



Rizzetta & Company

Somerset Community Development District

**Board of Supervisors'
Special Meeting**

March 7, 2023

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

**SOMERSET
COMMUNITY DEVELOPMENT DISTRICT AGENDA**

Alys Beach Conference Room, Building 1, 84 Elbow Road, Alys Beach, FL 32461
Somersetcdd.org

District Board of Supervisors	Robert Stenhammer	Chairman
	John Rosenberg	Vice Chairman
	George Hartley	Assistant Secretary
	Belinda Ballew	Assistant Secretary
	Tom Dodson	Assistant Secretary
District Manager	Kimberly O'Mera	Rizzetta & Company, Inc
District Counsel	Tucker Mackie	Kutak Rock LLP
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 **special** meeting will begin promptly at **11:00 a.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 **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 fourth 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 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 • 120 Richard Jackson Blvd, Suite 220, Panama City Beach, FL 32407

Mailing Address • 3434 Colwell Avenue, Suite 200, Tampa, FL 33614

WWW.SomersetCDD.org

February 28, 2023

**Board of Supervisors
Somerset Community
Development District**

AGENDA

Dear Board Members:

The Special Meeting of the Board of Supervisors of the Somerset Community Development District will be held on **Tuesday, March 7, 2023, at 11:00 a.m. (Central Time)** at the Alys Beach Conference Room, 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**
- 3. BUSINESS ADMINISTRATION**
 - A. Consideration of Resolution 2023-06, Appointing and Removing Officers Of the District Tab 1
 - B. Consideration of the Minutes of the Landowners Meeting Held November 15, 2022 Tab 2
 - C. Consideration of Minutes of the Board of Supervisors' Meeting Held November 15, 2022 Tab 3
- 4. BUSINESS ITEMS**
 - A. Consideration of Arbitrage Engagement Letter-LLS Tax Solutions Inc. Tab 4
 - B. Consideration of Addendum to Facilities Management Agreement- Alys Beach Resorts LLC Tab 5
 - C. Consideration of Palm Tree Maintenance Proposals..... Tab 6
 - A. Trimming Proposal- Rip's Professional Lawn Care- Trimming Tab 7
 - B. Trimming Proposal- Arbor Tree Care..... Tab 8
 - C. Fertilizer Proposal- Arbor Tree Care..... Tab 9
- 5. STAFF REPORTS**
 - A. District Counsel
 - B. District Engineer
 - C. District Manager
 - 1. Presentation of District Manager Report (*Under separate Cover*)
- 6. SUPERVISOR REQUESTS**
- 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,
Kim O'Mera
Kim O'Mera
District Manager

Tab 1

RESOLUTION 2023-06

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE SOMERSET COMMUNITY DEVELOPMENT DISTRICT RE-DESIGNATING CERTAIN OFFICERS OF THE DISTRICT AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Board of Supervisors (hereinafter the “Board”) previously designated the Officers of the District; and

WHEREAS, the Board now desires to re-designate certain Officers.

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

The following persons are appointed to the offices shown, to wit:

Robert Stenhammer is appointed Chair.

John Rosenberg is appointed Vice Chair.

Tom Dodson is appointed Assistant Secretary.

Belinda Ballew is appointed Assistant Secretary.

George Hartley is appointed Assistant Secretary.

Kimberly O'Mera is appointed Assistant Secretary.

Melissa Dobbins is appointed Assistant Secretary.

Bob Schleifer is appointed Secretary.

Shawn Wildermuth is appointed Assistant Treasurer.

Scott Brizendine is appointed Treasurer.

PASSED AND ADOPTED THIS 7TH DAY OF MARCH, 2023.

ATTEST:

**SOMERSET COMMUNITY
DEVELOPMENT DISTRICT**

Secretary/Assistant Secretary

Chairperson / Vice Chairperson
Board of Supervisors

Tab 2

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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**

The landowners' meeting of the Somerset Community Development District was held on **Tuesday, November 15, 2022, at 1:00 p.m. (CDT)** at The Alys Beach Conference Room Building 1 located at 84 Elbow Beach Road, Alys Beach, Florida 32461.

Present were:

- | | |
|-------------------|---|
| Kimberly O'Mera | District Manager, Rizzetta & Company, Inc. |
| John Rosenberg | |
| George Hartley | |
| Tom Dodson | |
| Belinda Ballew | |
| Robert Stenhammer | |
| Audience | Tonya Pippin |

FIRST ORDER OF BUSINESS **Call to Order**

Ms. O'Mera called the meeting to order at 1:09 pm.

Ms. O'Mera stated that the purpose of the landowners' meeting was to hold Landowner Meeting for Somerset Community Development District and to hold Landowner Elections for three (3) Supervisor positions on the Board of Supervisors as prescribed in Chapter 190 of Florida Statutes and that this meeting was duly advertised in a newspaper as prescribed by Florida statutes and provided an affidavit.

SECOND ORDER OF BUSINESS **Election of Chairman for the Purpose of Conducting the Landowner Election**

Ms. O'Mera was designated as the Chairman for the election.

THIRD ORDER OF BUSINESS **Determination of Number of Voting Units Represented**

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47 Ms. O'Mera stated that there were two (2) proxies representing a total of one hundred
48 seventy-eight (178) votes. One proxy designated Tom Dodson on behalf of the
49 landowners EBSCO Gulf Coast Development, Inc with ninety-six (96) votes and the
50 second proxy designated Tom Dodson on behalf of the landowner EBSCO Gulf Coast
51 Development Conservation, Inc. with eighty two (82) votes.

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53 **FOURTH ORDER OF BUSINESS**

**Announcement of Candidates/Call
for Nominations**

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56 Ms. O'Mera asked for a call of nominations. Robert Stenhammer, Belinda Ballew and
57 Tom Dodson and Tonya Pippen were nominated.

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61 **FIFTH ORDER OF BUSINESS**

Election of Supervisors

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63 Ms. O'Mera read allowed the tabulation of votes; Tom Dodson received one hundred
64 seventy-eight (178) votes, Robert Stenhammer received one hundred seventy-eight (178)
65 votes, Belinda Ballew received one hundred seventy-six (176) votes, and John Tato
66 received fifty-six (56) votes.

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68 As a result of the votes, Robert Stenhammer and Tom Dodson received a four (4) year
69 term and Belinda Ballew received a two (2) year term.

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72 **SIXTH ORDER OF BUSINESS**

Adjournment

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74 Ms. O'Mera stated there was no other business to come before the Landowners and
75 adjourned the meeting at 1:14 pm.

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Tab 3

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

The special meeting of the Board of Supervisors of the Somerset Community Development District was held on **Tuesday, November 15, 2022, at 1:00 p.m. Central Time** at the Alys Beach Conference Room, Building 1, located at 84 Elbow Road, Alys Beach, FL 32461.

Present and constituting a quorum:

Robert Stenhammer	Board Supervisor, Chairman
John Rosenberg	Board Supervisor, Vice Chairman
Tom Dodson	Board Supervisor, Assistant Secretary
George Hartley	Board Supervisor, Assistant Secretary
Belinda Ballew	Board Supervisor, Assistant Secretary

Also present were:

Kimberly O'Mera	District Manager, Rizzetta & Company, Inc.
Joseph Brown	District Counsel, Kutak Rock, LLP
Jim Martelli	District Engineer, Inner Light Engineering
Scott Brizendine	Vice President of Operations, Rizzetta & Company (Via speakerphone)
Tess Howard	Vice President of Community and Development Planning, Alys Beach
Scott Buchewicz	Town Manager, Alys Beach
Audience	None Present

FIRST ORDER OF BUSINESS

Call to Order

Ms. O'Mera called the meeting to order at 1:02 p.m. and read the roll call, confirming a quorum for the meeting.

SECOND ORDER OF BUSINESS

Audience Comments on Agenda

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44 There were no audience members present to comment.

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46 **THIRD ORDER OR BUSINESS** **Administration of Oath**

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48 Ms. O'Mera administered the oath of office to Robert Stenhammer, Tom Dodson and
49 Belinda Ballew for Somerset Community Development District.

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52 **FOURTH ORDER OF BUSINESS** **Consideration of Resolution 2023-01,**
53 **Canvassing and Certifying Results of**
54 **the November 15, 2022 Landowner**
55 **Election**

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On a motion by Mr. Rosenberg, seconded by Mr. Dodson, with all in favor, the Board of Supervisors adopted Resolution 2023-01, Canvassing and Certifying Results of the Landowner Election as Robert Stenhammer receiving one hundred seventy-eight (178) votes resulting in a four (4) year term, Tom Dodson receiving one hundred seventy-eight (178) votes resulting in a four (4) year term and Belinda Ballew receiving one hundred seventy-six (176) votes resulting in a two (2) year term, for Somerset Community Development District.

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58 **FIFTH ORDER OF BUSINESS** **Consideration of Resolution 2023-02,**
59 **Appointing and Removing Officers of**
60 **the District**

On a motion by Mr. Hartley, seconded by Mr. Rosenberg, with all in favor, the Board of Supervisors adopted Resolution 2023-02, designating Robert Stenhammer as Chairman, John Rosenberg as Vice Chairman, George Hartley, Tom Dodson and Belinda Ballew, Kimberly O'Mera, Melissa Dobbins all as Assistant Secretaries, Bob Schleifer as Secretary, Scott Brizendine as Treasurer, and Shawn Wildermuth as Assistant Secretary, for Somerset Community Development District.

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66 **SIXTH ORDER OF BUSINESS**

**Consideration of Minutes of the Board
of Supervisors Meeting Held August 8,
2022**

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Ms. O'Mera presented the minutes to the Board to review.

On a Motion by Mr. Rosenberg, seconded by Mr. Dodson, with Mr. Stenhammer abstaining, the Board of Supervisors, approved the Minutes of the Board of Supervisors Meeting held August 8, 2022, for Somerset Community Development District.

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SEVENTH ORDER OF BUSINESS

**Ratification of Operation and
Maintenance Expenditures for July
2022**

Ms. O'Mera presented the Operation and Maintenance Expenditures for July 2022 to the Board.

On a Motion by Mr. Dodson, seconded by Mr. Rosenberg, with all in favor, the Board of Supervisors, ratified the Operation and Maintenance Expenditures for July 2022 in the amount of \$66,405.70, for Somerset Community Development District.

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EIGHTH ORDER OF BUSINESS

**Consideration of Resolution 2023-03,
Budget Amendment**

Ms. O'Mera presented and gave a brief overview of Resolution 2023-03, Budget Amendment.

On a Motion by Mr. Rosenberg, seconded by Mr. Hartley, with all in favor, the Board of Supervisors ratified Resolution 2023-03, Budget Amendment, for Somerset Community Development District.

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97 **NINTH ORDER OF BUSINESS**

**Consideration of Resolution 2023-04,
Assessment Amendment**

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100 Ms. O'Mera presented Resolution 2023-04, Assessment Amendment to the Board.

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On a Motion by Mr. Dodson, seconded by Mr. Rosenberg, with all in favor, the Board of Supervisors adopted Resolution 2023-04, Assessment Amendment, for Somerset Community Development District.

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103 **TENTH ORDER OF BUSINESS**

**Acceptance of Dissemination
Agreement- Rizzetta and Company,
Inc.**

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107 Ms. O'Mera presented the Dissemination Agreement for Rizzetta and Company, Inc to the Board.

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On a Motion by Mr. Rosenberg, seconded by Mr. Hartley, with all in favor, the Board of Supervisors accepted Dissemination Agreement - Rizzetta and Company, Inc, for Somerset Community Development District.

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111 **ELEVENTH ORDER OF BUSINESS**

**Consideration of Proposal for new
Pump and Acid Wash of East Irrigation
Well- Mills Supply**

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115 Ms. O'Mera presented the proposal for new pump and acid wash of East Irrigation Well from Mills Supply. She informed the new Board members that Mr. O'Connell provided approval of the proposal prior to the meeting.

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On a Motion by Mr. Rosenberg, seconded by Mr. Dodson, with all in favor, the Board of Supervisors ratified acceptance of proposal for a new pump and acid washing of the East Well, in the amount of \$2,450.00, for Somerset Community Development District.

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121 **TWELFTH ORDER OF BUSINESS**

Staff Reports

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123 **A. District Manager**

124 1. Review of District Manager Report

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Ms. O'Mera advised the Board of Supervisors of their next meeting on February 20, 2023, falling on a holiday, and asked for availability to attend. The Board set a replacement meeting to be held on February 13, 2023, at 2:00 p.m.

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B. District Counsel

Mr. Brown gave the new Supervisors an overview of the Florida Sunshine Law and public records.

C. District Engineer

Mr. Martelli stated that no substantial progress has been made on the 4-Way project, but anticipated updates in the following months.

THIRTEENTH ORDER OF BUSINESS

Supervisor Requests and Audience Comments

There were no supervisor requests or audience present to comment.

FOURTEENTH ORDER OF BUSINESS

Adjournment

SOMERSET COMMUNITY DEVELOPMENT DISTRICT

November 15, 2022, Minutes of Meeting

Page 6

171

On a Motion by Mr. Dodson, seconded by Mr. Rosenberg, with all in favor, the Board of Supervisors adjourned the meeting at 2:05 pm (CDT), for the Somerset Community Development District.

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Secretary/Assistant Secretary

Chairman/ Vice Chairman

DRAFT

Tab 4



LLS Tax Solutions Inc.
2172 W. Nine Mile Rd.
#352
Pensacola, FL 32534
Telephone: 850-754-0311
Email: liscott@llstax.com

December 8, 2022

Somerset Community Development District
c/o Rizzetta & Company, Inc.
3434 Colwell Avenue, Suite 200
Tampa, Florida 33614

Thank you for choosing LLS Tax Solutions Inc. (“LLS Tax”) to provide arbitrage services to Somerset Community Development District (“Client”) for the following bond issue. This Engagement Letter describes the scope of the LLS Tax services, the respective responsibilities of LLS Tax and Client relating to this engagement and the fees LLS Tax expects to charge.

- \$10,745,000 Somerset Community Development District Capital Improvement Revenue Refunding Bonds, Series 2022

SCOPE OF SERVICES

The procedures that we will perform are as follows:

- Assist in calculation of the bond yield, unless previously computed and provided to us.
- Assist in determination of the amount, if any, of required rebate to the federal government.
- Issuance of a report presenting the cumulative results since the issue date of the issue of bonds.
- Preparation of necessary reports and Internal Revenue Service (“IRS”) forms to accompany any required payment to the federal government.

As a part of our engagement, we will read certain documents associated with each issue of bonds for which services are being rendered. We will determine gross proceeds of each issue of bonds based on the information provided in such bond documents. You will have sole responsibility for determining any other amounts not discussed in those documents that may constitute gross proceeds of each series of bonds for the purposes of the arbitrage requirements.

TAX POSITIONS AND REPORTABLE TRANSACTIONS

Because the tax law is not always clear, we will use our professional judgment in resolving questions affecting the arbitrage calculations. Unless you instruct us otherwise, we will take the reporting position most favorable to you whenever reasonable. Any of your bond issues may be selected for review by the IRS, which may not agree with our positions. Any proposed adjustments are subject to certain rights of appeal. Because of the lack of clarity in the law, we cannot provide assurances that the positions asserted by the IRS may not ultimately be sustained, which could result in the assessment

of potential penalties. You have the ultimate responsibility for your compliance with the arbitrage laws; therefore, you should review the calculations carefully.

The IRS and some states have promulgated “tax shelter” rules that require taxpayers to disclose their participation in “reportable transactions” by attaching a disclosure form to their federal and/or state income tax returns and, when necessary, by filing a copy with the Internal Revenue Service and/or the applicable state agency. These rules impose significant requirements to disclose transactions and such disclosures may encompass many transactions entered into in the normal course of business. Failure to make such disclosures will result in substantial penalties. In addition, an excise tax is imposed on exempt organizations (including state and local governments) that are a party to prohibited tax shelter transactions (which are defined using the reportable transaction rules). Client is responsible for ensuring that it has properly disclosed all “reportable transactions” and, where applicable, complied with the excise tax provision. The LLS Tax services that are the subject of this Engagement Letter do not include any undertaking by LLS Tax to identify any reportable transactions that have not been the subject of a prior consultation between LLS Tax and Client. Such services, if desired by Client, will be the subject of a separate engagement letter. LLS Tax may also be required to report to the IRS or certain state tax authorities certain tax services or transactions as well as Client’s participation therein. The determination of whether, when and to what extent LLS Tax complies with its federal or state “tax shelter” reporting requirements will be made exclusively by LLS Tax. LLS Tax will not be liable for any penalties resulting from Client’s failure to accurately and timely file any required disclosure or pay any related excise tax nor will LLS Tax be held responsible for any consequences of its own compliance with its reporting obligations. Please note that any disclosure required by or made pursuant to the tax shelter rules is separate and distinct from any other disclosure that Client might be required to or choose to make with its tax returns (e.g., disclosure on federal Form 8275 or similar state disclosure).

PROFESSIONAL FEES AND EXPENSES

Our professional fees for the services listed above for the three annual bond years ending April 19, 2023, April 19, 2024, and April 19, 2025, is \$1,500, which is \$500 each year. We will bill you upon completion of our services. Our invoices are payable upon receipt. Additionally, you may request additional consulting services from us upon occasion; we will bill you for these consulting services at a beforehand agreed upon rate.

Unanticipated factors that could increase our fees beyond the estimate given above include the following (without limitation). Should any of these factors arise we will alert you before additional fees are incurred.

- Investment data provided by you is not in good order or is unusually voluminous.
- Proceeds of bonds have been commingled with amounts not considered gross proceeds of the bonds (if that circumstance has not previously been communicated to us).
- A review or other inquiry by the IRS with respect to an issue of bonds.

The Client (District) has the option to terminate this Agreement within ninety days of providing notice to LLS Tax Solutions Inc. of its intent.

ACCEPTANCE

You understand that the arbitrage services, report and IRS forms described above are solely to assist you in meeting your requirements for federal income tax compliance purposes. This Engagement Letter constitutes the entire agreement between Client and LLS Tax with respect to this engagement, supersedes all other oral and written representations, understandings or agreements relating to this engagement, and may not be amended except by the mutual written agreement of the Client and LLS Tax.

Please indicate your acceptance of this agreement by signing in the space provided below and returning a copy of this Engagement Letter to us. Thank you again for this opportunity to work with you.

Very truly yours,
LLS Tax Solutions Inc.

AGREED AND ACCEPTED:
Somerset Community Development District

By: Linda L. Scott
Linda L. Scott, CPA

By: _____
Print Name _____
Title _____
Date: _____

Tab 5

EXHIBIT A
Scope of Service – Somerset CDD

Please Note: Unless indicated otherwise, all costs outlined in this Scope of Service include labor, transportation, supervision, preparation of paperwork, and scheduling.

Management Fee----- \$ 1,100.00/month.

- First point of contact and after hours' liaison.
- Attend District meetings in person or via phone to review maintenance inspections and provide updates as needed.
- Provide input for preparation of the District's annual budget related to maintenance and forecasted expenditures.
- Attend site visits with District staff and vendors as needed, including District's insurance carrier.
- Provide vendor access for routine services with approval (if applicable)
- Ensure oversight of the District's vendors. Notify District's vendors about deficiencies in routine service or need for additional service or repairs.
- Following all inspections, contact District Manager with list of items needing repair and assist with obtaining proposals from the District's vendors for the same. If a third-party contractor, other than Rip's, Culligan, McHenry, PLC, Dune Doctors, Griffin, Lake Doctors, Gulf Power and Regional Utilities is required to complete maintenance or repair work, additional charges will apply to generate proposals and supervise work, as described at the end of this exhibit.

30A Weekly Inspection----- \$ 644.00/month

- Weekly Visual inspection of lights, landscaping, grounds, irrigation, signage, and crosswalks.
- Incidental removal of roadside debris and trash (also responsibility of landscape contractor).
- Complete formal inspection checklist. Retain records and provide to the District.
- Following all inspections, contact District Manager with list of items needing repair and assist with obtaining proposal from the District's vendor for the same. If a third-party contractor, other than Rip's, Culligan, McHenry, PLC, Dune Doctors, Griffin, Lake Doctors, Gulf Power and Regional Utilities maintenance or repair work, additional charges will apply to generate proposals and supervise work, as described at the end of this exhibit.

Daily Irrigation Well Inspection----- \$ 1,506.00/month

- Visual inspection of 4 irrigation wells and lake Marilyn daily.
- Ensure compliance with Northwest Florida Water Management District guidelines for water use permit.
 - Record daily well readings in accordance with Northwest Florida Water Management Guidelines.
 - Prepare timely annual report and submit to the Northwest Florida Water Management District.
 - Prepare corrective action plan based on annual report.
 - Follow proper records retention guidelines required by The Northwest Florida Water Management District.
- Incidental removal of debris and trash from lake and areas around wells (also responsibility of landscaping contractor)
- Provide oversight of Culligan re: irrigation treatment program.
- Complete formal inspection checklist. Retain records and provide to the District

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- Following all inspections, contact District Manager with list of items needing repair and assist with obtaining proposal from the District’s vendor for the same. If a third-party contractor, other than Rip’s, Culligan, McHenry, PLC, Dune Doctors, Griffin, Lake Doctors, Gulf Power and Regional Utilities or Lake Doctors, is required to complete maintenance or repair work, additional charges will apply to generate proposals and supervise work, as described at the end of this exhibit.

Lighting Inspections-----\$1,716.00/month

- Visual inspection of all District streetlights
- Visual inspection of all District Up Light and Scout Light – Ped Paths and Parking Courts
- Complete formal inspection checklist. Retain records and provide to the District
- Following all inspections, contact District Manager with list of items needing repair and assist with obtaining proposal from the District’s vendor for the same. If a third-party contractor, other than Culligan, McHenry, PLC, Dune Doctors, Griffin, Lake Doctors, Gulf Power and Regional Utilities is required to complete maintenance or repair work, additional charges will apply to generate proposals and supervise work, as described at the end of this exhibit.

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Total monthly cost for services listed above -----\$4,966.00/month

Total yearly cost for services listed above ----- \$59,592/year

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Maintenance & Repairs for Lighting Improvements: Labor & Materials

- Perform necessary repairs, as applicable pursuant to the terms of this Agreement.
 - Labor is charged @ (½ hr. min.) - \$45.00/hr.
 - After hours Labor is charged @ (3hr min.) - \$45.00/hr.
- Materials, when repairs are made by Alys Beach, are charged at cost +20% OH markup.

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Other Charges

- Prepare and provide incident reports as necessary for damage identified to District property. Report incidents to the District Manager, in writing, immediately. (\$45/hr labor rate would apply)
- Procuring proposals and providing oversight of third-party vendors, other than Rip’s, Culligan, McHenry, PLC, Dune Doctors, Griffin, Lake Doctors, Gulf Power and Regional Utilities is charged at a 20% markup based on third-party vendor’s final invoice. When invoices exceed \$3,333.33, a flat \$500 will be charged. When repair projects exceed \$20K, a proposal for the project will be prepared and a separate project management fee may apply. If services are not approved by the District, a \$500 fee will be charged to cover the time required to procure and evaluate proposals.

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**AGREEMENT BETWEEN THE SOMERSET COMMUNITY DEVELOPMENT
DISTRICT AND ALYS BEACH RESORTS, LLC, FOR FACILITY MAINTENANCE
AND REPAIR SERVICES**

THIS 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 located in Walton County, Florida, with a mailing address of 120 Richard Jackson Boulevard, Suite 220, Panama City Beach, Florida 32407 (the "**District**")

ALYS BEACH RESORTS, LLC, a Florida limited liability corporation, with a mailing address of 9581 E County Hwy 30A, Bldg D, Alys Beach, Florida 32461 ("**Alys Beach**").

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; and

WHEREAS, the District desires to retain an independent contractor to operate, maintain and repair certain District improvements ("**District Improvements**") and otherwise provide the services ("**Services**") set forth in **Exhibit A** attached hereto; and

WHEREAS, for ease of administration, potential cost savings to property owners and residents, and the benefits of full-time on-site inspection, operation and maintenance personnel, the District desires to contract with Alys Beach to manage and maintain District Improvements; and

WHEREAS, Alys Beach is a Florida limited liability company operating and maintaining various improvements and facilities in close proximity to District Improvements; and

WHEREAS, Alys Beach represents that it is qualified, through its officers, employees, contractors and affiliates, to inspect, maintain and repair District Improvements and desires to contract with the District to do so in accordance with the terms of this Agreement; and

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

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

SECTION 2. DEFINITIONS.

- A. ***“Extraordinary Event”*** – The term “Extraordinary Event” refers to any non-routine, non-recurring, or unforeseen event – other than an event that will be addressed through Maintenance and Repairs – that will, or has, resulted in: (1) harm to the District’s Improvements; (2) suspension of any essential service to the District relating to the District’s Improvements; or (3) a violation of federal, state or local law, regulation or ordinance relating to the District’s Improvements.
- B. ***“Inspections”*** – The term “Inspections” shall refer to those services as set forth in Exhibit A.
- C. ***“Maintenance and Repairs”*** – The term “Maintenance and Repairs” shall refer to those services as set forth in Exhibit A.

SECTION 3. Alys Beach’s MAINTENANCE AND INSPECTION OBLIGATIONS.

- A. *General Duties.* Alys Beach shall be responsible for the inspection and maintenance oversight of District Improvements and the repair of certain District Improvements (as set form in Exhibit A) in an efficient, lawful and satisfactory manner as follows:
 - i. *Inspection Services.* Alys Beach shall provide Inspections for the District Improvements and report any irregularities to the District Manager, or his or her designated representative, and shall correct any irregularities in accordance with the terms of this Agreement. Alys Beach, as part of the District’s annual budget process and in consideration of Alys Beach’s Inspections, shall provide input to assist the District in establishing an appropriate capital improvement reserve fund, which fund is intended to address costs associated with servicing, repairing and replacing the District Improvements other than the costs for Inspections and Maintenance and Repairs for which Alys Beach will also provide input.
 - ii. *Maintenance and Repairs.* Alys Beach shall be responsible for the oversight, coordination and performance of Maintenance and Repairs. All proposals shall be approved by the District Manager prior to commencement of such work by Alys Beach. Any Maintenance and Repair exceeding Two Thousand Dollars (\$2,000.00) shall also be presented to and approved by the District’s Board of Supervisors in advance. Alys Beach may solicit proposals for recommended services or work related to the District Improvements or any of the constituent parts of the District Improvements, as long as the funds associated with such work were included in the annual budget for the operation and maintenance of District Improvements. Alys Beach shall supervise the maintenance of the District Property performed by the third-party service providers in accordance with

standards reasonably acceptable to District. Alys Beach will systematically and promptly direct and review the work of all maintenance service providers contracted by District or Alys Beach for the District Property.

All work shall be performed in a neat and professional manner reasonably acceptable to the District and shall be in accordance with industry standards.

- B. *Investigation and Report of Accidents/Claims.* Alys Beach shall promptly investigate and timely provide a full written report to the District Manager as to all accidents or claims for damage relating to the management, maintenance, and operation of the District Improvements. Such report shall at a minimum include a description of any damage or destruction of property and the estimated cost of repair. Alys Beach shall cooperate and make any and all reports required by any insurance company or the District in connection with any accident or claim. Alys Beach shall not file any claims with the District's insurance company without the prior consent of the District Board of Supervisors.
- C. *Adherence to District Rules, Regulations and Policies.* Alys Beach shall ensure that Alys Beach's officers, employees, contractors and affiliates are familiar with all District policies and procedures and are informed with respect to the rules, regulations and notices as may be promulgated by the District from time to time and Alys Beach shall ensure that said persons conform therewith. Alys Beach assures the District that all third parties will be dealt with at arm's length, and that the District's interest will be best served at all times.
- D. *Care of the District Improvements.* Alys Beach shall use all due care to protect the property of the District, its residents and landowners from damage by Alys Beach or its officers, employees, contractors and affiliates. Alys Beach agrees to repair, at its own cost, any damage resulting from the activities and work of Alys Beach or its officers, employees, contractors and affiliates. The District is not responsible for the cost of repairs from damage resulting from the acts or omissions of Alys Beach or its officers, employees, contractors and affiliates.
- E. *Staffing.* Alys Beach shall be solely responsible for the staffing necessary to perform the management and maintenance responsibilities set forth in this Agreement.
- F. *Designation of District Representative.* The District shall designate in writing a person to act as the District's representative with respect to the services to be performed under this Agreement. The District's representative shall have 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 Alys Beach's services. The District hereby designates the District Manager to act as its representative.

- G. *Invoicing and Billing.* Alys Beach shall maintain records conforming to usual accounting practices. Further, Alys Beach agrees to render monthly detailed invoices to the District, in writing, which shall be delivered or mailed to the District by the fifteenth (15th) day of the next succeeding month. Each monthly invoice shall contain, at a minimum, 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 as well as the itemized amounts contained in Section 5 herein. 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.

SECTION 4. EXTRAORDINARY AND EMERGENCY REPAIRS.

- A. *Extraordinary Repairs.* If an Extraordinary Event occurs, the following procedure must be followed:
- i. Upon obtaining actual or constructive knowledge of the Extraordinary Event, Alys Beach shall promptly notify the District of the Extraordinary Event, and, within a reasonable time thereafter, provide a full written report to the District Manager as to the Extraordinary Event and its effect on the District Improvements. Such report shall at a minimum include a description of:
 - a. The location of the property;
 - b. Any damage or destruction of property;
 - c. The estimated cost of repair; and
 - d. A proposed time to review the damage.
 - ii. Representatives from the District and Alys Beach shall cooperate with each other in setting a meeting and conducting a field review of the damage for verification and documentation within forty-eight (48) hours or as otherwise agreed to by the District and Alys Beach.
 - iii. Alys Beach shall conduct the repairs to the satisfaction of the District.
 - iv. Extraordinary Repairs may be made in consultation with the District Manager and with prior approval of the District Chairman if the aggregate change in the original appropriation item does not exceed Ten Thousand Dollars (\$10,000.00) or 10% of the original appropriation. If the aggregate change in the original appropriation item exceeds that threshold, the proposed expenditure must be approved in advance by the Board.
- B. *Emergency Repairs.* If an Extraordinary Event occurs that requires an immediate response, and upon obtaining actual or constructive knowledge of the Extraordinary

Event, Alys Beach shall immediately attempt to notify the District of the Extraordinary Event. In the event that Alys Beach is unable after making reasonable efforts to contact the District in time to address the Extraordinary Event and mitigate any harm, Alys Beach shall promptly take all steps necessary to address and mitigate the harm, until the District can be notified.

- C. Except to the extent contrary to the provisions of this Section 4, all of the provisions of Sections 3(B) through 3(G) apply to this Section 4 governing Extraordinary Events as if fully incorporated in Section 4.

SECTION 5. COMPENSATION. The District shall pay Alys Beach the sum of Fifty-Four Thousand One Hundred and Sixty-Eight Dollars (\$54,168.00) per year for the provision of inspection, management and maintenance services pursuant to the terms of this Agreement. Alys Beach will invoice the District monthly one-twelfth (1/12) of the annual management fee, which represents the District's portion of the compensation owed to Alys Beach for management of the District's Improvements under this Agreement. This amount is to be included on the invoice provided for in Section 3(G) herein.

SECTION 6. TERM. The term of this Agreement commences upon execution and continues through September 30, 2022. The term shall be automatically renewed for additional one (1) year periods after September 30, 2022, unless the District provides the other party at least sixty (60) days written notice of its intent not to renew or otherwise terminates this Agreement pursuant to the terms stated herein.

SECTION 7. INSURANCE. Alys Beach shall maintain or cause to be maintained, at its own expense throughout the term of this Agreement, the following insurance with Alys Beach and the District, and their respective staff, consultants, agents and supervisors, all of whom shall be named as additional insureds:

- A. Worker's Compensation Insurance in accordance with the laws of the State of Florida.
- B. Commercial General Liability Insurance covering Alys Beach's legal liability for bodily injuries, with limits of not less than \$1,000,000 combined single limit bodily injury and property damage liability.
- C. Employer's Liability Coverage with limits of at least \$1,000,000 (one million dollars) per accident or disease.
- D. 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 Alys Beach of any owned, non-owned, or hired automobiles, trailers, or other equipment required to be licensed.

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 at least A-VII. If Alys Beach 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, Alys Beach shall pay the cost for that required insurance and shall furnish, upon demand, all information that may be required in connection with the District's obtaining the required insurance.

In the event that Alys Beach does not directly provide the insurance required by this Section 7 by obtaining a policy in Alys Beach's name but instead causes another entity ("Third Party Insurer") to provide such insurance through a policy issued to the Third Party Insurer that additionally affords the coverage required herein, Alys Beach shall require by written agreement with the Third Party Insurer that the Third Party Insurer shall comply with the terms of this Section 7; that the District shall have third party rights to pursue all available legal remedies against the Third Party Insurer in the event the Third Party Insurer fails to provide such insurance without first complying with the notice provisions stated in this Section 7; and that the Third Party Insurer, as a contractor, shall indemnify the District pursuant to Section 8. Alys Beach shall provide proof of insurance upon request by the District.

SECTION 8. INDEMNIFICATION. Alys Beach agrees to indemnify, defend 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 acts or omissions of Alys Beach, or its officers, employees, and representatives, including litigation or any appellate proceedings with respect thereto. Alys Beach agrees to require by written contract any contractor and subcontractors hired in connection with this Agreement to indemnify, defend 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 acts or omissions of such contractors and subcontractors, including litigation or any appellate proceedings with respect thereto. 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.

SECTION 9. LIMITATIONS ON GOVERNMENTAL LIABILITY. Nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of the District beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature 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 the Doctrine of Sovereign Immunity or by operation of law.

SECTION 10. COMPLIANCE WITH GOVERNMENTAL REGULATION. Alys Beach shall keep, observe, and perform all requirements of applicable local, State, and Federal laws, rules, regulations, or ordinances.

SECTION 11. LIENS AND CLAIMS. Alys Beach shall promptly and properly pay for all labor employed, materials purchased, and equipment hired by it to perform under this Agreement. Alys Beach 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 Alys Beach's performance under this Agreement, and Alys Beach shall immediately discharge any such claim or lien.

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. 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.

- A. The District shall have the right to terminate this Agreement effective immediately at any time due to Alys Beach's failure to perform in accordance with the terms of this Agreement. In the event of termination by the District for cause, Alys Beach shall be required to provide the District with sufficient funds to provide for the services contemplated by this Agreement through the end of the District's fiscal year which ends on September 30.
- B. The District shall have the right to terminate this Agreement upon thirty (30) days written notice without a showing of cause. In the event of termination without cause, Alys Beach shall have no further financial obligation to the District.

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 Alys Beach to perform under this Agreement shall be obtained and paid for by Alys Beach.

SECTION 17. ASSIGNMENT. Neither party may assign this Agreement without the prior written approval of the other. Any purported assignment without such written consent shall be void.

SECTION 18. INDEPENDENT CONTRACTOR STATUS. In all matters relating to this Agreement, Alys Beach shall be acting as an independent contractor. Neither Alys Beach nor employees of Alys Beach, 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. Alys Beach agrees to assume all liabilities or obligations imposed by any one or more of such laws with respect to employees of Alys Beach, if there are any, in the performance of this Agreement. Alys Beach shall not have any authority to assume or create any obligation, express or implied, on behalf of the District and Alys Beach shall have no authority to represent the District as an agent, employee, or in any other capacity.

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. In the event that either the District or Alys Beach 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 District and Alys Beach relating to the subject matter of this Agreement.

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 District and Alys Beach.

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

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

- A. If to District:** Somerset Community Development District
120 Richard Jackson Boulevard, 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: Tucker F. Mackie

B. If to Alys Beach: Alys Beach Resorts, LLC
9581 E County Hwy 30A, Bldg D
Alys Beach, Florida 32461
Attn: Scott Buchewicz

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 Alys Beach may deliver Notice on behalf of the District and Alys Beach, respectively. Any party or other person to whom Notices are to be sent or copied may notify the other parties and addressees of any change in name or address to which Notices shall be sent by providing the same on five (5) days written notice to the parties and addressees set forth herein.

SECTION 25. THIRD PARTY BENEFICIARIES. This Agreement is solely for the benefit of the District and Alys Beach 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 Alys Beach 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 Alys Beach and their respective representatives, successors and assigns.

SECTION 26. APPLICABLE LAW AND VENUE. This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. Venue for any dispute shall be in a court of appropriate jurisdiction in Walton County, Florida.

SECTION 27. PUBLIC RECORDS. Alys Beach understands and agrees that all documents of any kind provided to the District in connection with this Agreement may be public records, and, accordingly, Alys Beach agrees to comply with all applicable provisions of Florida law in handling such records, including but not limited to Section 119.0701, Florida Statutes. Alys Beach acknowledges that the designated public records custodian for the District is Todd Wodraska ("Public Records Custodian"). Among other requirements and to the extent applicable by law, Alys Beach 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 Alys Beach 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 Alys Beach'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 Alys Beach, Alys Beach 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 ALYS BEACH HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ALYS BEACH'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RIZZETTA & COMPANY, 120 RICHARD JACKSON BOULEVARD, SUITE 220 PANAMA CITY BEACH, FLORIDA 32407, 850-629-0153; komera@rizzetta.com

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 District and Alys Beach as an arm's length transaction. The District and Alys Beach 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 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.

[remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties execute this agreement the day and year first written above.

ATTEST:

**SOMERSET COMMUNITY DEVELOPMENT
DISTRICT**




Secretary (Assistant Secretary)




Andrew O'Connell (Sep 27, 2021 08:04 CDT)
Chairman, Board of Supervisors

ALYS BEACH RESORTS, LLC



(Signature of Witness)

By: 

Scott Buchewicz (Sep 24, 2021 15:14 CDT)
Its: **Vice President**

C. Tess Howard

(Print Name of Witness)

Exhibit A: Scope of Services

EXHIBIT A
Scope of Service – Somerset CDD

Please Note: Unless indicated otherwise, all costs outlined in this Scope of Service include labor, transportation, supervision, preparation of paperwork, and scheduling.

Management Fee----- **\$ 1,000/month.**

- First point of contact and after hours' liaison.
- Attend District meetings in person or via phone to review maintenance inspections and provide updates as needed.
- Provide input for preparation of the District's annual budget related to maintenance and forecasted expenditures.
- Attend site visits with District staff and vendors as needed, including District's insurance carrier.
- Provide vendor access for routine services with approval (if applicable)
- Ensure oversight of the District's vendors. Notify District's vendors about deficiencies in routine service or need for additional service or repairs.
- Following all inspections, contact District Manager with list of items needing repair and assist with obtaining proposals from the District's vendors for the same. If a third-party contractor, other than Rip's, Culligan, McHenry, PLC, Dune Doctors, Griffin, Lake Doctors, Gulf Power and Regional Utilities is required to complete maintenance or repair work, additional charges will apply to generate proposals and supervise work, as described at the end of this exhibit.

30A Weekly Inspection----- **\$585/month**

- Weekly Visual inspection of lights, landscaping, grounds, irrigation, signage, and crosswalks.
- Incidental removal of roadside debris and trash (also responsibility of landscape contractor).
- Complete formal inspection checklist. Retain records and provide to the District.
- Following all inspections, contact District Manager with list of items needing repair and assist with obtaining proposal from the District's vendor for the same. If a third-party contractor, other than Rip's, Culligan, McHenry, PLC, Dune Doctors, Griffin, Lake Doctors, Gulf Power and Regional Utilities maintenance or repair work, additional charges will apply to generate proposals and supervise work, as described at the end of this exhibit.

Daily Irrigation Well Inspection----- **\$1,369.00/month**

- Visual inspection of 4 irrigation wells and lake Marilyn daily.
- Ensure compliance with Northwest Florida Water Management District guidelines for water use permit.
 - Record daily well readings in accordance with Northwest Florida Water Management Guidelines.
 - Prepare timely annual report and submit to the Northwest Florida Water Management District.
 - Prepare corrective action plan based on annual report.
 - Follow proper records retention guidelines required by The Northwest Florida Water Management District.
- Incidental removal of debris and trash from lake and areas around wells (also responsibility of landscaping contractor)
- Provide oversight of Culligan re: irrigation treatment program.
- Complete formal inspection checklist. Retain records and provide to the District

- Following all inspections, contact District Manager with list of items needing repair and assist with obtaining proposal from the District's vendor for the same. If a third-party contractor, other than Rip's, Culligan, McHenry, PLC, Dune Doctors, Griffin, Lake Doctors, Gulf Power and Regional Utilities or Lake Doctors, is required to complete maintenance or repair work, additional charges will apply to generate proposals and supervise work, as described at the end of this exhibit.

Lighting Inspections-----\$1,560.00/month

- Visual inspection of all District streetlights
- Visual inspection of all District Up Light and Scout Light – Ped Paths and Parking Courts
- Complete formal inspection checklist. Retain records and provide to the District
- Following all inspections, contact District Manager with list of items needing repair and assist with obtaining proposal from the District's vendor for the same. If a third-party contractor, other than Culligan, McHenry, PLC, Dune Doctors, Griffin, Lake Doctors, Gulf Power and Regional Utilities is required to complete maintenance or repair work, additional charges will apply to generate proposals and supervise work, as described at the end of this exhibit.

Total yearly cost for services listed above ----- \$54,168.00/year

Maintenance & Repairs for Lighting Improvements: Labor & Materials

- Perform necessary repairs, as applicable pursuant to the terms of this Agreement.
 - Labor is charged @ (½ hr. min.) - \$45.00/hr.
 - After hours Labor is charged @ (3hr min.) - \$45.00/hr.
- Materials, when repairs are made by Alys Beach, are charged at cost +15% OH markup.

Other Charges

- Prepare and provide incident reports as necessary for damage identified to District property. Report incidents to the District Manager, in writing, immediately. (\$45/hr labor rate would apply)
- Procuring proposals and providing oversight of third-party vendors, other than Rip's, Culligan, McHenry, PLC, Dune Doctors, Griffin, Lake Doctors, Gulf Power and Regional Utilities is charged at a 15% markup based on third-party vendor's final invoice. When invoices exceed \$3,333.33, a flat \$500 will be charged. When repair projects exceed \$20K, a proposal for the project will be prepared and a separate project management fee may apply. If services are not approved by the District, a \$500 fee will be charged to cover the time required to procure and evaluate proposals.

Tab 6

Palm Tree Trimming – Questions & Answers

Rip's Professional Lawn Care - \$14,775.00

Arbor Tree Care - \$6,500.00

<https://www.arbortreecare.org/>

Rip's Professional Lawn Care

Q: What is the reason for the root/fungicide drench?

A: *This is needed for prevention of any fungal infection on the stressed trees*

Q: Are these applied at the same time, Meaning both chemicals are mixed?

A: Yes

Q: What is the process for applying the drench?

A: *Pour on roots*

Q: How many times a year do you complete the drench?

A: 3

Arbor Tree Care

Q: What is the initial process for trimming of dead palms?

A: *We remove freeze damaged palms fronds over 50% brown. Probe bud to see if "mushy" which would indicate dead bud. When it warms up a bit more would apply systemic fertilizer directly into the trunk. If any trees show up with fungus we would directly inject with a fungicide*

Q: What other communities do care for palms in?

A: *We have worked large pruning projects such as Harborside Golf Course in Longboat Key and several Condo/ HOA's locally such as Horizon South. No recurring contracts at this time. Pruning and treating our residential customers palms for years. Only recently interested in pursuing palm care on larger scale.*

Q: What would Arbor charge to evaluate the recovery of the trees and reassess a course of action in the Spring/Summer?

A: *We will reassess the palms visually at no charge.*

Q: Would a lack of a treatment until Spring/Summer cause any damage?

A: *Delaying treatment until late spring/early summer when the spear leaf begins to emerge is recommended and will not cause damage*

Q: What is the cost to sample the trees in order to send to UF to determine if any found disease is treatable?

A: *Gathering samples of trees suspect of disease will be \$100 per hour and UF only charges \$50 for up to 5 samples.*

Q: What is range of costs for treatments of palms with disease? you reference \$10/inch of trunk diameter for treatment.

A: *Our cost to systemically treat palms with products is \$10 per trunk diameter inch at breast height. i.e. A large 20 inch dbh palm would be \$200. We would need to measure your palms to find the average.*

Q: Would you explain the difference between your fertilizer and a root stimulator difference. Would root stimulator drench potentially cause any damage ?

A: *Treatments: After danger of freezing is over dead fronds should be removed. Fronds that are 50% green should be retained for the benefit of photosynthesis. It will take some time to recover. At pruning, the buds are probed to ensure firm and not mushy. Some spray the bud with copper fungicide to reduce chances of secondary microbes killing the meristem, but has not been scientifically proven to improve palm survival. The modern practice of injecting fungicide systemically is the best treatment for fungal conditions. However, if the bud is dead (mushy) treatment is futile. Root stimulator employs mycorrhizal fungi that attach to roots and improve the*

ability to absorb essential elements from the soil. Normally used to help newly planted trees reestablish healthy root systems they can also be beneficial to trees with root damage from development. Normally not a treatment for established trees. Imported palms are often deficient in micronutrients. Granular palm fertilizer with 8-2-12 +4 magnesium is beneficial where there is access to a healthy root system although it leaches through sandy soil. The best method to fertilize palms bypasses the root system and is injected directly into the vascular system and avoids the runoff and leaching of other methods. The Nitrogen, Potassium, iron, manganese, and other microelements applied during the active growing season helps prevent chlorosis and leaf yellowing associated with nutrient deficiency

Tab 7

Rip's Professional Lawn Care, Inc

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

Estimate

Date	Estimate #
2/15/2023	5-4748

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

Project

Description	Qty	Rate	Total
30A Medjool palm trimming from freeze damage			
Palm Trimming per palm	58	155.00	8,990.00
Disposal per dumpster, may take up to seven	1	385.00	385.00
Root stimulator drench includes fungicide drench	58	50.00	2,900.00
Equipment Surcharge - Man lift		2,500.00	2,500.00
Total			\$14,775.00

Tab 8

Tab 9

Estimate

#1212295

From: Arbor Tree Care

PO Box 36022 Panama City, FL 32412
(850)785-0153

Purchase Order:

30A palms

Amount:

\$10,400.00

Bill To: Somerset Community Development District C/o Rizzetta & Co.

3434 Colwell Ave suite 200, Tampa, FL, USA
8507142995

Expiration Date:

3/28/2023

Item	Rate (excl. tax)	Quantity	Tax	Total
Systemic Injections Treat 52 Medjool Date palms along 30A with Palm - jet injections directly into the trunk bypassing root systems. Palm jet contains micro elements to improve vigor and restore vitality to assist recovery from freeze damage. May be applied annually. \$200.00 ea.	\$10,400.00	1		\$10,400.00

Subtotal \$10,400.00

Total \$10,400.00

Terms & Conditions:

Work will be completed in a workmanlike manner according to standard practices. Any added work beyond provided specifications will be an additional charge. Arbor Tree Care employs ISA Certified Arborists and carries Workers Compensation and General Liability policies. Although we take careful steps to protect your property, the property owner or authorized agent agrees that Arbor Tree Care will not be held responsible for any cracked concrete, underground pipes or irrigation, wire cables, septic tanks, etc. unless clearly marked by Property Owner or authorized agent. A 3% processing fee will be applied to all credit card transactions.