner's election or appointed to fill a vacancy of a seat last filled at a landowner's election, has a continuing conflict of interest, such Board member is permitted to file a Memorandum of Voting Conflict at any time in which it shall state the nature of the continuing conflict. Only one such continuing Memorandum of Voting Conflict shall be required to be filed for each term the Board member is in office.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 112.3143, 190.006, 190.007, Fla. Stat.

Rule 1.2 District Offices; Public Information and Inspection of Records; Policies; Service Contract Requirements; Financial Disclosure Coordination.

- (1) District Offices. Unless otherwise designated by the Board, the official District office shall be the District Manager's office identified by the District Manager. If the District Manager's office is not located within the county in which the District is located, the Board shall designate a local records office within such county which shall at a minimum contain, but not be limited to, the following documents:
- (a) Agenda packages for prior 24 months and next meeting;
 - (b) Official minutes of meetings, including adopted resolutions of the Board;
 - (c) Names and addresses of current Board members and District Manager, unless such addresses are protected from disclosure by law;
 - (d) Adopted engineer's reports;
 - (e) Adopted assessment methodologies/reports;
 - (f) Adopted disclosure of public financing;
 - (g) Limited Offering Memorandum for each financing undertaken by the District;
 - (h) Proceedings, certificates, bonds given by all employees, and any and all corporate acts;
 - (i) District policies and rules;
 - (j) Fiscal year end audits; and
 - (k) Adopted budget for the current fiscal year.

The District Manager shall ensure that each District records office contains the documents required by Florida law.

- (2) Public Records. District public records include all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business of the District. All District public records not otherwise restricted by law may be copied or inspected at the District Manager's office during regular business hours. Certain District records can also be inspected and copied at the District's local records office during regular business hours. All written public records requests shall be directed to the Secretary who by these rules is appointed

as the District's records custodian. Regardless of the form of the request, any Board member or staff member who receives a public records request shall immediately forward or communicate such request to the Secretary for coordination of a prompt response. The Secretary, after consulting with District Counsel as to the applicability of any exceptions under the public records laws, shall be responsible for responding to the public records request. At no time can the District be required to create records or summaries of records, or prepare opinions regarding District policies, in response to a public records request.

- (3) Service Contracts. Any contract for services, regardless of cost, shall include provisions required by law that require the contractor to comply with public records laws. The District Manager shall be responsible for initially enforcing all contract provisions related to a contractor's duty to comply with public records laws.
- (4) Fees; Copies. Copies of public records shall be made available to the requesting person at a charge of \$0.15 per page for one-sided copies and \$0.20 per page for two-sided copies if not more than 8 ½ by 14 inches. For copies of public records in excess of the sizes listed in this section and for outside duplication services, the charge shall be equal to the actual cost of reproduction. Certified copies of public records shall be made available at a charge of one dollar (\$1.00) per page. If the nature or volume of records requested requires extensive use of information technology resources or extensive clerical or supervisory assistance, the District may charge, in addition to the duplication charge, a special service charge that is based on the cost the District incurs to produce the records requested. This charge may include, but is not limited to, the cost of information technology resource, employee labor, and fees charged to the District by consultants employed in fulfilling the request. In cases where the special service charge is based in whole or in part on the costs incurred by the District due to employee labor, consultant fees, or other forms of labor, those portions of the charge shall be calculated based on the lowest labor cost of the individual(s) who is/are qualified to perform the labor, taking into account the nature or volume of the public records to be inspected or copied. The charge may include the labor costs of supervisory and/or clerical staff whose assistance is required to complete the records request, in accordance with Florida law. For purposes of this Rule, the word "extensive" shall mean that it will take more than 15 minutes to locate, review for confidential information, copy and re-file the requested material. In cases where extensive personnel time is determined by the District to be necessary to safeguard original records being inspected, the special service charge provided for in this section shall apply. If the total fees, including but not limited to special service charges, are anticipated to exceed twenty-five dollars (\$25.00), then, prior to commencing work on the request, the District will inform the person making the public records request of the estimated cost, with the understanding that the final cost may vary from that estimate. If the person making the public records request decides to proceed with the request, payment of the estimated cost is required in advance. Should the person fail to pay the estimate, the District is under no duty to produce

the requested records. After the request has been fulfilled, additional payments or credits may be due. The District is under no duty to produce records in response to future records requests if the person making the request owes the District for past unpaid duplication charges, special service charges, or other required payments or credits.

- (5) Records Retention. The Secretary of the District shall be responsible for retaining the District's records in accordance with applicable Florida law.
- (6) Policies. The Board may adopt policies related to the conduct of its business and the provision of services either by resolution or motion.
- (7) Financial Disclosure Coordination. Unless specifically designated by Board resolution otherwise, the Secretary shall serve as the Financial Disclosure Coordinator ("Coordinator") for the District as required by the Florida Commission on Ethics ("Commission"). The Coordinator shall create, maintain and update a list of the names, e-mail addresses, physical addresses, and names of the agency of, and the office or position held by, all Supervisors and other persons required by Florida law to file a statement of financial interest due to his or her affiliation with the District ("Reporting Individual"). The Coordinator shall provide this list to the Commission by February 1 of each year, which list shall be current as of December 31 of the prior year. Each Supervisor and Reporting Individual shall promptly notify the Coordinator in writing if there are any changes to such person's name, e-mail address, or physical address. Each Supervisor and Reporting Individual shall promptly notify the Commission in the manner prescribed by the Commission if there are any changes to such person's e-mail address.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 112.31446(3), 112.3145(8)(a)1., 119.07, 119.0701, 190.006, Fla. Stat.

Rule 1.3 Public Meetings, Hearings, and Workshops.

- (1) Notice. Except in emergencies, or as otherwise required by statute or these Rules, at least seven (7) days, but no more than thirty (30) days public notice shall be given of any public meeting, hearing or workshop of the Board. Public notice shall be given by publication in a newspaper of general circulation in the District and in the county in which the District is located. "General circulation" means a publication that is printed and published at least once a week for the preceding year, offering at least 25% of its words in the English language, qualifies as a periodicals material for postal purposes in the county in which the District is located, is for sale to the public generally, is available to the public generally for the publication of official or other notices, and is customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public. The annual meeting notice required to be published by Section 189.015 of the Florida Statutes, shall be published in a newspaper not of limited subject matter, which is published at least five days a week, unless the only newspaper in the county is published less than five days a week. Each Notice shall state, as applicable:
 - (a) The date, time and place of the meeting, hearing or workshop;
 - (b) A brief description of the nature, subjects, and purposes of the meeting, hearing, or workshop;
 - (c) The District office address for the submission of requests for copies of the agenda, as well as a contact name and telephone number for verbal requests for copies of the agenda; and
 - (d) The following or substantially similar language: "Pursuant to provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting/hearing/workshop is asked to advise the District Office at least forty-eight (48) hours before the meeting/hearing/workshop by contacting the District Manager at (850) 334-9055. If you are hearing or speech impaired, please contact the Florida Relay Service at 1 (800) 955-8770 or 1 (800) 955-8771, who can aid you in contacting the District Office."
 - (e) The following or substantially similar language: "A person who decides to appeal any decision made at the meeting/hearing/workshop with respect to any matter considered at the meeting/hearing/workshop is advised that 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."

- (f) The following or substantially similar language: “The meeting [or hearing or workshop] may be continued in progress without additional notice to a time, date, and location stated on the record.”
- (2) Mistake. In the event that a meeting is held under the incorrect assumption that notice required by law and these Rules has been given, the Board at its next properly noticed meeting shall cure such defect by considering the agenda items from the prior meeting individually and anew.
- (3) Agenda. The District Manager, under the guidance of District Counsel and the Chairperson or Vice-Chairperson, shall prepare an agenda of the meeting/hearing/workshop. The agenda and any meeting materials available in an electronic format, excluding any confidential and any confidential and exempt information, shall be available to the public at least seven days before the meeting/hearing/workshop, except in an emergency. Meeting materials shall be defined as, and limited to, the agenda, meeting minutes, resolutions, and agreements of the District that District staff deems necessary for Board approval. Inclusion of additional materials for Board consideration other than those defined herein as “meeting materials” shall not convert such materials into “meeting materials.” For good cause, the agenda may be changed after it is first made available for distribution, and additional materials may be added or provided under separate cover at the meeting. The requirement of good cause shall be liberally construed to allow the District to efficiently conduct business and to avoid the expenses associated with special meetings.

The District may, but is not required to, use the following format in preparing its agenda for its regular meetings:

- Call to order
- Roll call
- Public comment
- Organizational matters
- Review of minutes
- Specific items of old business
- Specific items of new business
- Staff reports
 - (a) District Counsel
 - (b) District Engineer
 - (c) District Manager
 - 1. Financial Report
 - 2. Approval of Expenditures
- Supervisor’s requests and comments
- Public comment
- Adjournment

- (4) Minutes. The Secretary shall be responsible for preparing and keeping the minutes of each meeting of the Board. Minutes shall be corrected and approved by the Board at a subsequent meeting. The Secretary may work with other staff members in preparing draft minutes for the Board's consideration.
- (5) Special Requests. Persons wishing to receive, by mail, notices or agendas of meetings, may so advise the District Manager or Secretary at the District Office. Such persons shall furnish a mailing address in writing and shall be required to pre-pay the cost of the copying and postage.
- (6) Emergency Meetings. The Chairperson, or Vice-Chairperson if the Chairperson is unavailable, upon consultation with the District Manager and District Counsel, if available, may convene an emergency meeting of the Board without first having complied with sections (1) and (3) of this Rule, to act on emergency matters that may affect the public health, safety, or welfare. Whenever possible, the District Manager shall make reasonable efforts to provide public notice and notify all Board members of an emergency meeting twenty-four (24) hours in advance. Reasonable efforts may include telephone notification. Notice of the emergency meeting must be provided both before and after the meeting on the District's website, if it has one. Whenever an emergency meeting is called, the District Manager shall be responsible for notifying at least one newspaper of general circulation in the District. After an emergency meeting, the Board shall publish in a newspaper of general circulation in the District, the time, date and place of the emergency meeting, the reasons why an emergency meeting was necessary, and a description of the action taken. Actions taken at an emergency meeting may be ratified by the Board at a regularly noticed meeting subsequently held.
- (7) Public Comment. The Board shall set aside a reasonable amount of time at each meeting for public comment and members of the public shall be permitted to provide comment on any proposition before the Board. The portion of the meeting generally reserved for public comment shall be identified in the agenda. Policies governing public comment may be adopted by the Board in accordance with Florida law.
- (8) Budget Hearing. Notice of hearing on the annual budget(s) shall be in accord with Section 190.008 of the Florida Statutes. Once adopted in accord with Section 190.008 of the Florida Statutes, the annual budget(s) may be amended from time to time by action of the Board. Approval of invoices by the Board in excess of the funds allocated to a particular budgeted line item shall serve to amend the budgeted line item.
- (9) Public Hearings. Notice of required public hearings shall contain the information required by applicable Florida law and by these Rules applicable to meeting notices and shall be mailed and published as required by Florida law. The District Manager shall ensure that all such notices, whether mailed or published, contain the information required by Florida law and these Rules and are mailed and

published as required by Florida law. Public hearings may be held during Board meetings when the agenda includes such public hearing.

- (10) Participation by Teleconference/Videoconference. District staff may participate in Board meetings by teleconference or videoconference. Board members may also participate in Board meetings by teleconference or videoconference if in the good judgment of the Board extraordinary circumstances exist; provided however, at least three Board members must be physically present at the meeting location to establish a quorum. Such extraordinary circumstances shall be presumed when a Board member participates by teleconference or videoconference, unless a majority of the Board members physically present determines that extraordinary circumstances do not exist.
- (11) Board Authorization. The District has not adopted Robert's Rules of Order. For each agenda item, there shall be discussion permitted among the Board members during the meeting. Unless such procedure is waived by the Board, approval or disapproval of resolutions and other proposed Board actions shall be in the form of a motion by one Board member, a second by another Board member, and an affirmative vote by the majority of the Board members present. Any Board member, including the Chairperson, can make or second a motion.
- (12) Continuances. Any meeting or public hearing of the Board may be continued without re-notice or re-advertising provided that:
 - (a) The Board identifies on the record at the original meeting a reasonable need for a continuance;
 - (b) The continuance is to a specified date, time, and location publicly announced at the original meeting; and
 - (c) The public notice for the original meeting states that the meeting may be continued to a date and time and states that the date, time, and location of any continuance shall be publicly announced at the original meeting and posted at the District Office immediately following the original meeting.
- (13) Attorney-Client Sessions. An Attorney-Client Session is permitted when the District's attorneys deem it necessary to meet in private with the Board to discuss pending litigation to which the District is a party before a court or administrative agency or as may be authorized by law. The District's attorney must request such session at a public meeting. Prior to holding the Attorney-Client Session, the District must give reasonable public notice of the time and date of the session and the names of the persons anticipated to attend the session. The session must commence at an open meeting in which the Chairperson or Vice-Chairperson announces the commencement of the session, the estimated length of the session, and the names of the persons who will be attending the session. The discussion during the session is confined to settlement negotiations or strategy related to

litigation expenses or as may be authorized by law. Only the Board, the District's attorneys (including outside counsel), the District Manager, and the court reporter may attend an Attorney-Client Session. During the session, no votes may be taken and no final decisions concerning settlement can be made. Upon the conclusion of the session, the public meeting is reopened, and the Chairperson or Vice-Chairperson must announce that the session has concluded. The session must be transcribed by a court-reporter and the transcript of the session filed with the District Secretary within a reasonable time after the session. The transcript shall not be available for public inspection until after the conclusion of the litigation.

- (14) Security and Firesafety Board Discussions. Portions of a meeting which relate to or would reveal a security or firesafety system plan or portion thereof made confidential and exempt by section 119.071(3)(a), Florida Statutes, are exempt from the public meeting requirements and other requirements of section 286.011, Florida Statutes, and section 24(b), Article 1 of the State Constitution. Should the Board wish to discuss such matters, members of the public shall be required to leave the meeting room during such discussion. Any records of the Board's discussion of such matters, including recordings or minutes, shall be maintained as confidential and exempt records in accordance with Florida law.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 189.069(2)(a)16, 190.006, 190.007, 190.008, 286.0105, 286.011, 286.0113, 286.0114, Fla. Stat.

Rule 1.4 Internal Controls to Prevent Fraud, Waste and Abuse

- (1) Internal Controls. The District shall establish and maintain internal controls designed to:
- (a) Prevent and detect “fraud,” “waste” and “abuse” as those terms are defined in section 11.45(1), Florida Statutes; and
 - (b) Promote and encourage compliance with applicable laws, rules contracts, grant agreements, and best practices; and
 - (c) Support economical and efficient operations; and
 - (d) Ensure reliability of financial records and reports; and
 - (e) Safeguard assets.
- (2) Adoption. The internal controls to prevent fraud, waste and abuse shall be adopted and amended by the District in the same manner as District policies.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.
Law Implemented: § 218.33(3), Fla. Stat.

Rule 2.0 Rulemaking Proceedings.

- (1) Commencement of Proceedings. Proceedings held for adoption, amendment, or repeal of a District rule shall be conducted according to these Rules. Rulemaking proceedings shall be deemed to have been initiated upon publication of notice by the District. A “rule” is a District statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the District (“Rule”). Nothing herein shall be construed as requiring the District to consider or adopt rules unless required by Chapter 190 of the Florida Statutes. Policies adopted by the District which do not consist of rates, fees, rentals or other monetary charges may be, but are not required to be, implemented through rulemaking proceedings.
- (2) Notice of Rule Development.
 - (a) Except when the intended action is the repeal of a Rule, the District shall provide notice of the development of a proposed rule by publication of a Notice of Rule Development in a newspaper of general circulation in the District before providing notice of a proposed rule as required by section (3) of this Rule. Consequently, the Notice of Rule Development shall be published at least twenty-nine (29) days prior to the public hearing on the proposed Rule. The Notice of Rule Development shall indicate the subject area to be addressed by rule development, provide a short, plain explanation of the purpose and effect of the proposed rule, cite the specific legal authority for the proposed rule, and include a statement of how a person may promptly obtain, without cost, a copy of any preliminary draft, if available.
 - (b) All rules as drafted shall be consistent with Sections 120.54(1)(g) and 120.54(2)(b) of the Florida Statutes.
- (3) Notice of Proceedings and Proposed Rules.
 - (a) Prior to the adoption, amendment, or repeal of any rule other than an emergency rule, the District shall give notice of its intended action, setting forth a short, plain explanation of the purpose and effect of the proposed action, a reference to the specific rulemaking authority pursuant to which the rule is adopted, and a reference to the section or subsection of the Florida Statutes being implemented, interpreted, or made specific. The notice shall include a summary of the District’s statement of the estimated regulatory costs, if one has been prepared, based on the factors set forth in Section 120.541(2) of the Florida Statutes, and a statement that any person who wishes to provide the District with a lower cost regulatory alternative as provided by Section 120.541(1), must do so in writing within twenty-one (21) days after publication of the notice. The notice shall additionally include a statement that any affected person may request a public hearing

by submitting a written request within twenty-one (21) days after the date of publication of the notice. Except when intended action is the repeal of a rule, the notice shall include a reference to both the date on which and the place where the Notice of Rule Development required by section (2) of this Rule appeared.

- (b) The notice shall be published in a newspaper of general circulation in the District and each county in which the District is located not less than twenty-eight (28) days prior to the intended action. The proposed rule shall be available for inspection and copying by the public at the time of the publication of notice.
 - (c) The notice shall be mailed to all persons named in the proposed rule and to all persons who, at least fourteen (14) days prior to such mailing, have made requests of the District for advance notice of its rulemaking proceedings. Any person may file a written request with the District Manager to receive notice by mail of District proceedings to adopt, amend, or repeal a rule. Such persons must furnish a mailing address and may be required to pay the cost of copying and mailing.
- (4) Rule Development Workshops. Whenever requested in writing by any affected person, the District must either conduct a rule development workshop prior to proposing rules for adoption or the Chairperson must explain in writing why a workshop is unnecessary. The District may initiate a rule development workshop but is not required to do so.
- (5) Petitions to Initiate Rulemaking. All Petitions to Initiate Rulemaking proceedings must contain the name, address, and telephone number of the petitioner, the specific action requested, the specific reason for adoption, amendment, or repeal, the date submitted, the text of the proposed rule, and the facts showing that the petitioner is regulated by the District or has a substantial interest in the rulemaking. Not later than sixty (60) calendar days following the date of filing a petition, the Board shall initiate rulemaking proceedings or deny the petition with a written statement of its reasons for the denial. If the petition is directed to an existing policy that the District has not formally adopted as a rule, the District may, in its discretion, notice and hold a public hearing on the petition to consider the comments of the public directed to the policy, its scope and application, and to consider whether the public interest is served adequately by the application of the policy on a case-by-case basis, as contrasted with its formal adoption as a rule. However, this section shall not be construed as requiring the District to adopt a rule to replace a policy.
- (6) Rulemaking Materials. After the publication of the notice referenced in section (3) of this Rule, the Board shall make available for public inspection and shall provide, upon request and payment of the cost of copies, the following materials:

- (a) The text of the proposed rule, or any amendment or repeal of any existing rules;
 - (b) A detailed written statement of the facts and circumstances justifying the proposed rule;
 - (c) A copy of the statement of estimated regulatory costs if required by Section 120.541 of the Florida Statutes; and
 - (d) The published notice.
- (7) Hearing. The District may, or, upon the written request of any affected person received within twenty-one (21) days after the date of publication of the notice described in section (3) of this Rule, shall, provide a public hearing for the presentation of evidence, argument, and oral statements, within the reasonable conditions and limitations imposed by the District to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings. The District shall publish notice of the public hearing in a newspaper of general circulation within the District either in the text of the notice described in section (3) of this Rule or in a separate publication at least seven (7) days before the scheduled public hearing. The notice shall specify the date, time, and location of the public hearing, and the name, address, and telephone number of the District contact person who can provide information about the public hearing. Written statements may be submitted by any person prior to or at the public hearing. All timely submitted written statements shall be considered by the District and made part of the rulemaking record.
- (8) Emergency Rule Adoption. The Board may adopt an emergency rule if it finds that immediate danger to the public health, safety, or welfare exists which requires immediate action. Prior to the adoption of an emergency rule, the District Manager shall make reasonable efforts to notify a newspaper of general circulation in the District. Notice of emergency rules shall be published as soon as possible in a newspaper of general circulation in the District. The District may use any procedure which is fair under the circumstances in the adoption of an emergency rule as long as it protects the public interest as determined by the District and otherwise complies with these provisions.
- (9) Negotiated Rulemaking. The District may use negotiated rulemaking in developing and adopting rules pursuant to Section 120.54(2)(d) of the Florida Statutes, except that any notices required under Section 120.54(2)(d) of the Florida Statutes, may be published in a newspaper of general circulation in the county in which the District is located.
- (10) Rulemaking Record. In all rulemaking proceedings, the District shall compile and maintain a rulemaking record. The record shall include, if applicable:

- (a) The texts of the proposed rule and the adopted rule;
- (b) All notices given for a proposed rule;
- (c) Any statement of estimated regulatory costs for the rule;
- (d) A written summary of hearings, if any, on the proposed rule;
- (e) All written comments received by the District and responses to those written comments; and
- (f) All notices and findings pertaining to an emergency rule.

(11) Petitions to Challenge Existing Rules.

- (a) Any person substantially affected by a rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of the District's authority.
- (b) The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show that the person challenging a rule is substantially affected by it.
- (c) The petition shall be filed with the District. Within 10 days after receiving the petition, the Chairperson shall, if the petition complies with the requirements of subsection (b) of this section, designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer who shall conduct a hearing within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties. The failure of the District to follow the applicable rulemaking procedures or requirements in this Rule shall be presumed to be material; however, the District may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.
- (d) Within 30 days after the hearing, the hearing officer shall render a decision and state the reasons therefor in writing.
- (e) Hearings held under this section shall be de novo in nature. The petitioner has a burden of proving by a preponderance of the evidence that the existing rule is an invalid exercise of District authority as to the objections raised. The hearing officer may:
 - (i) Administer oaths and affirmations;

- (ii) Rule upon offers of proof and receive relevant evidence;
 - (iii) Regulate the course of the hearing, including any pre-hearing matters;
 - (iv) Enter orders; and
 - (v) Make or receive offers of settlement, stipulation, and adjustment.
 - (f) The petitioner and the District shall be adverse parties. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.
- (12) Variances and Waivers. A “variance” means a decision by the District to grant a modification to all or part of the literal requirements of a rule to a person who is subject to the rule. A “waiver” means a decision by the District not to apply all or part of a rule to a person who is subject to the rule. Variances and waivers from District rules may be granted subject to the following:
- (a) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person, and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.
 - (b) A person who is subject to regulation by a District Rule may file a petition with the District, requesting a variance or waiver from the District’s Rule. Each petition shall specify:
 - (i) The rule from which a variance or waiver is requested;
 - (ii) The type of action requested;
 - (iii) The specific facts that would justify a waiver or variance for the petitioner; and
 - (iv) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.
 - (c) The District shall review the petition and may request only that information needed to clarify the petition or to answer new questions

raised by or directly related to the petition. If the petitioner asserts that any request for additional information is not authorized by law or by Rule of the District, the District shall proceed, at the petitioner's written request, to process the petition.

- (d) The Board shall grant or deny a petition for variance or waiver and shall announce such disposition at a publicly held meeting of the Board, within ninety (90) days after receipt of the original petition, the last item of timely requested additional material, or the petitioner's written request to finish processing the petition. The District's statement granting or denying the petition shall contain a statement of the relevant facts and reasons supporting the District's action.

- (13) Rates, Fees, Rentals and Other Charges. All rates, fees, rentals, or other charges shall be subject to rulemaking proceedings. Policies adopted by the District which do not consist of rates, fees, rentals or other charges may be, but are not required to be, implemented through rulemaking proceedings.

Specific Authority: §§ 190.011(5), 190.011(15), 190.035, Fla. Stat.

Law Implemented: §§ 190.011(5), 190.035(2), Fla. Stat.

Rule 3.0 Competitive Purchase.

- (1) Purpose and Scope. In order to comply with Sections 190.033(1) through (3), 287.055 and 287.017 of the Florida Statutes, the following provisions shall apply to the purchase of Professional Services, insurance, construction contracts, design-build services, goods, supplies, and materials, Contractual Services, and maintenance services.
- (2) Board Authorization. Except in cases of an Emergency Purchase, a competitive purchase governed by these Rules shall only be undertaken after authorization by the Board.
- (3) Definitions.
 - (a) “Competitive Solicitation” means a formal, advertised procurement process, other than an Invitation to Bid, Request for Proposals, or Invitation to Negotiate, approved by the Board to purchase commodities and/or services which affords vendors fair treatment in the competition for award of a District purchase contract.
 - (b) “Continuing Contract” means a contract for Professional Services entered into in accordance with Section 287.055 of the Florida Statutes, between the District and a firm, whereby the firm provides Professional Services to the District for projects in which the costs do not exceed four million dollars (\$4,000,000), for a study activity when the fee for such Professional Services to the District does not exceed five hundred thousand dollars (\$500,000), or for work of a specified nature as outlined in the contract with the District, with no time limitation except that the contract must provide a termination clause (for example, a contract for general District engineering services). Firms providing Professional Services under Continuing Contracts shall not be required to bid against one another.
 - (c) “Contractual Service” means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors. Contractual Services do not include auditing services, Maintenance Services, or Professional Services as defined in Section 287.055(2)(a) of the Florida Statutes, and these Rules. Contractual Services also do not include any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to Chapter 255 of the Florida Statutes, and Rules 3.5 or 3.6.

- (d) “Design-Build Contract” means a single contract with a Design-Build Firm for the design and construction of a public construction project.
- (e) “Design-Build Firm” means a partnership, corporation or other legal entity that:
 - (i) Is certified under Section 489.119 of the Florida Statutes, to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or
 - (ii) Is certified under Section 471.023 of the Florida Statutes, to practice or to offer to practice engineering; certified under Section 481.219 of the Florida Statutes, to practice or to offer to practice architecture; or certified under Section 481.319 of the Florida Statutes, to practice or to offer to practice landscape architecture.
- (f) “Design Criteria Package” means concise, performance-oriented drawings or specifications for a public construction project. The purpose of the Design Criteria Package is to furnish sufficient information to permit Design-Build Firms to prepare a bid or a response to the District’s Request for Proposals, or to permit the District to enter into a negotiated Design-Build Contract. The Design Criteria Package must specify performance-based criteria for the public construction project, including the legal description of the site, survey information concerning the site, interior space requirements, material quality standards, schematic layouts and conceptual design criteria of the project, cost or budget estimates, design and construction schedules, site development requirements, provisions for utilities, stormwater retention and disposal, and parking requirements applicable to the project. Design Criteria Packages shall require firms to submit information regarding the qualifications, availability, and past work of the firms, including the partners and members thereof.
- (g) “Design Criteria Professional” means a firm who holds a current certificate of registration under Chapter 481 of the Florida Statutes, to practice architecture or landscape architecture, or a firm who holds a current certificate as a registered engineer under Chapter 471 of the Florida Statutes, to practice engineering, and who is employed by or under contract to the District to provide professional architect services, landscape architect services, or engineering services in connection with the preparation of the Design Criteria Package.
- (h) “Emergency Purchase” means a purchase necessitated by a sudden unexpected turn of events (for example, acts of God, riot, fires, floods, hurricanes, accidents, or any circumstances or cause beyond the control of the Board in the normal conduct of its business), where the Board finds

that the delay incident to competitive purchase would be detrimental to the interests of the District. This includes, but is not limited to, instances where the time to competitively award the project will jeopardize the funding for the project, will materially increase the cost of the project, or will create an undue hardship on the public health, safety, or welfare.

- (i) “Invitation to Bid” is a written solicitation for sealed bids with the title, date, and hour of the public bid opening designated specifically and defining the commodity or service involved. It includes printed instructions prescribing conditions for bidding, qualification, evaluation criteria, and provides for a manual signature of an authorized representative. It may include one or more bid alternates.
- (j) “Invitation to Negotiate” means a written solicitation for competitive sealed replies to select one or more vendors with which to commence negotiations for the procurement of commodities or services.
- (k) “Negotiate” means to conduct legitimate, arm’s length discussions and conferences to reach an agreement on a term or price.
- (l) “Professional Services” means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Florida, or those services performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper, in connection with the firm's or individual's professional employment or practice.
- (m) “Proposal (or Reply or Response) Most Advantageous to the District” means, as determined in the sole discretion of the Board, the proposal, reply, or response that is:
 - (i) Submitted by a person or firm capable and qualified in all respects to perform fully the contract requirements, who has the integrity and reliability to assure good faith performance;
 - (ii) The most responsive to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation as determined by the Board; and
 - (iii) For a cost to the District deemed by the Board to be reasonable.
- (n) “Purchase” means acquisition by sale, rent, lease, lease/purchase, or installment sale. It does not include transfer, sale, or exchange of goods, supplies, or materials between the District and any federal, state, regional or local governmental entity or political subdivision of the State of Florida.

- (o) “Request for Proposals” or “RFP” is a written solicitation for sealed proposals with the title, date, and hour of the public opening designated and requiring the manual signature of an authorized representative. It may provide general information, applicable laws and rules, statement of work, functional or general specifications, qualifications, proposal instructions, work detail analysis, and evaluation criteria as necessary.
- (p) “Responsive and Responsible Bidder” means an entity or individual that has submitted a bid that conforms in all material respects to the Invitation to Bid and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. “Responsive and Responsible Vendor” means an entity or individual that has submitted a proposal, reply, or response that conforms in all material respects to the Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and has the capability in all respects to fully perform the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an entity or individual is a Responsive and Responsible Bidder (or Vendor), the District may consider, in addition to factors described in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the following:
 - (i) The ability and adequacy of the professional personnel employed by the entity/individual;
 - (ii) The past performance of the entity/individual for the District and in other professional employment;
 - (iii) The willingness of the entity/individual to meet time and budget requirements;
 - (iv) The geographic location of the entity’s/individual’s headquarters or office in relation to the project;
 - (v) The recent, current, and projected workloads of the entity/individual;
 - (vi) The volume of work previously awarded to the entity/individual;
 - (vii) Whether the cost components of the bid or proposal are appropriately balanced; and
 - (viii) Whether the entity/individual is a certified minority business enterprise.

- (q) “Responsive Bid,” “Responsive Proposal,” “Responsive Reply,” and “Responsive Response” all mean a bid, proposal, reply, or response which conforms in all material respects to the specifications and conditions in the Invitation to Bid, Request for Proposals, Invitations to Negotiate, or Competitive Solicitation document and these Rules, and the cost components of which, if any, are appropriately balanced. A bid, proposal, reply or response is not responsive if the person or firm submitting it fails to meet any material requirement relating to the qualifications, financial stability, or licensing of the bidder.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 190.033, 255.20, 287.055, Fla. Stat.

Rule 3.1 Procedure Under the Consultants' Competitive Negotiations Act.

- (1) Scope. The following procedures are adopted for the selection of firms or individuals to provide Professional Services exceeding the thresholds herein described, for the negotiation of such contracts, and to provide for protest of actions of the Board under this Rule. As used in this Rule, "Project" means that fixed capital outlay study or planning activity when basic construction cost is estimated by the District to exceed the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FIVE, or for a planning study activity when the fee for Professional Services is estimated by the District to exceed the threshold amount provided in Section 287.017 for CATEGORY TWO, as such categories may be amended or adjusted from time to time.
- (2) Qualifying Procedures. In order to be eligible to provide Professional Services to the District, a consultant must, at the time of receipt of the firm's qualification submittal:
 - (a) Hold all required applicable state professional licenses in good standing;
 - (b) Hold all required applicable federal licenses in good standing, if any;
 - (c) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the consultant is a corporation; and
 - (d) Meet any qualification requirements set forth in the District's Request for Qualifications.

Evidence of compliance with this Rule may be submitted with the qualifications, if requested by the District. In addition, evidence of compliance must be submitted any time requested by the District.

- (3) Public Announcement. Except in cases of valid public emergencies as certified by the Board, the District shall announce each occasion when Professional Services are required for a Project or a Continuing Contract by publishing a notice providing a general description of the Project, or the nature of the Continuing Contract, and the method for interested consultants to apply for consideration. The notice shall appear in at least one (1) newspaper of general circulation in the District and in such other places as the District deems appropriate. The notice must allow at least fourteen (14) days for submittal of qualifications from the date of publication. The District may maintain lists of consultants interested in receiving such notices. These consultants are encouraged to submit annually statements of qualifications and performance data. The District shall make reasonable efforts to provide copies of any notices to such consultants, but the failure to do so shall not give such consultants any bid protest or other rights or otherwise disqualify any otherwise valid procurement process. The Board has the

right to reject any and all qualifications, and such reservation shall be included in the published notice. Consultants not receiving a contract award shall not be entitled to recover from the District any costs of qualification package preparation or submittal.

(4) Competitive Selection.

- (a) The Board shall review and evaluate the data submitted in response to the notice described in section (3) of this Rule regarding qualifications and performance ability, as well as any statements of qualifications on file. The Board shall conduct discussions with, and may require public presentation by consultants regarding their qualifications, approach to the Project, and ability to furnish the required services. The Board shall then select and list the consultants, in order of preference, deemed to be the most highly capable and qualified to perform the required Professional Services, after considering these and other appropriate criteria:
 - (i) The ability and adequacy of the professional personnel employed by each consultant;
 - (ii) Whether a consultant is a certified minority business enterprise;
 - (iii) Each consultant's past performance;
 - (iv) The willingness of each consultant to meet time and budget requirements;
 - (v) The geographic location of each consultant's headquarters, office and personnel in relation to the project;
 - (vi) The recent, current, and projected workloads of each consultant; and
 - (vii) The volume of work previously awarded to each consultant by the District.
- (b) Nothing in these Rules shall prevent the District from evaluating and eventually selecting a consultant if less than three (3) Responsive qualification packages, including packages indicating a desire not to provide Professional Services on a given Project, are received.
- (c) If the selection process is administered by any person or committee other than the full Board, the selection made will be presented to the full Board with a recommendation that competitive negotiations be instituted with the selected firms in order of preference listed.

- (d) Notice of the rankings adopted by the Board, including the rejection of some or all qualification packages, shall be provided in writing to all consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's ranking decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

(5) Competitive Negotiation.

- (a) After the Board has authorized the beginning of competitive negotiations, the District may begin such negotiations with the firm listed as most qualified to perform the required Professional Services at a rate or amount of compensation which the Board determines is fair, competitive, and reasonable.
- (b) In negotiating a lump-sum or cost-plus-a-fixed-fee professional contract for more than the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, the firm receiving the award shall be required to execute a truth-in-negotiation certificate stating that "wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting." In addition, any professional service contract under which such a certificate is required, shall contain a provision that "the original contract price and any additions thereto, shall be adjusted to exclude any significant sums by which the Board determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs."
- (c) Should the District be unable to negotiate a satisfactory agreement with the firm determined to be the most qualified at a price deemed by the District to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the District shall immediately begin negotiations with the second most qualified firm. If a satisfactory agreement with the second firm cannot be reached, those negotiations shall be terminated and negotiations with the third most qualified firm shall be undertaken.
- (d) Should the District be unable to negotiate a satisfactory agreement with one of the top three (3) ranked consultants, additional firms shall be selected by the District, in order of their competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.

- (6) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.
- (7) Continuing Contract. Nothing in this Rule shall prohibit a Continuing Contract between a consultant and the District.
- (8) Emergency Purchase. The District may make an Emergency Purchase without complying with these Rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 119.0701, 190.011(3), 190.033, 287.055, Fla. Stat.

Rule 3.2 Procedure Regarding Auditor Selection.

In order to comply with the requirements of Section 218.391 of the Florida Statutes, the following procedures are outlined for selection of firms or individuals to provide Auditing Services and for the negotiation of such contracts. For audits required under Chapter 190 of the Florida Statutes but not meeting the thresholds of Chapter 218 of the Florida Statutes, the District need not follow these procedures but may proceed with the selection of a firm or individual to provide Auditing Services and for the negotiation of such contracts in the manner the Board determines is in the best interests of the District.

(1) Definitions.

- (a) "Auditing Services" means those services within the scope of the practice of a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.
- (b) "Committee" means the auditor selection committee appointed by the Board as described in section (2) of this Rule.

(2) Establishment of Auditor Selection Committee. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Board shall establish an auditor selection committee ("Committee"), the primary purpose of which is to assist the Board in selecting an auditor to conduct the annual financial audit required by Section 218.39 of the Florida Statutes. The Committee shall include at least three individuals, at least one of which must also be a member of the Board. The establishment and selection of the Committee must be conducted at a publicly noticed and held meeting of the Board. The Chairperson of the Committee must be a member of the Board. An employee, a chief executive officer, or a chief financial officer of the District may not serve as a member of the Committee; provided however such individual may serve the Committee in an advisory capacity.

(3) Establishment of Minimum Qualifications and Evaluation Criteria. Prior to a public announcement under section (4) of this Rule that Auditing Services are required, the Committee shall meet at a publicly noticed meeting to establish minimum qualifications and factors to use for the evaluation of Auditing Services to be provided by a certified public accounting firm licensed under Chapter 473 of the Florida Statutes, and qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

- (a) Minimum Qualifications. In order to be eligible to submit a proposal, a firm must, at all relevant times including the time of receipt of the proposal by the District:

- (i) Hold all required applicable state professional licenses in good standing;
- (ii) Hold all required applicable federal licenses in good standing, if any;
- (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the proposer is a corporation; and
- (iv) Meet any pre-qualification requirements established by the Committee and set forth in the RFP or other specifications.

If requested in the RFP or other specifications, evidence of compliance with the minimum qualifications as established by the Committee must be submitted with the proposal.

- (b) Evaluation Criteria. The factors established for the evaluation of Auditing Services by the Committee shall include, but are not limited to:
 - (i) Ability of personnel;
 - (ii) Experience;
 - (iii) Ability to furnish the required services; and
 - (iv) Such other factors as may be determined by the Committee to be applicable to its particular requirements.

The Committee may also choose to consider compensation as a factor. If the Committee establishes compensation as one of the factors, compensation shall not be the sole or predominant factor used to evaluate proposals.

- (4) Public Announcement. After identifying the factors to be used in evaluating the proposals for Auditing Services as set forth in section (3) of this Rule, the Committee shall publicly announce the opportunity to provide Auditing Services. Such public announcement shall include a brief description of the audit and how interested firms can apply for consideration and obtain the RFP. The notice shall appear in at least one (1) newspaper of general circulation in the District and the county in which the District is located. The public announcement shall allow for at least seven (7) days for the submission of proposals.
- (5) Request for Proposals. The Committee shall provide interested firms with a Request for Proposals (“RFP”). The RFP shall provide information on how proposals are to be evaluated and such other information the Committee

determines is necessary for the firm to prepare a proposal. The RFP shall state the time and place for submitting proposals.

- (6) Committee's Evaluation of Proposals and Recommendation. The Committee shall meet at a publicly held meeting that is publicly noticed for a reasonable time in advance of the meeting to evaluate all qualified proposals and may, as part of the evaluation, require that each interested firm provide a public presentation where the Committee may conduct discussions with the firm, and where the firm may present information, regarding the firm's qualifications. At the public meeting, the Committee shall rank and recommend in order of preference no fewer than three firms deemed to be the most highly qualified to perform the required services after considering the factors established pursuant to subsection (3)(b) of this Rule. If fewer than three firms respond to the RFP or if no firms respond to the RFP, the Committee shall recommend such firm as it deems to be the most highly qualified. Notwithstanding the foregoing, the Committee may recommend that any and all proposals be rejected.
- (7) Board Selection of Auditor.
 - (a) Where compensation was not selected as a factor used in evaluating the proposals, the Board shall negotiate with the firm ranked first and inquire of that firm as to the basis of compensation. If the Board is unable to negotiate a satisfactory agreement with the first ranked firm at a price deemed by the Board to be fair, competitive, and reasonable, then negotiations with that firm shall be terminated and the Board shall immediately begin negotiations with the second ranked firm. If a satisfactory agreement with the second ranked firm cannot be reached, those negotiations shall be terminated and negotiations with the third ranked firm shall be undertaken. The Board may reopen formal negotiations with any one of the three top-ranked firms, but it may not negotiate with more than one firm at a time. If the Board is unable to negotiate a satisfactory agreement with any of the selected firms, the Committee shall recommend additional firms in order of the firms' respective competence and qualifications. Negotiations shall continue, beginning with the first-named firm on the list, until an agreement is reached or the list of firms is exhausted.
 - (b) Where compensation was selected as a factor used in evaluating the proposals, the Board shall select the highest-ranked qualified firm or document in its public records the reason for not selecting the highest-ranked qualified firm.
 - (c) In negotiations with firms under this Rule, the Board may allow the District Manager, District Counsel, or other designee to conduct negotiations on its behalf.

- (d) Notwithstanding the foregoing, the Board may reject any or all proposals. The Board shall not consider any proposal, or enter into any contract for Auditing Services, unless the proposed agreed-upon compensation is reasonable to satisfy the requirements of Section 218.39 of the Florida Statutes, and the needs of the District.
- (8) Contract. Any agreement reached under this Rule shall be evidenced by a written contract, which may take the form of an engagement letter signed and executed by both parties. The written contract shall include all provisions and conditions of the procurement of such services and shall include, at a minimum, the following:
 - (a) A provision specifying the services to be provided and fees or other compensation for such services;
 - (b) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract;
 - (c) A provision setting forth deadlines for the auditor to submit a preliminary draft audit report to the District for review and to submit a final audit report no later than June 30 of the fiscal year that follows the fiscal year for which the audit is being conducted;
 - (d) A provision specifying the contract period, including renewals, and conditions under which the contract may be terminated or renewed. The maximum contract period including renewals shall be five (5) years. A renewal may be done without the use of the auditor selection procedures provided in this Rule but must be in writing.
 - (e) Provisions required by law that require the auditor to comply with public records laws.
- (9) Notice of Award. Once a negotiated agreement with a firm or individual is reached, or the Board authorizes the execution of an agreement with a firm where compensation was a factor in the evaluation of proposals, notice of the intent to award, including the rejection of some or all proposals, shall be provided in writing to all proposers by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests regarding the award of contracts under this Rule shall be as provided for in Rule 3.11. No proposer shall be entitled to recover any costs of proposal preparation or submittal from the District.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.
Law Implemented: §§ 119.0701, 218.33, 218.391, Fla. Stat.

Rule 3.3 Purchase of Insurance.

- (1) Scope. The purchases of life, health, accident, hospitalization, legal expense, or annuity insurance, or all of any kinds of such insurance for the officers and employees of the District, and for health, accident, hospitalization, and legal expenses upon a group insurance plan by the District, shall be governed by this Rule. This Rule does not apply to the purchase of any other type of insurance by the District, including but not limited to liability insurance, property insurance, and directors and officers insurance. Nothing in this Rule shall require the District to purchase insurance.
- (2) Procedure. For a purchase of insurance within the scope of these Rules, the following procedure shall be followed:
 - (a) The Board shall cause to be prepared a Notice of Invitation to Bid.
 - (b) Notice of the Invitation to Bid shall be advertised at least once in a newspaper of general circulation within the District. The notice shall allow at least fourteen (14) days for submittal of bids.
 - (c) The District may maintain a list of persons interested in receiving notices of Invitations to Bid. The District shall make reasonable efforts to provide copies of any notices to such persons, but the failure to do so shall not give such consultants any bid protest or other rights or otherwise disqualify any otherwise valid procurement process.
 - (d) Bids shall be opened at the time and place noted in the Invitation to Bid.
 - (e) If only one (1) response to an Invitation is received, the District may proceed with the purchase. If no response to an Invitation to Bid is received, the District may take whatever steps are reasonably necessary in order to proceed with the purchase.
 - (f) The Board has the right to reject any and all bids and such reservations shall be included in all solicitations and advertisements.
 - (g) Simultaneously with the review of the submitted bids, the District may undertake negotiations with those companies that have submitted reasonable and timely bids and, in the opinion of the District, are fully qualified and capable of meeting all services and requirements. Bid responses shall be evaluated in accordance with the specifications and criteria contained in the Invitation to Bid; in addition, the total cost to the District, the cost, if any, to the District officers, employees, or their dependents, the geographic location of the company's headquarters and offices in relation to the District, and the ability of the company to guarantee premium stability may be considered. A contract to purchase

insurance shall be awarded to that company whose response to the Invitation to Bid best meets the overall needs of the District, its officers, employees, and/or dependents.

- (h) Notice of the intent to award, including rejection of some or all bids, shall be provided in writing to all bidders by United States Mail, by hand delivery, or by overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of insurance under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: § 112.08, Fla. Stat.

Rule 3.4 Pre-qualification

- (1) Scope. In its discretion, the District may undertake a pre-qualification process in accordance with this Rule for vendors to provide construction services, goods, supplies, and materials, Contractual Services, and maintenance services.
- (2) Procedure. When the District seeks to pre-qualify vendors, the following procedures shall apply:
 - (a) The Board shall cause to be prepared a Request for Qualifications.
 - (b) For construction services exceeding the thresholds described in Section 255.20 of the Florida Statutes, the Board must advertise the proposed pre-qualification criteria and procedures and allow at least seven (7) days notice of the public hearing for comments on such pre-qualification criteria and procedures. At such public hearing, potential vendors may object to such pre-qualification criteria and procedures. Following such public hearing, the Board shall formally adopt pre-qualification criteria and procedures prior to the advertisement of the Request for Qualifications for construction services.
 - (c) The Request for Qualifications shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall allow at least seven (7) days for submittal of qualifications for goods, supplies and materials, Contractual Services, maintenance services, and construction services under two hundred fifty thousand dollars (\$250,000). The notice shall allow at least twenty-one (21) days for submittal of qualifications for construction services estimated to cost over two hundred fifty thousand dollars (\$250,000) and thirty (30) days for construction services estimated to cost over five hundred thousand dollars (\$500,000).
 - (d) The District may maintain lists of persons interested in receiving notices of Requests for Qualifications. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any pre-qualification determination or contract awarded in accordance with these Rules and shall not be a basis for a protest of any pre-qualification determination or contract award.
 - (e) If the District has pre-qualified vendors for a particular category of purchase, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies or

responses in response to the applicable Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

- (f) In order to be eligible to submit qualifications, a firm or individual must, at the time of receipt of the qualifications:
 - (i) Hold all required applicable state professional licenses in good standing;
 - (ii) Hold all required applicable federal licenses in good standing, if any;
 - (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and
 - (iv) Meet any special pre-qualification requirements set forth in the Request for Qualifications.

Evidence of compliance with these Rules must be submitted with the qualifications if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the qualifications.

- (g) Qualifications shall be presented to the Board, or a committee appointed by the Board, for evaluation in accordance with the Request for Qualifications and this Rule. Minor variations in the qualifications may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature.
- (h) All vendors determined by the District to meet the pre-qualification requirements shall be pre-qualified. To assure full understanding of the responsiveness to the requirements contained in a Request for Qualifications, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion and revision of qualifications. For construction services, any contractor pre-qualified and considered eligible by the Department of Transportation to bid to perform the type of work the project entails shall be presumed to be qualified to perform the project.
- (i) The Board shall have the right to reject all qualifications if there are not enough to be competitive or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of qualification preparation or submittal from the District.

(j) Notice of intent to pre-qualify, including rejection of some or all qualifications, shall be provided in writing to all vendors by United States Mail, electronic mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's pre-qualification decisions under this Rule shall be in accordance with the procedures set forth in Rule 3.11; provided however, protests related to the pre-qualification criteria and procedures for construction services shall be resolved in accordance with section (2)(b) of this Rule and Section 255.20(1)(b) of the Florida Statutes.

(3) Suspension, Revocation, or Denial of Qualification

(a) The District, for good cause, may deny, suspend, or revoke a prequalified vendor's pre-qualified status. A suspension, revocation, or denial for good cause shall prohibit the vendor from bidding on any District construction contract for which qualification is required, shall constitute a determination of non-responsibility to bid on any other District construction or maintenance contract, and shall prohibit the vendor from acting as a material supplier or subcontractor on any District contract or project during the period of suspension, revocation, or denial. Good cause shall include the following:

- i. One of the circumstances specified under Section 337.16(2), Fla. Stat., has occurred.
- ii. Affiliated contractors submitted more than one proposal for the same work. In this event the pre-qualified status of all of the affiliated bidders will be revoked, suspended, or denied. All bids of affiliated bidders will be rejected.
- iii. The vendor made or submitted false, deceptive, or fraudulent statements, certifications, or materials in any claim for payment or any information required by any District contract.
- iv. The vendor or its affiliate defaulted on any contract or a contract surety assumed control of financial responsibility for any contract of the vendor.
- v. The vendor's qualification to bid is suspended, revoked, or denied by any other public or semi-public entity, or the vendor has been the subject of a civil enforcement proceeding or settlement involving a public or semi-public entity.
- vi. The vendor failed to comply with contract or warranty requirements or failed to follow District direction in the performance of a contract.

- vii. The vendor failed to timely furnish all contract documents required by the contract specifications, special provisions, or by any state or federal statutes or regulations. If the vendor fails to furnish any of the subject contract documents by the expiration of the period of suspension, revocation, or denial set forth above, the vendor's pre-qualified status shall remain suspended, revoked, or denied until the documents are furnished.
 - viii. The vendor failed to notify the District within 10 days of the vendor, or any of its affiliates, being declared in default or otherwise not completing work on a contract or being suspended from qualification to bid or denied qualification to bid by any other public or semi-public agency.
 - ix. The vendor did not pay its subcontractors or suppliers in a timely manner or in compliance with contract documents.
 - x. The vendor has demonstrated instances of poor or unsatisfactory performance, deficient management resulting in project delay, poor quality workmanship, a history of payment of liquidated damages, untimely completion of projects, uncooperative attitude, contract litigation, inflated claims or defaults.
 - xi. An affiliate of the vendor has previously been determined by the District to be non-responsible, and the specified period of suspension, revocation, denial, or non-responsibility remains in effect.
 - xii. The vendor or affiliate(s) has been convicted of a contract crime.
 - 1. The term "contract crime" means any violation of state or federal antitrust laws with respect to a public contract or any violation of any state or federal law involving fraud, bribery, collusion, conspiracy, or material misrepresentation with respect to a public contract.
 - 2. The term "convicted" or "conviction" means a finding of guilt or a conviction of a contract crime, with or without an adjudication of guilt, in any federal or state trial court of record as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
- (b) A denial, suspension, or revocation shall prohibit the vendor from being a subcontractor on District work during the period of denial, suspension, or revocation, except when a prime contractor's bid has used prices of a subcontractor who becomes disqualified after the bid, but before the request for authorization to sublet is presented.

- (c) The District shall inform the vendor in writing of its intent to deny, suspend, or revoke its pre-qualified status and inform the vendor of its right to a hearing, the procedure which must be followed, and the applicable time limits. If a hearing is requested within 10 days after the receipt of the notice of intent, the hearing shall be held within 30 days after receipt by the District of the request for the hearing. The decision shall be issued within 15 days after the hearing.
- (d) Such suspension or revocation shall not affect the vendor's obligations under any preexisting contract.
- (e) In the case of contract crimes, the vendor's pre-qualified status under this Rule shall be revoked indefinitely. For all violations of Rule 3.4(3)(a) other than for the vendor's conviction for contract crimes, the revocation, denial, or suspension of a vendor's pre-qualified status under this Rule shall be for a specific period of time based on the seriousness of the deficiency.

Examples of factors affecting the seriousness of a deficiency are:

- i. Impacts on project schedule, cost, or quality of work;
- ii. Unsafe conditions allowed to exist;
- iii. Complaints from the public;
- iv. Delay or interference with the bidding process;
- v. The potential for repetition;
- vi. Integrity of the public contracting process;
- vii. Effect on the health, safety, and welfare of the public.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.
Law Implemented: §§ 190.033, 255.0525, 255.20, Fla. Stat.

Rule 3.5 Construction Contracts, Not Design-Build.

- (1) Scope. All contracts for the construction or improvement of any building, structure, or other public construction works authorized by Chapter 190 of the Florida Statutes, the costs of which are estimated by the District in accordance with generally accepted cost accounting principles to be in excess of the threshold amount for applicability of Section 255.20 of the Florida Statutes, as that amount may be indexed or amended from time to time, shall be let under the terms of these Rules and the procedures of Section 255.20 of the Florida Statutes, as the same may be amended from time to time. A project shall not be divided solely to avoid the threshold bidding requirements.
- (2) Procedure. When a purchase of construction services is within the scope of this Rule, the following procedures shall apply:
 - (a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.
 - (b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation in the District and in the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least twenty-one (21) days for submittal of sealed bids, proposals, replies, or responses, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars (\$500,000) must be noticed at least thirty (30) days prior to the date for submittal of bids, proposals, replies, or responses. If the Board has previously pre-qualified contractors pursuant to Rule 3.4 and determined that only the contractors that have been pre-qualified will be permitted to submit bids, proposals, replies, and responses, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation need not be published. Instead, the Notice of Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be sent to the pre-qualified contractors by United States Mail, hand delivery, facsimile, or overnight delivery service.
 - (c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.

- (d) If the District has pre-qualified providers of construction services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses to Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations.
- (e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:
 - (i) Hold all required applicable state professional licenses in good standing;
 - (ii) Hold all required applicable federal licenses in good standing, if any;
 - (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the bidder is a corporation; and
 - (iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects including but not limited to, reemployment assistance, safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response, if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

- (f) Bids, proposals, replies, and responses, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. Bids, proposals, replies, and responses shall be evaluated in

accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation and these Rules. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.

- (g) The lowest Responsive Bid submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.
- (h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No contractor shall be entitled to recover any costs of bid, proposal, response, or reply preparation or submittal from the District.
- (i) The Board may require potential contractors to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.
- (j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses, shall be provided in writing to all contractors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of construction services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

- (k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase construction services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may proceed with the procurement of construction services, in the manner the Board determines is in the best interests of the District, which may include but is not limited to a direct purchase of the construction services without further competitive selection processes.
- (3) Sole Source; Government. Construction services that are only available from a single source are exempt from this Rule. Construction services provided by governmental agencies are exempt from this Rule. This Rule shall not apply to the purchase of construction services, which may include goods, supplies, or materials, that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules. A contract for construction services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.
- (4) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.
- (5) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board Meeting.
- (6) Exceptions. This Rule is inapplicable when:
 - (a) The project is undertaken as repair or maintenance of an existing public facility;
 - (b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;
 - (c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contract; or
 - (d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 119.0701, 189.053, 190.033, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.6 Construction Contracts, Design-Build.

- (1) Scope. The District may utilize Design-Build Contracts for any public construction project for which the Board determines that use of such contract is in the best interest of the District. When letting a Design-Build Contract, the District shall use the following procedure:
- (2) Procedure.
 - (a) The District shall utilize a Design Criteria Professional meeting the requirements of Section 287.055(2)(k) of the Florida Statutes, when developing a Design Criteria Package, evaluating the proposals and qualifications submitted by Design-Build Firms, and determining compliance of the project construction with the Design Criteria Package. The Design Criteria Professional may be an employee of the District, may be the District Engineer selected by the District pursuant to Section 287.055 of the Florida Statutes, or may be retained pursuant to Rule 3.1. The Design Criteria Professional is not eligible to render services under a Design-Build Contract executed pursuant to the Design Criteria Package.
 - (b) A Design Criteria Package for the construction project shall be prepared and sealed by the Design Criteria Professional. If the project utilizes existing plans, the Design Criteria Professional shall create a Design Criteria Package by supplementing the plans with project specific requirements, if any.
 - (c) The Board may either choose to award the Design-Build Contract pursuant to the competitive proposal selection process set forth in Section 287.055(9) of the Florida Statutes, or pursuant to the qualifications-based selection process pursuant to Rule 3.1.
 - (i) Qualifications-Based Selection. If the process set forth in Rule 3.1 is utilized, subsequent to competitive negotiations, a guaranteed maximum price and guaranteed completion date shall be established.
 - (ii) Competitive Proposal-Based Selection. If the competitive proposal selection process is utilized, the Board, in consultation with the Design Criteria Professional, shall establish the criteria, standards and procedures for the evaluation of Design-Build Proposals based on price, technical, and design aspects of the project, weighted for the project. After a Design Criteria Package and the standards and procedures for evaluation of proposals have been developed, competitive proposals from qualified firms shall be solicited pursuant to the design criteria by the following procedure:

1. A Request for Proposals shall be advertised at least once in a newspaper of general circulation in the county in which the District is located. The notice shall allow at least twenty-one (21) days for submittal of sealed proposals, unless the Board, for good cause, determines a shorter period of time is appropriate. Any project projected to cost more than five hundred thousand dollars (\$500,000) must be noticed at least thirty (30) days prior to the date for submittal of proposals.
2. The District may maintain lists of persons interested in receiving notices of Requests for Proposals. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.
3. In order to be eligible to submit a proposal, a firm must, at the time of receipt of the proposals:
 - a. Hold the required applicable state professional licenses in good standing, as defined by Section 287.055(2)(h) of the Florida Statutes;
 - b. Hold all required applicable federal licenses in good standing, if any;
 - c. Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the proposer is a corporation;
 - d. Meet any special pre-qualification requirements set forth in the Request for Proposals and Design Criteria Package.

Any contractor that has been found guilty by a court of any violation of federal labor or employment tax laws regarding subjects including but not limited to reemployment assistance, safety, tax withholding, worker's compensation, unemployment tax, social security and Medicare tax, wage or hour, or prevailing rate laws within the past 5 years may

be considered ineligible by the District to submit a bid, response, or proposal for a District project.

Evidence of compliance with these Rules must be submitted with the proposal if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the proposal.

4. The proposals, or the portions of which that include the price, shall be publicly opened at a meeting noticed in accordance with Rule 1.3, and at which at least one district representative is present. The name of each bidder and the price submitted in the bid shall be announced at such meeting and shall be made available upon request. Minutes should be taken at the meeting and maintained by the District. In consultation with the Design Criteria Professional, the Board shall evaluate the proposals received based on evaluation criteria and procedures established prior to the solicitation of proposals, including but not limited to qualifications, availability, and past work of the firms and the partners and members thereof. The Board shall then select no fewer than three (3) Design-Build Firms as the most qualified.
5. The Board shall have the right to reject all proposals if [the proposals are too high](#), or rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of proposal preparation or submittal from the District.
6. If less than three (3) Responsive Proposals are received, the District may purchase design-build services or may reject the proposals for lack of competitiveness. If no Responsive Proposals are received, the District may proceed with the procurement of design-build services in the manner the Board determines is in the best interests of the District, which may include but is not limited to a direct purchase of the design-build services without further competitive selection processes.
7. Notice of the rankings adopted by the Board, including the rejection of some or all proposals, shall be provided in writing to all consultants by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the

Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's rankings under this Rule shall be in accordance with the procedures set forth in Rule 3.11.

8. The Board shall negotiate a contract with the firm ranking the highest based on the evaluation standards and shall establish a price which the Board determines is fair, competitive and reasonable. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the second most qualified firm, based on the ranking by the evaluation standards. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the second most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. The Board shall then undertake negotiations with the third most qualified firm. Should the Board be unable to negotiate a satisfactory contract with the firm considered to be the third most qualified at a price considered by the Board to be fair, competitive, and reasonable, negotiations with that firm must be terminated. Should the Board be unable to negotiate a satisfactory contract with any of the selected firms, the Board shall select additional firms in order of their rankings based on the evaluation standards and continue negotiations until an agreement is reached or the list of firms is exhausted.
 9. After the Board contracts with a firm, the firm shall bring to the Board for approval, detailed working drawings of the project.
 10. The Design Criteria Professional shall evaluate the compliance of the detailed working drawings and project construction with the Design Criteria Package and shall provide the Board with a report of the same.
- (3) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.
 - (4) Emergency Purchase. The Board may, in case of public emergency, declare an emergency and immediately proceed with negotiations with the best qualified

Design-Build Firm available at the time. The fact that an Emergency Purchase has occurred shall be noted in the minutes of the next Board meeting.

(5) Exceptions. This Rule is inapplicable when:

- (a) The project is undertaken as repair or maintenance of an existing public facility;
- (b) The funding source of the project will be diminished or lost because the time required to competitively award the project after the funds become available exceeds the time within which the funding source must be spent;
- (c) The District has competitively awarded a project and the contractor has abandoned the project or the District has terminated the contractor; or
- (d) The District, after public notice, conducts a public meeting under Section 286.011 of the Florida Statutes, and finds by a majority vote of the Board that it is in the public's best interest to perform the project using its own services, employees, and equipment.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 119.0701, 189.053, 190.033, 255.0518, 255.0525, 255.20, 287.055, Fla. Stat.

Rule 3.7 Payment and Performance Bonds.

- (1) Scope. This Rule shall apply to contracts for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work and shall be construed in addition to terms prescribed by any other Rule that may also apply to such contracts.
- (2) Required Bond. Upon entering into a contract for any of the services described in section (1) of this Rule in excess of \$200,000, the Board should require that the contractor, before commencing the work, execute and record a payment and performance bond in an amount equal to the contract price. Notwithstanding the terms of the contract or any other law, the District may not make payment to the contractor until the contractor has provided to the District a certified copy of the recorded bond.
- (3) Discretionary Bond. At the discretion of the Board, upon entering into a contract for any of the services described in section (1) of this Rule for an amount not exceeding \$200,000, the contractor may be exempted from executing a payment and performance bond.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: § 255.05, Fla. Stat.

Rule 3.8 Goods, Supplies, and Materials.

- (1) Purpose and Scope. All purchases of goods, supplies, or materials exceeding the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR, shall be purchased under the terms of this Rule. Contracts for purchases of “goods, supplies, and materials” do not include printing, insurance, advertising, or legal notices. A contract involving goods, supplies, or materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.
- (2) Procedure. When a purchase of goods, supplies, or materials is within the scope of this Rule, the following procedures shall apply:
 - (a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.
 - (b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.
 - (c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, or Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.
 - (d) If the District has pre-qualified suppliers of goods, supplies, and materials, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, or responses.
 - (e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:
 - (i) Hold all required applicable state professional licenses in good standing;
 - (ii) Hold all required applicable federal licenses in good standing, if any;

- (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and
- (iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

Any firm or individual whose principal place of business is outside the State of Florida must also submit a written opinion of an attorney at law licensed to practice law in that foreign state, as to the preferences, if any or none, granted by the law of that foreign state to business entities whose principal places of business are in that foreign state, in the letting of any or all public contracts. Failure to submit such a written opinion or submission of a false or misleading written opinion may be grounds for rejection of the bid, proposal, reply, or response.

- (f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and this Rule. Minor variations in the bids, proposals, replies, or responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.
- (g) The lowest Responsive Bid, after taking into account the preferences provided for in this subsection, submitted by a Responsive and Responsible Bidder in response to an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be accepted. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which does not grant a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the

lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference of five (5) percent. If the lowest Responsive Bid is submitted by a Responsive and Responsible Bidder whose principal place of business is located in a foreign state which grants a preference in competitive purchase to businesses whose principal place of business are in that foreign state, the lowest Responsible and Responsive Bidder whose principal place of business is in the State of Florida shall be awarded a preference equal to the preference granted by such foreign state.

To assure full understanding of the responsiveness to the solicitation requirements contained in an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, and responses.

- (h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No vendor shall be entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.
- (i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.
- (j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's purchase of goods, supplies, and materials under this Rule shall be in accordance with the procedures set forth in Rule 3.11.
- (k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase goods, supplies, or materials, or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may proceed with the procurement of goods, supplies, and materials, in the manner the Board determines is in the best interests of the District, which may include but is not limited to a direct

purchase of the goods, supplies, and materials without further competitive selection processes.

- (3) Goods, Supplies, and Materials included in a Construction Contract Awarded Pursuant to Rule 3.5 or 3.6. There may be occasions where the District has undergone the competitive purchase of construction services which contract may include the provision of goods, supplies, or materials. In that instance, the District may approve a change order to the contract and directly purchase the goods, supplies, and materials. Such purchase of goods, supplies, and materials deducted from a competitively purchased construction contract shall be exempt from this Rule.
- (4) Exemption. Goods, supplies, and materials that are only available from a single source are exempt from this Rule. Goods, supplies, and materials provided by governmental agencies are exempt from this Rule. A contract for goods, supplies, or materials is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process. This Rule shall not apply to the purchase of goods, supplies or materials that are purchased under a federal, state, or local government contract that has been competitively procured by such federal, state, or local government in a manner consistent with the material procurement requirements of these Rules.
- (5) Renewal. Contracts for the purchase of goods, supplies, and/or materials subject to this Rule may be renewed for a maximum period of five (5) years.
- (6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 189.053, 190.033, 287.017, 287.084, Fla. Stat.

Rule 3.9 Maintenance Services.

- (1) Scope. All contracts for maintenance of any District facility or project shall be set under the terms of this Rule if the cost exceeds the amount provided in Section 287.017 of the Florida Statutes, for CATEGORY FOUR. A contract involving goods, supplies, and materials plus maintenance services may, in the discretion of the Board, be treated as a contract for maintenance services. However, a purchase shall not be divided solely in order to avoid the threshold bidding requirements.
- (2) Procedure. When a purchase of maintenance services is within the scope of this Rule, the following procedures shall apply:
 - (a) The Board shall cause to be prepared an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.
 - (b) Notice of the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation shall be advertised at least once in a newspaper of general circulation within the District and within the county in which the District is located. The notice shall also include the amount of the bid bond, if one is required. The notice shall allow at least seven (7) days for submittal of bids, proposals, replies, or responses.
 - (c) The District may maintain lists of persons interested in receiving notices of Invitations to Bid, Requests for Proposals, Invitations to Negotiate, and Competitive Solicitations. The District shall make a good faith effort to provide written notice, by electronic mail, United States Mail, hand delivery, or facsimile, to persons who provide their name and address to the District Manager for inclusion on the list. However, failure of a person to receive the notice shall not invalidate any contract awarded in accordance with this Rule and shall not be a basis for a protest of any contract award.
 - (d) If the District has pre-qualified suppliers of maintenance services, then, at the option of the District, only those persons who have been pre-qualified will be eligible to submit bids, proposals, replies, and responses.
 - (e) In order to be eligible to submit a bid, proposal, reply, or response, a firm or individual must, at the time of receipt of the bids, proposals, replies, or responses:
 - (i) Hold all required applicable state professional licenses in good standing;
 - (ii) Hold all required applicable federal licenses in good standing, if any;

- (iii) Hold a current and active Florida corporate charter or be authorized to do business in the State of Florida in accordance with Chapter 607 of the Florida Statutes, if the vendor is a corporation; and
- (iv) Meet any special pre-qualification requirements set forth in the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation.

Evidence of compliance with these Rules must be submitted with the bid, proposal, reply, or response if required by the District. Failure to submit evidence of compliance when required may be grounds for rejection of the bid, proposal, reply, or response.

- (f) Bids, proposals, replies, and responses shall be publicly opened at the time and place noted on the Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation. Bids, proposals, replies, and responses shall be evaluated in accordance with the respective Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, and these Rules. Minor variations in the bids, proposals, replies, and responses may be waived by the Board. A variation is minor if waiver of the variation does not create a competitive advantage or disadvantage of a material nature. Mistakes in arithmetic extension of pricing may be corrected by the Board. Bids and proposals may not be modified or supplemented after opening; provided however, additional information may be requested and/or provided to evidence compliance, make non-material modifications, clarifications, or supplementations, and as otherwise permitted by Florida law.
- (g) The lowest Responsive Bid submitted in response to an Invitation to Bid by a Responsive and Responsible Bidder shall be accepted. In relation to a Request for Proposals, Invitation to Negotiate or Competitive Solicitation the Board shall select the Responsive Proposal, Reply, or Response submitted by a Responsive and Responsible Vendor which is most advantageous to the District. To assure full understanding of the responsiveness to the solicitation requirements contained in a Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, discussions may be conducted with qualified vendors. Vendors shall be accorded fair treatment prior to the submittal date with respect to any opportunity for discussion, preparation, and revision of bids, proposals, replies, or responses.
- (h) The Board shall have the right to reject all bids, proposals, replies, or responses because they exceed the amount of funds budgeted for the purchase, if there are not enough to be competitive, or if rejection is determined to be in the best interest of the District. No Vendor shall be

entitled to recover any costs of bid, proposal, reply, or response preparation or submittal from the District.

- (i) The Board may require bidders and proposers to furnish bid bonds, performance bonds, and/or other bonds with a responsible surety to be approved by the Board.
 - (j) Notice of intent to award, including rejection of some or all bids, proposals, replies, or responses shall be provided in writing to all vendors by United States Mail, hand delivery, facsimile, or overnight delivery service. The notice shall include the following statement: "Failure to file a protest within the time prescribed in Rule 3.11 of the Rules of the District shall constitute a waiver of proceedings under those Rules," or wording to that effect. Protests of the District's procurement of maintenance services under this Rule shall be in accordance with the procedures set forth in Rule 3.11.
 - (k) If less than three (3) Responsive Bids, Proposals, Replies, or Responses are received, the District may purchase the maintenance services or may reject the bids, proposals, replies, or responses for a lack of competitiveness. If no Responsive Bid, Proposal, Reply, or Response is received, the District may proceed with the procurement of maintenance services, in the manner the Board determines is in the best interests of the District, which may include but is not limited to a direct purchase of the maintenance services without further competitive selection processes.
- (3) Exemptions. Maintenance services that are only available from a single source are exempt from this Rule. Maintenance services provided by governmental agencies are exempt from this Rule. A contract for maintenance services is exempt from this Rule if state or federal law prescribes with whom the District must contract or if the rate of payment is established during the appropriation process.
 - (4) Renewal. Contracts for the purchase of maintenance services subject to this Rule may be renewed for a maximum period of five (5) years.
 - (5) Contracts; Public Records. In accordance with Florida law, each contract entered into pursuant to this Rule shall include provisions required by law that require the contractor to comply with public records laws.
 - (6) Emergency Purchases. The District may make an Emergency Purchase without complying with these rules. The fact that an Emergency Purchase has occurred or is necessary shall be noted in the minutes of the next Board meeting.

Specific Authority: §§ 190.011(5), 190.011(15), 190.033, Fla. Stat.
Law Implemented: §§ 119.0701, 190.033, 287.017, Fla. Stat.

Rule 3.10 Contractual Services.

- (1) Exemption from Competitive Purchase. Pursuant to Section 190.033(3) of the Florida Statutes, Contractual Services shall not be subject to competitive purchasing requirements. If an agreement is predominantly for Contractual Services, but also includes maintenance services or the purchase of goods and services, the contract shall not be subject to competitive purchasing requirements. Regardless of whether an advertisement or solicitation for Contractual Services is identified as an Invitation to Bid, Request for Proposals, Invitation to Negotiate, or Competitive Solicitation, no rights or remedies under these Rules, including but not limited to protest rights, are conferred on persons, firms, or vendors proposing to provide Contractual Services to the District.
- (2) Contracts; Public Records. In accordance with Florida law, each contract for Contractual Services shall include provisions required by law that require the contractor to comply with public records laws.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 119.0701, 190.011(3), 190.033, Fla. Stat.

Rule 3.11 Protests with Respect to Proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9.

The resolution of any protests with respect to proceedings under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, and 3.9 shall be in accordance with this Rule.

(1) Filing.

- (a) With respect to a protest regarding qualifications, specifications, documentation, or other requirements contained in a Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation issued by the District, the notice of protest shall be filed in writing within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after the first advertisement of the Request for Qualifications, Request for Proposals, Invitation to Bid, or Competitive Solicitation. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's intended decision. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.
- (b) Except for those situations covered by subsection (1)(a) of this Rule, any firm or person who is affected adversely by a District's ranking or intended award under Rules 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.8, or 3.9 and desires to contest the District's ranking or intended award, shall file with the District a written notice of protest within seventy-two (72) calendar hours (excluding Saturdays, Sundays, and state holidays) after receipt of the notice of the District's ranking or intended award. A formal protest setting forth with particularity the facts and law upon which the protest is based shall be filed within seven (7) calendar days (including Saturdays, Sundays, and state holidays) after the initial notice of protest was filed. For purposes of this Rule, wherever applicable, filing will be perfected and deemed to have occurred upon receipt by the District. Failure to file a notice of protest shall constitute a waiver of all rights to protest the District's ranking or intended award. Failure to file a formal written protest shall constitute an abandonment of the protest proceedings and shall automatically terminate the protest proceedings.
- (c) If the requirement for the posting of a protest bond and the amount of the protest bond, which may be expressed by a percentage of the contract to be awarded or a set amount, is disclosed in the District's competitive solicitation documents for a particular purchase under Rules 3.1, 3.2, 3.3,

3.4, 3.5, 3.6, 3.8, or 3.9, any person who files a notice of protest must post the protest bond. The amount of the protest bond shall be determined by District staff after consultation with the Board and within the limits, if any, imposed by Florida law. In the event the protest is successful, the protest bond shall be refunded to the protestor. In the event the protest is unsuccessful, the protest bond shall be applied towards the District's costs, expenses, and attorney's fees associated with hearing and defending the protest. In the event the protest is settled by mutual agreement of the parties, the protest bond shall be distributed as agreed to by the District and protestor.

- (d) The District does not accept documents filed by electronic mail or facsimile transmission. Filings are only accepted during normal business hours.
- (2) Contract Execution. Upon receipt of a notice of protest which has been timely filed, the District shall not execute the contract under protest until the subject of the protest is resolved. However, if the District sets forth in writing particular facts and circumstances showing that delay incident to protest proceedings will jeopardize the funding for the project, will materially increase the cost of the project, or will create an immediate and serious danger to the public health, safety, or welfare, the contract may be executed.
- (3) Informal Proceeding. If the Board determines a protest does not involve a disputed issue of material fact, the Board may, but is not obligated to, schedule an informal proceeding to consider the protest. Such informal proceeding shall be at a time and place determined by the Board. Notice of such proceeding shall be sent via facsimile, United States Mail, or hand delivery to the protestor and any substantially affected persons or parties not less than three (3) calendar days prior to such informal proceeding. Within thirty (30) calendar days following the informal proceeding, the Board shall issue a written decision setting forth the factual, legal, and policy grounds for its decision.
- (4) Formal Proceeding. If the Board determines a protest involves disputed issues of material fact or if the Board elects not to use the informal proceeding process provided for in section (3) of this Rule, the District shall schedule a formal hearing to resolve the protest. The Chairperson shall designate any member of the Board (including the Chairperson), District Manager, District Counsel, or other person as a hearing officer to conduct the hearing. The hearing officer may:
 - (a) Administer oaths and affirmations;
 - (b) Rule upon offers of proof and receive relevant evidence;
 - (c) Regulate the course of the hearing, including any pre-hearing matters;

(d) Enter orders; and

(e) Make or receive offers of settlement, stipulation, and adjustment.

The hearing officer shall, within thirty (30) days after the hearing or receipt of the hearing transcript, whichever is later, file a recommended order which shall include a caption, time and place of hearing, appearances entered at the hearing, statement of the issues, findings of fact and conclusions of law, separately stated, and a recommendation for final District action. The District shall allow each party fifteen (15) days in which to submit written exceptions to the recommended order. The District shall issue a final order within sixty (60) days after the filing of the recommended order.

(5) Intervenors. Other substantially affected persons may join the proceedings as intervenors on appropriate terms which shall not unduly delay the proceedings.

(6) Rejection of all Qualifications, Bids, Proposals, Replies and Responses after Receipt of Notice of Protest. If the Board determines there was a violation of law, defect, or an irregularity in the competitive solicitation process, the Bids, Proposals, Replies, and Responses are too high, or if the Board determines it is otherwise in the District's best interest, the Board may reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew. If the Board decides to reject all qualifications, bids, proposals, replies, and responses and start the competitive solicitation process anew, any pending protests shall automatically terminate.

(7) Settlement. Nothing herein shall preclude the settlement of any protest under this Rule at any time.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: § 190.033, Fla. Stat.

Rule 4.0 Effective Date.

These Rules shall be effective August 9, 2021, except that no election of officers required by these Rules shall be required until after the next regular election for the Board.

Specific Authority: §§ 190.011(5), 190.011(15), Fla. Stat.

Law Implemented: §§ 190.011(5), 190.011(15), Fla. Stat.

Tab 9

Hopping Green & Sams

Attorneys and Counselors

October 19, 2021

VIA EMAIL

Kim O'Mera
District Manager
Rizzetta & Company, Inc.
KO'Mera@rizzetta.com

RE: Somerset Community Development District ("Client")

JOINT LETTER BY HOPPING GREEN & SAMS, P.A. AND KUTAK ROCK LLP, ANNOUNCING THE DEPARTURE OF JONATHAN JOHNSON, KATIE BUCHANAN, MIKE ECKERT, TUCKER MACKIE, WES HABER, LINDSAY WHELAN, JOE BROWN, SARAH SANDY, ALYSSA WILLSON AND MICHELLE RIGONI TO KUTAK ROCK LLP

Dear Ms. O'Mera:

As of November 15, 2021, Jonathan Johnson, Katie Buchanan, Mike Eckert, Tucker Mackie, Wes Haber, Lindsay Whelan, Joe Brown, Sarah Sandy, Alyssa Willson and Michelle Rigoni (the "Special District Practice Group") will be withdrawing as attorneys from Hopping Green & Sams, P.A. ("HGS") and will be joining Kutak Rock LLP ("Kutak"). The members of the Special District Practice Group have provided services in connection with HGS's representation of the Client on the above referenced matter(s) (the "Client Matters").

In the coming months, HGS will no longer be providing legal services. Kutak is prepared to continue as the Client's legal counsel with respect to the Client Matters; however, it is the Client's choice as to who should serve as its legal counsel, and whether the Client Matters and all electronic files and active and closed hardcopy files (collectively, the "Files") should be transferred to Kutak.

Please select one of the following alternatives; however, please be advised that as of November 15, 2021, HGS will no longer be competent to provide legal services to the Client; accordingly, representation by HGS will cease on November 15, 2021, whether or not the Client makes an election below:

1. ALTERNATIVE #1. The Client asks that the Client Matters be transferred with the Special District Practice Group to their new firm, Kutak. Please transfer all Files relating to the Client Matters. HGS's legal representation of the Client will cease on the date of HGS's receipt of their written notice. After that date, the Special District Practice Group and their new firm, Kutak, will be responsible for legal representation of the Client in the Client Matters. To the extent that HGS is holding any trust funds or other property of the Client, HGS is further instructed to transfer such funds and/or property to Kutak.

**(Please sign if you want Alternative #1; [DATE]
otherwise, do not sign on this line.)**

2. ALTERNATIVE #2. If you do not want Alternative #1, please advise us what HGS should do regarding the Client Matters and all Files relating to the Client Matters by December 1, 2021. HGS's legal representation of the Client will cease on November 15, 2021. If HGS does not receive a response by December 1, 2021, that will confirm HGS's understanding that all Files are not needed or desired and HGS will shred them.

(Please sign here if you have [DATE]
given instructions under Alternative
#2; otherwise do not sign on this line.)

After you have completed and signed this form, please send a copy via electronic mail to JasonM@hgslaw.com, MarkS@hgslaw.com, TuckerM@hgslaw.com, and KimH@hgslaw.com.

Thank you for your consideration and assistance.

HOPPING GREEN & SAMS, P.A.



By: Jonathan Johnson

Its: President

Date: October 19, 2021

cc: Andrew O'Connell (andrew@aloconsultingllc.com)

ITEMS UNDER SEPARATE COVER

District Manager Report