



COMMITTEE OF THE WHOLE MEETING AGENDA

I. ROLL CALL

II. CONSIDERATION OF PREVIOUS MINUTES

1. Regular Council Meeting 08/16/2022
2. Committee of the Whole 08/16/2022

III. PUBLIC COMMENTS/AGENDA ITEMS

IV. Unfinished Business

Miscellaneous

Resolutions

Ordinances

V. New Business

Miscellaneous

1. Discuss beach renourishment project. (PW/JL)

Resolutions

1. Resolution authorizing execution of a reciprocal agreement to exchange building permit information with the Baldwin County Revenue Commissioner's Office. (KA/AR/JL)
2. Resolution authorizing execution of a performance contract with Perry Guy Music LLC to provide artwork and poetry for a shorebird educational project for the Coastal Resources Department. (PW)
3. Resolution authorizing execution of a performance contract with Tami Curtis Studios Inc. to provide artwork and poetry for a shorebird educational project for the Coastal Resources Department. (PW)
4. Resolution authorizing the execution of a professional services agreement with Wetland Sciences, Inc., for ecological services. (PW)

5. Resolution authorizing the execution of a task order with Wetland Sciences, Inc., to develop the Orange Beach component of the Orange Beach Alabama Beach Mouse Habitat Conservation Plan in an amount not to exceed \$59,800. (PW)
6. Resolution authorizing execution of a task order with Sawgrass Consulting, LLC, to provide civil engineering, land surveying, geotechnical and environmental services for the design of Powerline Road and Multi-Purpose Fields at the Sportsplex in an amount not to exceed \$431,400. (KA)
7. Resolution declaring certain personal property owned by the City of Orange Beach as surplus and unneeded and authorizing the Mayor and City Clerk to dispose of such property. (RE)
8. Resolution reappointing Mike Contorno and Tim Harry to the Board of Adjustment. (KA)
9. Resolution authorizing execution of a professional services agreement with J. F. Morris Performance LLC for theater performance direction for "The Little Mermaid." (JL)

Ordinances

1. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0908-PUDA-22, The Wharf PUD Major Modification, Culver's. (Suggested date 10/4/2022) (KA)
2. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0801-CU-22, JPEM Duplex Conditional Use at 29110 Perdido Beach Blvd. (Suggested date 10/4/2022) (KA)
3. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0903-PUDA-22, Mariner Lakes PUD Major Modification, Bel Air Multi-Family Residential Amendment. (Suggested date 10/4/2022) (KA)

VI. Public Comments/Community Discussion

VII. Adjourn

For current information regarding times and date of meetings of the council and committee of the whole, call 980-info (980-4636) for a recorded message or **visit our web site**
at www.orangebeachal.gov



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Administration

Description of Topic:

Regular Council Meeting 08/16/2022

Action Options/Recommendation:

Source of Funding (if applicable) :

ATTACHMENTS:

Description

- ▣ Regular Council Meeting 08/16/2022

**MINUTES OF
REGULAR COUNCIL MEETING
ORANGE BEACH CITY COUNCIL
AUGUST 16, 2022 – 5:00 P.M.
CITY HALL – COUNCIL CHAMBERS**

- I. CALL TO ORDER** Mayor Tony Kennon called the meeting to order at 5:03 P.M.
- II. INVOCATION** Councilmember Annette Mitchell
- III. PLEDGE OF ALLEGIANCE**
- IV. ROLL CALL**

Present: Councilmember Annette Mitchell
Councilmember Jerry Johnson
Councilmember Jeff Boyd
Mayor Tony Kennon

Absent: Councilmember Jeff Silvers
Councilmember Joni Blalock

V. CONSIDERATION OF AGENDA

Motion made (Johnson/Boyd) to approve the agenda as written. Vote unanimous in favor.

VI. CONSIDERATION OF PREVIOUS MINUTES

Work Session	07/26/2022
Regular Council Meeting	07/26/2022
Committee of the Whole	07/26/2022

The reading was waived and minutes were approved as written.

VII. REPORTS OF OFFICERS/COMMITTEES

- | | |
|---|------------|
| A. <u>City Administrator – Ken Grimes</u> | No report. |
| B. <u>Director, Public Works – Tim Tucker</u> | No report. |
| C. <u>Director, Community Development – Kit Alexander</u> | No report. |
| D. <u>Chief, Police Department – Steve Brown</u> | No report. |
| E. <u>Chief, Fire Department – Mike Kimmerling</u> | No report. |
| F. <u>City Clerk – Renee Eberly</u> | No report. |
| G. <u>Director, Finance – Ford Handley</u> | No report. |
| H. <u>Parks & Recreation – Ken Grimes</u> | No report. |
| I. <u>Director, Utilities – Jeff Hartley</u> | No report. |
| J. <u>Director, Coastal Resources – Phillip West</u> | No report. |
| K. <u>Librarian, Public Library – Meagan Bing</u> | No report. |
| L. <u>Director, Municipal Court – Renee Gardner</u> | No report. |
| M. <u>Director, Expect Excellence – Jonathan Langston</u> | No report. |
| N. <u>Mayor/Council</u> | No report. |

VIII. AUDITING OF ACCOUNTS

Motion made (Mitchell/Johnson) to certify that cash requirements with no related interests are within budget and appropriate for payment. Vote revealed: Johnson, aye; Mitchell, aye; Boyd, aye; Kennon, aye. **Passed. (4-0).**

Motion made (Mitchell/Boyd) to certify that cash requirements with related interests in Swift Supply are within budget and appropriate for payment. Vote revealed: Johnson, aye; Mitchell, aye; Boyd, aye; Kennon, aye. **Passed. (4-0).**

IX. PRESENTATIONS

1. Niki Whitaker, Baldwin County Child Advocacy Center Director, to thank the City for money raised by the "Full Moon Paddle" events. Ms. Whitaker explained the history and mission of the Baldwin County Child Advocacy Center. She stated that the agency serves over 400 children a year, including a number from Orange Beach. She further stated that the agency also provides prevention and awareness education for all schools in Baldwin County. She shared that over \$3,100 was raised this past summer by the "Full Moon Paddle" events.

X. RECOGNITIONS

XI. UNFINISHED BUSINESS

Resolutions

1. Resolution authorizing execution of a task order with Mark D. Pavey to provide professional design services for the Orange Beach Medical Plaza in an amount not to exceed \$222,609. **Motion made (Boyd/Johnson) to postpone consideration until the next council meeting on September 6, 2022.** Vote unanimous in favor.

Ordinances

1. Second Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0505-PUDA-22, Parks Edge PUD Modification, 31 Parks Edge. **Motion made (Johnson/Boyd) to adopt the ordinance.** Roll call vote revealed: Johnson, aye; Mitchell, aye; Boyd, aye; Kennon, aye. **Passed. (4-0).**

XII. NEW BUSINESS

Miscellaneous

1. Approval of a Special Events Retail Liquor License Application by Wharf Restaurant Group, L.L.C., for the "B2P5 Event" to be held August 19, 2022, at 4671 Wharf Parkway West. **Motion made (Mitchell/Boyd) to approve the liquor license.** Vote unanimous in favor

Resolutions

1. Resolution authorizing the purchase of Artificial Turf (Materials Only) for the Softball Field at the Sportsplex through Sourcewell in the amount of \$177,565. **Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor.
2. Resolution awarding the bid for Two Golf Carts for the Expect Excellence Department to Cartiology LLC in the amount of \$18,990. **Motion made (Mitchell/Boyd) to adopt the resolution.** Vote unanimous in favor.
3. Resolution adopting a City of Orange Beach FY2023 Transportation Plan. **Motion made (Johnson/Boyd) to adopt the resolution.** Vote unanimous in favor.
4. Resolution authorizing execution of a Work Squad Agreement with the Alabama Department of Corrections for the Public Works Department. **Motion made (Boyd/Mitchell) to adopt the resolution.** Vote unanimous in favor.

5. Resolution appropriating funds to the Pensacola and Perdido Bays Estuary Program in the amount of \$10,000. **Motion made (Boyd/Johnson) to adopt the resolution.** Vote unanimous in favor.

Public Hearings

1. Public hearing for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0709-PUDA-22, Parks Edge PUD Master Plan, Lot 3, 49 Parks Edge, Setback Encroachment.

Griffin Powell, Planner II, presented the case overview. He summarized the request to build an attached shed addition, and stated that letters of support from the Parks Edge HOA (Home Owners Association) President and impacted neighbor have been received.

Joyce Sullivan, representative for the homeowners, stated that there is a hardship due to limited outdoor space to store outdoor furniture during inclement weather.

Council responded that lack of storage space that was known when the homeowners purchased the residence does not constitute a hardship.

Councilmember Boyd spoke in opposition due to a perceived lack of fairness for residents who do not reside in PUDs (Planned Unit Developments). Mayor Kennon explained that residents outside of PUDs seeking waivers on the zoning ordinance would be required to go through the Board of Adjustment whose criteria for consideration is purely based on hardship.

Councilmember Johnson offered the counterpoint in questioning why Council would deny the request if the HOA and neighbor have given their support.

Mayor Kennon suggested that it would be the most expedient if the HOA approached the City with a request to change the entire PUD, so that individual cases do not continue to come one at a time before City Council. Council agreed. Councilmember Mitchell gave her opinion that this request is one of convenience, not of hardship, and stated that an adjustment to the overall PUD would be more fair than issuing waivers one-by-one.

Councilmember Boyd stated his concern that PUDs in development often justify reduced setbacks in exchange for more green space, but that property owners always push the limits after the fact.

There being no further comments, the public hearing was adjourned.

2. Public hearing for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0703-PUDA-22, The Wharf PUD Modification, Cobblestone Hotel.

Griffin Powell, Planner II, presented the case overview. He summarized the request to build a four story, 63-room hotel with a restaurant on the first floor located where the current miniature golf area is at the Wharf.

There being no opposition or comments, the public hearing adjourned.

3. Public hearing for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0806-PUDA-22, Zeke's Landing PUD Modification, Building Sign.

Griffin Powell, Planner II, presented the case overview. He summarized the request to deviate from the zoning ordinance limitations to increase the size of the lettering on the side of the Zeke's Restaurant Building. Councilmember Johnson questioned the reason for increasing the size of the sign. Kit Alexander, Community Development Director, explained that the increased size of the sign is proportional in relation to the distance from the road and expanse of the side of the building.

There being no further comments, the public hearing was adjourned.

Ordinances

1. First Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0709-PUDA-22, Parks Edge PUD Master Plan, Lot 3, 49 Parks Edge, Setback Encroachment.
No action taken. Ordinance will move forward to a second reading.
2. First Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0703-PUDA-22, The Wharf PUD Modification, Cobblestone Hotel. **Motion made (Boyd/Johnson) for unanimous consent to suspend the rules to allow for immediate consideration of this ordinance.** Roll call vote revealed: Johnson, aye; Mitchell, aye; Boyd, aye; Kennon, aye. **Passed. (4-0).** **Motion made (Boyd/Mitchell) to adopt the ordinance.** Roll call vote revealed: Johnson, aye; Mitchell, aye; Boyd, aye; Kennon, aye. **Passed. (4-0).**
3. First Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0709-PUDA-22, Parks Edge PUD Master Plan, Lot 3, 49 Parks Edge, Setback Encroachment.
No action taken. Ordinance will move forward to a second reading.

XIII. PUBLIC COMMENTS

None

XIV. ADJOURN

There being no further business to come before the council, motion made (Mitchell/Boyd) to adjourn. Vote unanimous in favor.

Time: 5:35 P.M.

APPROVED this the 20th day of September, 2022.

Renee Eberly
City Clerk



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Administration

Description of Topic:

Committee of the Whole 08/16/2022

Action Options/Recommendation:

Source of Funding (if applicable) :

ATTACHMENTS:

Description

- ▣ Committee of the Whole 08/16/2022

**MINUTES OF
COMMITTEE OF THE WHOLE MEETING
ORANGE BEACH CITY COUNCIL
AUGUST 16, 2022 – 5:35 P.M.
CITY HALL – COUNCIL CHAMBERS**

The Orange Beach City Council met to review potential items for the September 6, 2022, agenda.

The following members were present:

Councilmember Jerry Johnson
Councilmember Annette Mitchell
Councilmember Jeff Boyd
Mayor Tony Kennon

The following members were absent:

Councilmember Jeff Silvers
Councilmember Joni Blalock

The following items were discussed:

1. Resolution authorizing execution of a Cooperative Service Agreement with the U.S. Department of Agriculture to supplement nuisance wildlife control services.
2. Resolution authorizing execution of a cooperative agreement with the Alabama Department of Environmental Management (ADEM) for the city to provide permitting, regulating, monitoring, and inspection services and be reimbursed in an amount not to exceed \$37,950.
3. Resolution awarding the bid for 2022 Roadway Resurfacing.
4. Resolution authorizing execution of a performance contract with Safe Span, L.L.C., for engineering and bridge inspection professional services in an amount not to exceed \$2,600.
5. Resolution authorizing the execution of a performance contract with Brandy Reeves for tennis instruction services.
6. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0803-PUDA-22, Beach Village PUD Modification, Phase 2. Public hearing set for September 6, 2022.

Public Comments:

1. Councilmember Boyd further elaborated on his opinions discussed during the preceding Council Meeting regarding PUD (Planned Unit Development) setback waivers. He stated that he has been approached by a number of residents who have had their requests turned down by the Board of Adjustments. He explained that he understands that PUDs, which are handled by City Council, are different in nature to the residential zoning issues handled by the Board of Adjustments, but he felt he needed to draw the line somewhere.

Kit Alexander, Community Development Director, explained that every single property owner within the PUD would have to support a change to an overall PUD master plan, whereas a change to a single lot only requires the support of that single property owner. Councilmember Boyd responded that there are more PUDs in development and he is opposed to individual requests being submitted to Council one at a time.
2. Bill Jeffries, resident, shared his concern of airplanes flying large commercial signs at a low altitude, but acknowledged that they are meeting FAA (Federal Aviation Administration) standards and that the city does not have control.

3. Mayor Kennon shared with the public that The Wharf has purchased approximately 80 acres of the property commonly known as “Bama Bayou.” He explained that the five acres housing the dilapidated structures are still held separately by banks and are not included in recent sale. He explained that the court system has issued protective orders which have prohibited the city from condemning or cleaning up the site. He encouraged residents to pressure state legislators to remediate the blighted property.
4. Ann Kontos, resident of Mariner Circle, expressed her displeasure with the changing of addresses in her neighborhood, explaining that an address change is more costly to the homeowner than you might expect. Mayor Kennon explained that the changes are required by Baldwin County 9-1-1 for life safety purposes because it is difficult for first responders to locate homes when the addressing is not intuitive. Kit Alexander, Community Development Director, stated that approximate 5,200 address changes are being made in Orange Beach at the request of Baldwin County 9-1-1, who is complying with a federal mandate to bring addressing up to national standards.
5. Cindy Ross, the City’s Social Media Contractor, read a question submitted by JeeJee Hicks on Facebook asking, “I see the words, ‘In God we trust’ above and would love to know how a town that I praise for it’s [sic] Christian roots is allowing a coffee shop with profanity clearly in the title to be on display?” Mayor Kennon responded that the First Amendment guaranteeing free speech does not allow the city to control the names of businesses, but suggested that citizens who find the name offensive not patronize the store.

There being no further business, the meeting adjourned.

Time: 5:55 P.M.

APPROVED this 20th day of September, 2022.

Renee Eberly
City Clerk

ITEM 1.



COMMITTEE OF THE WHOLE MEETING SEPTEMBER 6, 2022

Departments: No Department Selected

Description of Topic:

Discuss beach renourishment project. (PW/JL)

Action Options/Recommendation:

Source of Funding (if applicable) :



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Community Development

Description of Topic:

Resolution authorizing execution of a reciprocal agreement to exchange building permit information with the Baldwin County Revenue Commissioner's Office. (KA/AR/JL)

Action Options/Recommendation:

Source of Funding (if applicable) :

ATTACHMENTS:

Description

- ▣ Resolution
- ▣ Agreement

RESOLUTION NO. 22-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
RECIPROCAL AGREEMENT TO EXCHANGE BUILDING PERMIT INFORMATION
WITH THE BALDWIN COUNTY REVENUE COMMISSIONER'S OFFICE**

FINDINGS:

1. The Baldwin County Revenue Commissioner's Office has submitted a reciprocal agreement to exchange building permit information.
2. After having reviewed the agreement (attached Exhibit A), the City Council has determined that the provisions are in the best interest of the City of Orange Beach, Alabama.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, AS FOLLOWS:

1. That the Mayor is hereby authorized to execute the agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach and the Baldwin County Commission and the Baldwin County Revenue Commissioner's Office as an act for and on behalf of the City of Orange Beach subject to final approval by the City Attorney; and
2. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 20th DAY OF SEPTEMBER, 2022.

Renee Eberly
City Clerk

C E R T I F I C A T E

I, Renee Eberly, City Clerk of the City of Orange Beach, Alabama, do hereby certify that the foregoing is a true and correct copy of Resolution No. 22-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 20, 2022.

City Clerk

AGREEMENT BETWEEN BALDWIN COUNTY ALABAMA, BALDWIN COUNTY
REVENUE COMMISSIONER'S OFFICE AND
THE CITY OF ORANGE BEACH
PROVIDING FOR THE EXCHANGE OF BUILDING PERMIT INFORMATION AND
RELATED DOCUMENTS

The purpose of this agreement is to allow the parties hereto to share through the CitizenServe Application or other electronic means information and documents supplied by persons or legal entities of whatever form to Baldwin County, Alabama or the City of Orange Beach when applying for building permits.

It is understood and agreed that all the information or documents exchanged in any form will be employed solely by the parties for the purpose of conducting the official business of Baldwin County, Alabama, the Baldwin County Revenue Commissioner's Office, and/or the official business of the City of Orange Beach.

SCOPE OF INFORMATION

This agreement shall apply to all information and documents received or collected by either party from persons or legal entities of whatever form when persons or agents of legal entities of whatever form make application for building permits, and information or documents regarding any building inspections and/or certificate(s) of occupancies granted pursuant to said building permit application.

Each party agrees not to charge the other for the costs of routine production of documents that are mutually exchanged. The parties upon agreement may charge a reasonable fee for the nonroutine exchange of information if the circumstances warrant such a charge.

Each party shall be solely responsible for the payment of any subscription fees charged by CitizenServe for the use of the software application by their personnel.

CONFIDENTIALITY

Each party agrees that no information obtained pursuant to this Agreement shall be disclosed in any manner other than is necessary to conduct the official business of the party.

Information or documents obtained pursuant to this agreement in the conduct of official business may be shared with the building permit applicant or the applicant's agents, county or municipal boards, their agents, and personnel and other third parties as required to conduct the official business of the parties. Any third party given access to information or documents obtained pursuant to this agreement shall agree to abide by the terms of use of the information as set forth in this agreement.

COMMENCEMENT/TERMINATION OF AGREEMENT

The Agreement shall become effective on the day it is executed by both parties and shall be in effect for a period of three (3) years. Upon expiration of the initial term, this Agreement shall automatically renew for one-year terms on an annual basis, unless and until one of the parties elects to terminate the Agreement.

Additions and changes in the provisions of this Agreement may be made by mutual written consent of the proper officials of the parties and shall become an attachment to this Agreement.

An unauthorized use or disclosure of information obtained by virtue of this agreement shall be grounds for either party to terminate this Agreement immediately upon mailing written notice to the other party. Notwithstanding the foregoing, either party may terminate this agreement, with or without cause or reason, by giving thirty (30) days written notice of such termination to the other party.

APPROVED:

CITY OF ORANGE BEACH
An Alabama Municipal Corporation

_____/_____
Mayor Date

BALDWIN COUNTY COMMISSION

_____/_____
James E. Ball, Chairman Date

BALDWIN COUNTY REVENUE
COMMISSIONER'S OFFICE

_____/_____
Teddy J. Faust, Jr, Commissioner Date

STATE OF ALABAMA
COUNTY OF BALDWIN

I _____, a Notary Public, in and for said County and in said State, hereby certify that James E. Ball, as the Chairman of the Baldwin County, Alabama Commission, whose name is signed to the foregoing information sharing agreement and who is known to me, acknowledged before me and on this date that, being informed of the contents of said instrument he, as such Chairman of the Baldwin County Alabama Commission, and with full authority, executed the same voluntarily on the day the same bears date for and as an act of Baldwin County, Alabama.

Given under my hand and seal this the ____ day of _____, 2022.

Notary Public, Baldwin County, Alabama
My Commission expires: _____

STATE OF ALABAMA
COUNTY OF BALDWIN

I _____, a Notary Public, in and for said County and in said State, hereby certify that _____, as the Mayor of the City of Orange Beach, an Alabama Municipal Corporation, whose name is signed to the foregoing information sharing agreement and who is known to me, acknowledged before me and on this date that, being informed of the contents of said instrument he, as such Mayor of the City of Orange Beach, and with full authority, executed the same voluntarily on the day the same bears date for and as an act of said City of Orange Beach.

Given under my hand and seal this the ____ day of _____, 2022.

Notary Public, Baldwin County, Alabama
My Commission expires: _____

STATE OF ALABAMA
COUNTY OF BALDWIN

I _____, a Notary Public, in and for said County and in said State, hereby certify that Teddy J. Faust, Jr., as the Revenue Commissioner of Baldwin County, Alabama, whose name is signed to the foregoing information sharing agreement and who is known to me, acknowledged before me and on this date that, being informed of the contents of said instrument he, as such Revenue Commissioner of Baldwin County, and with full authority, executed the same voluntarily on the day the same bears date for and as an act of said Baldwin County Revenue Commissioner's Office.

Given under my hand and seal this the ____ day of _____, 2022.

Notary Public, Baldwin County, Alabama
My Commission expires: _____



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Coastal Resources

Description of Topic:

Resolution authorizing execution of a performance contract with Perry Guy Music LLC to provide artwork and poetry for a shorebird educational project for the Coastal Resources Department. (PW)

Action Options/Recommendation:

The performance contract with Perry Guy Music, LLC will be for the creation of artwork and poetry for shorebird educational materials.

Source of Funding (if applicable) :

The fee is \$250 per poetry writing and will be paid out of the Coastal Resources budget to be reimbursed by Audubon.

ATTACHMENTS:

Description

- ▣ Resolution
- ▣ Agreement

RESOLUTION NO. 22-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
PERFORMANCE CONTRACT WITH
PERRY GUY MUSIC LLC
TO PROVIDE ARTWORK AND POETRY FOR A SHOREBIRD EDUCATIONAL PROJECT
FOR THE COASTAL RESOURCES DEPARTMENT**

FINDINGS:

1. The Coastal Resources Department has recommended a performance contract with Perry Guy Music LLC for Perry Guy Music LLC to provide artwork and poetry services for a shorebird educational project.
2. After having reviewed the agreement (attached Exhibit A), the City Council has determined that the provisions are in the best interest of the City of Orange Beach, Alabama.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, AS FOLLOWS:

1. That the Council authorizes the Mayor and City Clerk to execute and attest, respectively, the Performance Contract (attached Exhibit A) in substantially the form and of substantially the content now before the Council between the City of Orange Beach and Perry Guy Music LLC as an act for and on behalf of the City of Orange Beach subject to final approval by the City Attorney; and
2. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 20th DAY OF SEPTEMBER, 2022.

Renee Eberly
City Clerk

C E R T I F I C A T E

I, Renee Eberly, City Clerk of the City of Orange Beach, Alabama, do hereby certify that the foregoing is a true and correct copy of Resolution No. 22-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 20, 2022.

City Clerk

PERFORMANCE CONTRACT

This Agreement is entered into by and between the City of Orange Beach, Alabama, an Alabama Class 8 municipal corporation (“the City”) and Perry Guy Music, LLC, an Alabama limited liability corporation (“the Contractor”).

1. The Contractor is an independent contractor / artist creating poetry;
2. The City wishes to hire Contractor to create poetry for use on signage, coastal bird placards, promotion brochures, social media and websites to promote conservation and coastal stewardship in the City (the “Project”).

NOW, THEREFORE:

3. In consideration of the mutual covenants and agreements hereinafter set forth to be kept and performed by the City and the Contractor, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Contractor covenant and agree as follows:

Covenants and Agreements

4. Perry Guy Music, LLC will create original poetry for the City. The nature and subject of the poetry shall be directed by the City.
5. Perry Guy Music, LLC will receive \$250 per poetry writing created by Perry Guy. Poetry must meet the satisfaction of the City.
6. Poetry may be used for the placards, promotional brochures, social media and websites to promote the Project. Usage stated herein provides for the reproduction of all poetry for the stated purposes. Any and all copyrights beyond these stated uses remain the exclusive property of Perry Guy Music, LLC.

General Terms

7. This Agreement shall be effective on and after its adoption by the City Council and execution by the Mayor and shall continue in full force and effect through the completion of the Project.
8. No Joint Venture: Notwithstanding any of the provisions of this Agreement, it is agreed that the City has no financial interest in the business of the Contractor, and shall not be liable for any debts or obligations incurred by Contractor, nor shall the City be deemed or construed to be a partner, joint venturer or otherwise interested in the assets of the Contractor, or sums earned or derived by the Contractor, nor shall Contractor at any time or times use the name or credit of the City in purchasing or attempting to purchase any car, equipment, supplies or other thing or things whatsoever.
9. Independent Contractor. Contractor, in performance of its operations and obligations hereunder, shall not be deemed to be an agent of the City but shall be deemed to be an independent contractor in every respect and shall take all steps at its own expense, as the City may from time-to-time request, to indicate that it is an independent contractor. City does not and will not assume any responsibility for the means by which or manner in which services by the Contractor, provided for herein, are performed, but on the contrary, the Contractor shall be wholly responsible therefore.
10. Compliance with Law. Contractor hereby agrees to strictly comply with all ordinances of the City and the laws of the State of Alabama and of the United States while performing its obligations under the terms of this Agreement.
11. Termination. Either party may terminate this Agreement at any time, with or without cause, by notifying the other party of its intent to terminate. Termination shall be effective on the date notice is delivered either in person, or by mail (or by courier service).

12. Non-Discrimination. Contractors agrees that it will comply with Title 6 of the Civil Rights Act of 1964 assuring that no person shall be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination on the grounds of race, sex, color, national origin or disability, in connection with this Event.

13. Notices. All notices of cancellation, requests, demands or other communications shall be in writing and duly delivered to the following addresses:

To the City:

City Clerk
City of Orange Beach
Post Office Box 458
Orange Beach, Alabama 36561

With a required copy to:

City Attorney
City of Orange Beach
Post Office Box 458
Orange Beach, Alabama 36561

To the Contractor:

Perry Guy Music, LLC
3100 Roberson Road
Bay St. Louis, Mississippi 39520
Attn: Perry Guy

14. Final Agreement. This Agreement is the full and final agreement between the parties, and the complete and exclusive statement of the terms agreed upon, and shall supersede all prior negotiations, understandings or agreements. There are no representations, warranties, or stipulations, either oral or written, not contained herein.

15. Modifications. Any alterations, variations, modifications or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing and signed by the authorized representatives of the party against whom enforcement is sought.

16. Severability. The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the enforceability of the remainder of this Agreement unless the part or parts which are void, invalid or otherwise unenforceable shall substantially impair the value of the entire agreement with respect to any party.

17. Law Governing. This Agreement shall be governed by the laws of the State of Alabama, and the appropriate venue for any actions arising out of this Agreement shall be Baldwin County, Alabama.

Dated this _____ day of _____, 2022.

CITY OF ORANGE BEACH
An Alabama Municipal Corporation

By: _____
Tony Kennon, Mayor

ATTEST:

Renee Eberly, City Clerk

PERRY GUY MUSIC, LLC

By: _____
Perry Guy, Contractor

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said County in said State, hereby certify that Tony Kennon and Renee Eberly, whose names as Mayor and City Clerk, respectively, of the City of Orange Beach, an Alabama Municipal Corporation, are signed to the foregoing agreement, and who are known to me, acknowledged before me on this day, that, being informed of the contents of the above and foregoing, they, as such officers and with full authority, executed the same voluntarily for and as the act of said municipal corporation on the day the same bears date.

Given under my hand and seal on the _____ day of _____, 2022.

(SEAL)

Notary Public
My Commission Expires: _____

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said County in said State, hereby certify that Perry Guy, whose name is signed to the foregoing agreement on behalf of Perry Guy Music, LLC, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the above and foregoing, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal this the ____ day of _____, 2022.

(SEAL)

Notary Public
My Commission Expires: _____



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Coastal Resources

Description of Topic:

Resolution authorizing execution of a performance contract with Tami Curtis Studios Inc. to provide artwork and poetry for a shorebird educational project for the Coastal Resources Department. (PW)

Action Options/Recommendation:

The performance contract with Tami Curtis will be for the creation of artwork and poetry for shorebird educational materials.

Source of Funding (if applicable) :

The fee is \$500 per image created and will be paid out of the Coastal Resources budget to be reimbursed by Audubon.

ATTACHMENTS:

Description

- ▣ Resolution
- ▣ Agreement

RESOLUTION NO. 22-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
PERFORMANCE CONTRACT WITH
TAMI CURTIS STUDIOS INC.
TO PROVIDE ARTWORK AND POETRY FOR A SHOREBIRD EDUCATIONAL PROJECT
FOR THE COASTAL RESOURCES DEPARTMENT**

FINDINGS:

1. The Coastal Resources Department has recommended a performance contract with Tami Curtis Studios Inc., a Mississippi corporation, to provide artwork and poetry services for a shorebird educational project.
2. After having reviewed the agreement (attached Exhibit A), the City Council has determined that the provisions are in the best interest of the City of Orange Beach, Alabama.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, AS FOLLOWS:

1. That the Council authorizes the Mayor and City Clerk to execute and attest, respectively, the Performance Contract (attached Exhibit A) in substantially the form and of substantially the content now before the Council between the City of Orange Beach and Tami Curtis Studios Inc. as an act for and on behalf of the City of Orange Beach subject to final approval by the City Attorney; and
2. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 20th DAY OF SEPTEMBER, 2022.

Renee Eberly
City Clerk

C E R T I F I C A T E

I, Renee Eberly, City Clerk of the City of Orange Beach, Alabama, do hereby certify that the foregoing is a true and correct copy of Resolution No. 22-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 20, 2022.

City Clerk

PERFORMANCE CONTRACT

This Agreement is entered into by and between the City of Orange Beach, Alabama, an Alabama Class 8 municipal corporation (“the City”) and Tami Curtis Studios, Inc., a Mississippi corporation (“the Contractor”).

1. The Contractor is an independent contractor / artist creating artwork images and poetry;
2. The City wishes to hire Contractor to create artwork images for use on signage, coastal bird placards, promotion brochures, social media and websites to promote conservation and coastal stewardship in the City (the “Project”).

NOW, THEREFORE:

3. In consideration of the mutual covenants and agreements hereinafter set forth to be kept and performed by the City and the Contractor, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the Contractor covenant and agree as follows:

Covenants and Agreements

4. Tami Curtis Studios, Inc. will create original artwork and images for the City. The nature and subject of the images shall be directed by the City.
5. Tami Curtis Studios, Inc. will receive \$500 per image created by Tami Curtis. Artwork images must meet the satisfaction of the City.
6. Images may be used for the placards, promotional brochures, social media and websites to promote the Project. Usage stated herein provides for the reproduction of all images for the stated purposes. Contractor will retain possession of the original artwork. Any and all copyrights beyond these stated uses remain the exclusive property of Tami Curtis Studios, Inc.

General Terms

7. This Agreement shall be effective on and after its adoption by the City Council and execution by the Mayor and shall continue in full force and effect through the completion of the Project.
8. **No Joint Venture:** Notwithstanding any of the provisions of this Agreement, it is agreed that the City has no financial interest in the business of the Contractor, and shall not be liable for any debts or obligations incurred by Contractor, nor shall the City be deemed or construed to be a partner, joint venturer or otherwise interested in the assets of the Contractor, or sums earned or derived by the Contractor, nor shall Contractor at any time or times use the name or credit of the City in purchasing or attempting to purchase any car, equipment, supplies or other thing or things whatsoever.
9. **Independent Contractor.** Contractors, in the performance of its operations and obligations hereunder, shall not be deemed to be an agent of the City but shall be deemed to be an independent contractor in every respect and shall take all steps at its own expense, as the City may from time-to-time request, to indicate that it is an independent contractor. City does not and will not assume any responsibility for the means by which or manner in which services by the Contractor, provided for herein, are performed, but on the contrary, the Contractor shall be wholly responsible therefore.
10. **Compliance with Law.** Contractor hereby agrees to strictly comply with all ordinances of the City and the laws of the State of Alabama and of the United States while performing its obligations under the terms of this Agreement.
11. **Termination.** Either party may terminate this Agreement at any time, with or without cause, by notifying the other party of its intent to terminate. Termination shall be effective on the date notice is delivered either in person, or by mail (or by courier service).

12. Non-Discrimination. Contractor agrees that it will comply with Title 6 of the Civil Rights Act of 1964 assuring that no person shall be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination on the grounds of race, sex, color, national origin or disability, in connection with this Event.

13. Notices. All notices of cancellation, requests, demands or other communications shall be in writing and duly delivered to the following addresses:

To the City:

City Clerk
City of Orange Beach
Post Office Box 458
Orange Beach, Alabama 36561

With a required copy to:

City Attorney
City of Orange Beach
Post Office Box 458
Orange Beach, Alabama 36561

To the Contractor:

Tami Curtis Studios, Inc.
3100 Roberson Road
Bay St. Louis, Mississippi 39520
Attn: Tami Curtis

14. Final Agreement. This Agreement is the full and final agreement between the parties, and the complete and exclusive statement of the terms agreed upon, and shall supersede all prior negotiations, understandings or agreements. There are no representations, warranties, or stipulations, either oral or written, not contained herein.

15. Modifications. Any alterations, variations, modifications or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing and signed by the authorized representatives of the party against whom enforcement is sought.

16. Severability. The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the enforceability of the remainder of this Agreement unless the part or parts which are void, invalid or otherwise unenforceable shall substantially impair the value of the entire agreement with respect to any party.

17. Law Governing. This Agreement shall be governed by the laws of the State of Alabama, and the appropriate venue for any actions arising out of this Agreement shall be Baldwin County, Alabama.

Dated this _____ day of _____, 2022.

CITY OF ORANGE BEACH
An Alabama Municipal Corporation

By: _____
Tony Kennon, Mayor

ATTEST:

Renee Eberly, City Clerk

TAMI CURTIS STUDIOS, INC.

By: _____
Tami Curtis, Contractor

STATE OF ALABAMA

COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said County in said State, hereby certify that Tony Kennon and Renee Eberly, Mayor and City Clerk respectively, of the City of Orange Beach, an Alabama municipal corporation, whose names are signed to the foregoing agreement, and who are known to me, acknowledged before me on this day, that, being informed of the contents of the above and foregoing, they, as such officers and with full authority, executed the same voluntarily for and as the act of said municipal corporation on the day the same bears date.

Given under my hand and seal on the _____ day of _____, 2022.

(SEAL)

Notary Public
My Commission Expires: _____

STATE OF ALABAMA

COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said County in said State, hereby certify that Tami Curtis, whose name is signed to the foregoing agreement on behalf of Tami Curtis Studios, Inc., and who is known to me, acknowledged before me on this day, that, being informed of the contents of the above and foregoing, she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal on the _____ day of _____, 2022.

(SEAL)

Notary Public
My Commission Expires: _____



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Coastal Resources

Description of Topic:

Resolution authorizing the execution of a professional services agreement with Wetland Sciences, Inc., for ecological services. (PW)

Action Options/Recommendation:

Source of Funding (if applicable) :

Each task order for work will be approved through Council.

ATTACHMENTS:

Description

- ▣ Resolution
- ▣ Agreement

RESOLUTION NO. 22-xxx

**A RESOLUTION AUTHORIZING THE EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT WITH
WETLAND SCIENCES, INC., FOR
ECOLOGICAL SERVICES**

FINDINGS:

1. The City of Orange Beach and Wetland Sciences, Inc., have reached an agreement (attached Exhibit A) whereby Wetland Sciences, Inc., will provide ecological services for the City of Orange Beach.
2. After having reviewed the agreement, the City Council has determined that the provisions are in the best interest of the City of Orange Beach, Alabama.
3. The term of this agreement shall be for five (5) years from the date of adoption by the Orange Beach City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, AS FOLLOWS:

1. That the Mayor and City Clerk are hereby authorized to execute and attest, respectively, the agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach and Wetland Sciences, Inc., as an act for and on behalf of the City of Orange Beach subject to final approval by the City Attorney; and
2. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 20th DAY OF SEPTEMBER, 2022.

Renee Eberly
City Clerk

C E R T I F I C A T E

I, Renee Eberly, City Clerk of the City of Orange Beach, Alabama, do hereby certify that the foregoing is a true and correct copy of Resolution No. 22-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 20, 2022.

City Clerk

PROFESSIONAL SERVICES CONTRACT

THIS PROFESSIONAL SERVICES CONTRACT (hereinafter "Agreement") is made and entered into by and between the City of Orange Beach, an Alabama Municipal Corporation (hereinafter "City"), and Wetland Sciences, Inc. (hereinafter "Contractor"), as follows:

WHEREAS, Contractor is engaged in the business of providing ecological services;

WHEREAS, City desires to engage Contractor to provide said services upon the following terms and conditions;

NOW THEREFORE,

WITNESSETH:

City and Contractor, for and in consideration of the mutual covenants and agreements hereinafter set forth to be kept and performed by the other, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, do hereby covenant and agree as follows:

I. SERVICES TO BE PERFORMED

Contractor agrees to perform ecological services, and to represent the City as requested as their Environmental Consultant on a variety of assigned projects. Each project will be assigned to Contractor in the form of a written Task Order describing the scope of work. A copy of this Agreement shall be attached to each Task Order.

Contractor agrees to perform services that may include, but not be limited to, regulatory permitting and compliance, mitigation plan implementation, and monitoring consultation to the City as requested, and other services as requested.

II. COMPENSATION

Fees for work completed and reimbursable expenses will be invoiced to the City on a monthly basis, based on the following hourly rate schedule.

Ecological/Environmental Permitting & Compliance Services

\$95.00 to \$115/hour

III. TERM OF AGREEMENT

Unless terminated earlier in accordance with the termination provisions of this Agreement, the term of this Agreement shall commence upon its adoption by the Orange Beach City Council and shall continue thereafter for sixty months.

IV. GENERAL PROVISIONS

- A. Contractor agrees to permit at all reasonable times and places an audit of its books and records by City's duly authorized representatives.
- B. Notwithstanding any of the provisions of this Agreement, it is agreed that City has no financial interest in the business of Contractor and shall not be liable for any debts or obligations incurred by Contractor, nor shall City be deemed or construed to be a partner, joint venture or otherwise interested in the assets of Contractor, or in the sums earned or derived by Contractor, nor shall Contractor at any time or times use the name or credit of City in purchasing or attempting to purchase any car, equipment, supplies or other thing or things whatsoever.
- C. Contractor shall act as a representative of the City, under the direct supervision of the City. Contractor shall have no authority to obligate the City in any way whatsoever. In the performance of his duties, the Contractor shall be deemed an independent contractor.

- D. Contractor acknowledges that its identity and peculiar capacity to provide the services described hereinabove constitute a material consideration for City's having entered into this Agreement. Therefore, Contractor shall not transfer or assign this Agreement or any of the rights or privileges granted herein without the prior written consent of City; which such consent shall be granted or denied solely at City's discretion.
- E. Contractor hereby agrees to comply strictly with all ordinances of the City of Orange Beach, Alabama, and the laws of the State of Alabama and of the United States while performing its obligations under the terms of this Agreement.
- F. Contractor agrees that upon the violation of any of the covenants and agreements herein contained, on account of any act or omission or commission of Contractor, City may, at its option, terminate and cancel this Agreement.
- G. Contractor agrees that it will comply with Title 6 of the Civil Rights Act of 1964 which provides that no person will be excluded from participation in, or be denied benefits of, or otherwise be subjected to discrimination on the grounds of race, sex, color, national origin, or disability, in connection with federally funded programs.
- H. City may terminate this Agreement with or without cause at any time by giving written notice to Contractor of such termination (herein called a "Notice of Termination"), specifying the effective date thereof not less than thirty (30) calendar days before the effective date of the termination. Contractor shall have the right to terminate this Agreement by giving City written notice and remaining in service for a sufficient time to allow City to seek a suitable replacement. Should Contractor be terminated pursuant to the terms of this subpart, then this Agreement shall terminate on the last day of Contractor's current month of employment and City shall not be liable for any compensation beyond that date.
- I. Contractor agrees to indemnify and hold the City, its elected officials, officers, agents, and employees whole and harmless from all costs, liabilities and claims for damages of any kind arising in any way out of the negligent acts, errors or omissions of the contractor in performance of this Agreement and/or the activities of the Contractor, its principals, directors, agents, servants and employees in the performance of this Agreement, for which the City is alleged to be liable. In the event the City, through no fault of its own, is made a party to any lawsuit or legal proceeding arising from Contractor's activities under this Agreement, Contractor agrees to indemnify and hold the City harmless from all costs, including attorneys' fees and expenses, associated with same. This indemnification extends only to third party claims and actions filed against the City as a result of any negligent actions by the Contractor under this Agreement. This duty shall survive the termination of this contract.
- J. All notices of cancellation, requests, demands, or other communications shall be in writing and duly delivered to the following address for City at:

City of Orange Beach
Renee Eberly, City Clerk
P.O. Box 458
Orange Beach, Alabama 36561

Copy to: City Attorney

And to Contractor at:

Wetland Sciences, Inc.
1829 Bainbridge Avenue
Pensacola, Florida 32507

- K. This Agreement is the final expression of the agreement between the parties, and the complete and exclusive statement of the terms agreed upon, and shall supersede all prior negotiations, understandings, or agreements. There are no representations, warranties, or stipulations, either oral or written, not contained herein.
- L. Any alterations, variations, modifications, or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing and signed by authorized representatives of the party against whom enforcement is sought.
- M. The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the enforceability of the remainder of this Agreement unless the part or parts which are void, invalid or otherwise unenforceable shall substantially impair the value of the entire agreement with respect to any party.
- N. This Agreement shall be governed by the laws of the State of Alabama, and the appropriate venue for any actions arising out of this Agreement shall be Baldwin County, Alabama.
- O. Contractor shall obtain, at its own expense, all necessary licenses, permits, insurance, authorization and assurances necessary in order to abide by the terms of this Agreement.

V. INSURANCE

For the term of this Agreement, the Contractor shall acquire and maintain in full force and effect the following liability and comprehensive insurance issued by a company licensed and qualified to do business in the State of Alabama, which such insurance shall name the City of Orange Beach as an additional insured, and shall attach to this contract, as proof thereof, a certificate of insurance issued by an agent licensed and qualified to do business in the State of Alabama:

Worker's Compensation – as required by State of Alabama law

General Liability Insurance – public liability including premises, products, complete operations and automobile comprehensive and liability, including owned, non-owned, and hired vehicles.

Either:

- (1) Bodily injury liability
 - \$250,000 each person
 - \$500,000 each occurrence
- Property damage liability
 - \$100,000 each occurrence

Or,

- (2) Bodily injury and property damage combined
 - \$500,000 per occurrence

Professional Errors and Omissions – coverage limits of \$3,000,000 each claim and policy aggregate, an extended discovery period to apply for at least two (2) years after work is accepted by the City of Orange Beach, and a deductible not to exceed \$10,000 for which the Contractor will remain solely responsible.

If the certificate of insurance referenced in this Agreement does not evidence insurance of owned vehicles, said certificate and this sentence shall evidence the Contractor's covenant that it does not own any vehicles and that it will not purchase or obtain any vehicles during the term of this Agreement.

Said certificate shall require that said insurance will not be altered or terminated unless City shall be given written notice of such alteration or termination delivered to City not less than thirty (30) days before the effective date of such alteration or termination.

VI. CONFIDENTIALITY

Contractor (including its employees, agents, subcontractors) acknowledges that all confidential business and personal information ("Protected Information") that it may obtain while performing services for the City, is deemed confidential and proprietary to the City. During Contractor's tenure with the City, Contractor agrees to use Protected Information only and strictly as required to perform its services on behalf of the City. Contractor will not disclose Protected Information to any person or entity without the prior written consent of the City and the written agreement of any third party. Contractor agrees to refer any request for public information or records to the City Clerk, who is the custodian of records for the City and is responsible for the disclosure of public records in accordance with the public records laws of the state. Contractor agrees that it will not duplicate or incorporate Protected Information into its own records or databases and that after the conclusion of its services to the City all Protected Information in the Contractor's possession will be turned over to the City. Contractor agrees not to disclose, use, transfer, or transmit the information to any person or entity for any purpose whatsoever. This includes records, passwords, access codes, manuals, statistics, software, audio/video recordings, or storage disks of any kind containing Protected Information.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this the _____ day of _____, 20____.

CITY OF ORANGE BEACH, A Municipal Corporation

By: _____
Mayor Tony Kennon

ATTEST:

Renee Eberly, City Clerk

CONTRACTOR:

Wetland Sciences, Inc.

By: _____
Craig D. Martin

Its: Principal

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said County in said State, hereby certify that Tony Kennon and Renee Eberly, whose names as Mayor and City Clerk, respectively, of the City of Orange Beach, a Municipal Corporation, are signed to the foregoing agreement, and who are known to me, acknowledged before me on this day, that, being informed of the contents of the above and foregoing, they, as such officers and with full authority, executed the same voluntarily for and as the act of said municipal corporation on the day the same bears date.

Given under my hand and seal this the _____ day of _____, 2022.

(SEAL)

Notary Public
State of Alabama At-Large
My Commission Expires: _____

STATE OF ALABAMA
COUNTY OF _____

I, the undersigned Notary Public, in and for said county in said state, hereby certify that Craig D. Martin, whose name as Principal of Wetland Sciences, Inc., an Alabama corporation, is signed to the foregoing agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing agreement, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal this the _____ day of _____, 2022.

(SEAL)

Notary Public
State of Alabama At-Large
My Commission Expires: _____



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Coastal Resources

Description of Topic:

Resolution authorizing the execution of a task order with Wetland Sciences, Inc., to develop the Orange Beach component of the Orange Beach Alabama Beach Mouse Habitat Conservation Plan in an amount not to exceed \$59,800. (PW)

Action Options/Recommendation:

Wetland Sciences will develop the Orange Beach component of an Orange Beach Alabama Beach Mouse Habitat Conservation Plan and associated consultation services with the development and submittal of the required documentation to allow the City of Orange Beach to permit Incidental Take of the Alabama Beach Mouse. Once this plan is approved, owners will be able to get a permit from the City within 60 days verses going through the federal USFWS that can take a year or more.

Source of Funding (if applicable) :

Unbudgeted, Coastal Resources Professional Services

ATTACHMENTS:

Description

- ▣ Resolution
- ▣ Letter
- ▣ Budget/Timeline
- ▣ Staff Memo

RESOLUTION NO. 22-xxx

**A RESOLUTION AUTHORIZING THE EXECUTION OF A
TASK ORDER WITH WETLAND SCIENCES, INC.
TO DEVELOP THE ORANGE BEACH COMPONENT OF THE
ORANGE BEACH ALABAMA BEACH MOUSE HABITAT CONSERVATION PLAN
IN AN AMOUNT NOT TO EXCEED \$59,800**

FINDINGS:

1. The Orange Beach City Council, by Resolution No. 22-xxx adopted September 20, 2022, approved a contract with Wetland Sciences, Inc., to perform certain environmental consulting and ecological services (“the Contract”).
2. The Contract authorized work to be assigned by one or more task orders approved from time to time by the City Council.
3. The Coastal Resources Director has submitted a task order (attached Exhibit A) for Council approval.
4. The proposed Task Order requires Wetland Sciences, Inc., to develop the Orange Beach component of an Orange Beach Alabama Beach Mouse Habitat Conservation Plan.
5. The scope of work described in the Task Order is authorized by the Contract and furthers public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, AS FOLLOWS:

1. That the Mayor is hereby authorized to execute the Task Order as presented to Council between the City of Orange Beach and Wetland Sciences, Inc., on behalf of the City of Orange Beach subject to final approval by the City Attorney;
2. That the City Council authorizes payment in an amount not to exceed \$59,800.00 to Wetland Sciences, Inc., to complete the Task Order as presented; and
3. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 20th DAY OF SEPTEMBER, 2022.

Renee Eberly
City Clerk

C E R T I F I C A T E

I, Renee Eberly, City Clerk of the City of Orange Beach, Alabama, do hereby certify that the foregoing is a true and correct copy of Resolution No. 22-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 20, 2022.

City Clerk



August 17, 2022

Phillip West, AICP
Coastal Resources Manager
PO 2432
City of Orange Beach
Orange Beach, Alabama 36561

WSI Project #2013-154

Habitat Conservation Plan Alabama Beach Mouse/Orange Beach Alabama

Mr. West,

On behalf of Wetland Sciences, Inc. (WSI) I am pleased to submit to you, our letter of interest to provide consultation services associated with the development of the Orange Beach component of an Orange Beach Alabama Beachmouse Habitat Conservation Plan and associated consultation services with the development and submittal of the required documentation to allow the City of Orange Beach to permit Incidental Take of the Alabama Beachmouse consistent with Orange Beach Perdido Key Beachmouse approved Plan.

As you know, WSI is a local professional ecological consulting organization with considerable expertise specifically related to the Federal ITP process for the listed beachmice in our coastal counties.

Having successfully obtained ITP's under Section 10 (a)(1)(B), exhibits our firms knowledge of the Perdido Key Beach Mouse Conservation Strategy, the business plan for the Perdido Key Conservation Fund, the PKBM Intergovernmental Agreement, as well as the PKBM Critical habitat documents.

WSI assisted Orange Beach in obtaining the Perdido Key, Alabama Programmatic Habitat Conservation Plan which was issued by the United States Fish and Wildlife Service In May 2021.

These permitting efforts have provided a familiarity of regulatory reviewed acceptable impacts as associated with single family, and multifamily projects on Perdido Key, Alabama.

This experience will lend to smoother and more timely regulatory involvement in terms of the development and final approval of the private parcel component of the Perdido Key HCP.

Specifically related to WSI's ability to develop the Orange Beach component of the Alabama Beachmouse Habitat Conservation Plan, an evaluation of alternative actions, minimization, and mitigation options will be undertaken to satisfy HCP criteria. It is anticipated that the

HCP can be developed with a conservation fund for mitigation, such as what was developed for the City's Perdido Key Habitat Conservation Plan.

The private parcel HCP will quantify impacts to suitable habitat associated with the remaining undeveloped parcels, impact quantification (construction footprints) for the parcels will be quantified. The private parcels impacts as associated with the HCP will be offset by contributions to the Conservation Fund. This Plan will allow for the identification and long term conservation of important habitat and movement corridors which are needed for the long term survival of the PKBM.

It is anticipated that these field investigations will lead to the identification of restoration areas that will be considered for the mitigation to offset impacts associated with City Projects.

Overall, the development of the Orange Beach Alabama Beachmouse HCP(s) will allow for the most effective predictive methodology to provide a cost effective community based conservation strategy that will allow for the sustainable management of the ABM population and provide property owner with predictable development schedules and mitigation costs.

A timeline of expected efforts and sequence of events leading up to The City of Orange Beach's development, coordination, permitting, and post permitting consultation is provided for your review.

Additionally, expected efforts and fee's associated with each component of the permitting process is provided.

The Federal approval of the Orange Beach ABM HCP component will be streamlined in terms of development and review, due to the fact that Escambia County has already been granted the HCP and that a majority of the framework is in place for the City of Orange Beach to be included in the Escambia Perdido Key Plan.

Deliverables

- **Critical/Suitable habitat maps**
- **Impact quantification associated with proposed lot improvements within privately owned parcels.**
- **Habitat Restoration Opportunities**

To generate the above referenced documents, WSI maintains a sub-meter mapping DGPS. The data collected will be overlain onto aerial photographs, imported electronically into an AutoCAD drawing of the property survey, and used to generate an AutoCAD drawing with the parcel's boundaries, proposed PKBM impact areas, suitable habitat to remain, and potential restoration areas will be incorporated into permit drawings and used to quantify impacts, conservation areas, and potential mitigation sites.

- **Habitat Conservation Plan**
- **Coordination of intergovernmental agreement**
- **Assistance with the Development of the Biological Opinion**

- **Finalization of the Memorandum of Understanding between the USFWS, and City of Orange Beach.**

WSI maintains a favorable relationship with the Daphne USFWS, and the City of Orange Beach. Our firm has the knowledge to provide efficient, timely, and cost effective services related to the development, submittal, and follow up services necessary to obtain the appropriate regulatory approval for the project.

Please know that we are grateful for the confidence you have placed in our firm and assure you of our interest, dedication, and prompt response to your environmental needs. Should you need additional information and references, please let us know.

Sincerely,
Wetland Sciences, Inc.

A handwritten signature in dark ink, appearing to read "Craig D. Martin", with a stylized flourish at the end.

Craig D. Martin, M.S.
President and Sr. Scientist

Enclosures (1) Time line/Budget

Tasks 2022-2024	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Expected Fees
Permitting													
Suitable/Critical Habitat Assessment	X	X											
Private Parcels			X										\$16,000
USFWS/ City Of Orange Beach Review			X										\$4,000
Impact Determinations			X										
Private Parcels				X									\$6,000
HCP(s) Development			X	X									\$18,000
Public Forum Private Property HCP					X	X							\$2,000
USFWS Submittal HCP							X						\$1,800
USFWS Comments/Fed Register								X					
Negotiations/Revisions									x				\$12,000
Publication in Federal Registrar (60 days)										X	X		
UFWS Biological Opinion/Permits												X	
Totals													\$59,800

Permitting time frames are estimates based on typical USFWS ITP wildlife review process. Certain components of the review process beyond the control of the consultant of record



C I T Y O F O R A N G E B E A C H
COASTAL RESOURCES

MEMORANDUM

To: Mayor/Municipal Council
Via: Renee Eberly, City Clerk
C: Ken Grimes, City Administrator
Phillip West, Coastal Resources Director
From: Nicole Woerner, Coastal Resources Deputy Director
Date: September 1, 2022
Re: **Orange Beach Component of the Alabama Beach Mouse Habitat Conservation Plan**

As you all recall, we were recently approved to issue beach mouse permits on Perdido Key in Orange Beach. This task order will allow us to develop and submit an application to USFWS to administer the same program on the west side of Perdido Pass for the Alabama Beach Mouse. The Service supports this effort and we will receive the mitigation and maintenance fees for those developments that would be covered under this program (\$100,000 per acre + \$200 per bedroom/unit/parking space). This task order will allow us to develop a Habitat Conservation Plan to submit with the application to the Service. Wetland Sciences assisted the City throughout the Perdido Key Beach Mouse Permit planning/process and is well versed in the program details. Please call Phillip 251-747-6166 or Nicole 251-747-7176 if you have any questions.



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Community Development

Description of Topic:

Resolution authorizing execution of a task order with Sawgrass Consulting, LLC, to provide civil engineering, land surveying, geotechnical and environmental services for the design of Powerline Road and Multi-Purpose Fields at the Sportsplex in an amount not to exceed \$431,400. (KA)

Action Options/Recommendation:

Source of Funding (if applicable) :

Powerline Road NTE \$227,600

Sportsplex fields NTE \$203,800

ATTACHMENTS:

Description

- ▣ Resolution
- ▣ Task Order

RESOLUTION NO. 22-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
TASK ORDER WITH SAWGRASS CONSULTING, LLC
TO PROVIDE CIVIL ENGINEERING, LAND SURVEYING, GEOTECHNICAL AND
ENVIRONMENTAL SERVICES FOR THE DESIGN OF POWERLINE ROAD AND
MULTI-PURPOSE FIELDS AT THE SPORTSPLEX
IN AN AMOUNT NOT TO EXCEED \$431,400**

FINDINGS:

1. The Orange Beach City Council, by Resolution No. 20-220, adopted November 17, 2020, approved a contract with Sawgrass Consulting, LLC, to perform certain professional engineering and construction management services (“the Contract”).
2. The Contract authorized work to be assigned by one or more task orders approved from time to time by the City Council.
3. The Community Development Director has submitted the Task Order attached as Exhibit A for Council approval.
4. The proposed Task Order requires Sawgrass Consulting, LLC, to provide civil engineering, land surveying, geotechnical and environmental services for the design of Powerline Road and multi-purpose fields at the Sportsplex.
5. The scope of work described in the Task Order is authorized by the Contract and furthers public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, AS FOLLOWS:

1. That the Mayor is hereby authorized to execute the Task Order as presented to Council between the City of Orange Beach and Sawgrass Consulting, LLC, on behalf of the City of Orange Beach subject to final approval by the City Attorney;
2. That the City Council authorizes payment in an amount not to exceed \$431,400.00 to Sawgrass Consulting, LLC, to complete the Task Order as presented; and
3. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 20th DAY OF SEPTEMBER, 2022.

Renee Eberly
City Clerk

C E R T I F I C A T E

I, Renee Eberly, City Clerk of the City of Orange Beach, Alabama, do hereby certify that the foregoing is a true and correct copy of Resolution No. 22-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 20, 2022.

City Clerk



30673 Sgt. E. I. "Boots" Thomas Drive, Spanish Fort, AL 36527
202 Government Street, Suite 225, Mobile, AL 36602
P: 251-544-7900
sawgrassllc.com

August 26, 2022

Kit Alexander
Engineering & Environmental Services Director
City of Orange Beach
P. O. Box 2432
Orange Beach, AL 36561

RE: Powerline Road/Treatment Plant Road and Orange Beach Multi-Purpose Sports Fields, Orange Beach, Alabama - Professional Services

Dear Kit:

Sawgrass Consulting, LLC (Sawgrass) is honored to provide you with our proposal for Professional Civil Engineering, Land Surveying, Geotechnical and Environmental Services for the Design of Powerline Road, Treatment Plant Road, and the Orange Beach Multi-Purpose Sports Fields (see attached drawing).

Our Scope of Services and Fees are as follows:

Powerline and Treatment Plant Road to William Silvers Parkway (6000 L.F. +/-)

- Topographic Survey LUMP SUM \$15,800.00
150' wide cross sections at 100' intervals for 6000 LF
- Wetland Permitting HOURLY NTE \$20,000.00
- Civil Design (3,000 LF of New and 3,000 LF of existing roadway) LUMP SUM \$62,800.00
Plan Set Includes:
 - Existing Conditions/Demo Plan
 - Geometry Plan
 - Plan and Profile Sheets
 - Cross Sections
 - Utility Plan
 - Erosion Control Plan
 - Construction Details
- ALDOT Permitting at Canal Road LUMP SUM \$10,000.00
- Geotechnical Services (Preliminary Testing/Soils Report) LUMP SUM \$15,000.00
- Geotechnical Construction Testing LUMP SUM \$20,000.00
- Bidding Assistance/Construction Engineering and Inspection HOURLY ESTIMATED NOT TO
(Estimated 6 Months Construction) EXCEED \$84,000.00
- Meetings, Comments and Revisions HOURLY

Orange Beach Multi-Purpose Sports Fields on Treatment Plant Road

- | | |
|---|---|
| • Topographic Survey – 15 acres +/- (Including brush cutting) | LUMP SUM \$25,800.00 |
| • Wetland Permitting | HOURLY NTE \$25,000.00 |
| • Civil Design | LUMP SUM \$51,000.00 |
| 4 Multi-Purpose Fields, Parking and Detention | |
| • Geotechnical Services | LUMP SUM \$12,000.00 |
| Preliminary Testing/Soils Report | |
| • Construction Testing | LUMP SUM \$15,000.00 |
| • Bidding Assistance/Construction Engineering and Inspection
(Estimated 6 Months Construction) | HOURLY ESTIMATED NOT TO
EXCEED \$75,000.00 |
| • Meetings, Comments and Revisions | HOURLY |

All fees were derived from the rates defined in the existing City of Orange Beach/Sawgrass Consulting, LLC General Services Agreement. If you have any questions, please do not hesitate to contact me at 251.234.0229. Thanks again for the opportunity.

Sincerely,



Ercil E. Godwin, PLS
Vice President

Tony Kennon
Mayor, City of Orange Beach



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Administration

Description of Topic:

Resolution declaring certain personal property owned by the City of Orange Beach as surplus and unneeded and authorizing the Mayor and City Clerk to dispose of such property. (RE)

Action Options/Recommendation:

Source of Funding (if applicable) :

ATTACHMENTS:

Description

▣ Resolution

RESOLUTION NO. 22-xxx

**A RESOLUTION DECLARING CERTAIN PERSONAL PROPERTY
OWNED BY THE CITY OF ORANGE BEACH AS SURPLUS AND UNNEEDED
AND AUTHORIZING THE MAYOR AND CITY CLERK TO
DISPOSE OF SUCH PROPERTY**

FINDINGS:

1. That the following personal property owned by the City of Orange Beach, Alabama, is no longer needed for public or municipal purposes:

DEPARTMENT	ITEM DESCRIPTION	QTY	NOTES
ADMIN	CUMMINS GENERAC DIESEL GENERATOR SET	1	S# WA-520902-0899, DOES NOT RUN
ADMIN	MISCELLANEOUS BICYCLES	10	
ADMIN	MISCELLANEOUS OFFICE EQUIPMENT	LOT	
ADMIN / LOGISTICS	2006 FORD EXPEDITION (#113)	1	VIN 1FMPU15526LA85245, 214,836 MILES
COASTAL RESOURCES	NET GUNS	4	OBSOLETE, CAN NO LONGER GET PARTS
COASTAL RESOURCES	SHARP MX-2610N MULTIFUNCTION COPIER	1	S# 2E000541
EXPECT EXCELLENCE	TV	1	
FIRE	FIRE HOSE	LOT	DONATE TO ZOO
POLICE	2006 CHEVROLET TAHOE (#265)	1	VIN 1GNEK13Z26R148064, 170,220 MILES
POLICE	2006 CHEVROLET TAHOE (#267)	1	VIN 1GNEK13Z46R137714, 200,000 MILES
POLICE	2006 YAMAHA YFM45FAV KODIAK ATV (#207 - ADECA)	1	VIN 5Y4AJ14Y06A021447, DOES NOT RUN
POLICE	2008 JEEP WRANGER (#252)	1	VIN 1J4FA24118L590221, 71,583 MILES
POLICE	2010 FORD EXPLORER (#240)	1	VIN 1FMEU6DE5AUA75916, 160,000 MILES
POLICE	2013 YAMAHA WAVERUNNER VX1800 PWC & TRAILER (#204)	1	HULL# YAMA2267B313, TRAILER VIN 5DKPB121DN031729
POLICE	DESKS	2	
POLICE	INFLATABLE PADDLEBOARD	1	
POLICE	MISCELLANEOUS BICYCLES	11	
POLICE	YAMAHA WAVERUNNER XL1200W & TRAILER	1	HULL #YAMA3809C98, DOES NOT RUN
PUBLIC WORKS	2007 JOHN DEERE GATOR XUV (#789)	1	VIN M0XUVGX011109, DOES NOT RUN
PUBLIC WORKS	FLYGT CP3127.180-412 7.5HP/230V/3PH DRAINAGE PUMPS	7	
PUBLIC WORKS	KOHLER 10R0Z GENERATOR	1	S# 0699734
PUBLIC WORKS	MEP-005A MILITARY GENERATOR SET, DIESEL 30KW 50/60HZ	1	S# 6115-118-1240

2. Section 11-43-56 of the Code of Alabama of 1975 authorizes the municipal governing body to dispose of unneeded personal property.
3. The Alabama Gulf Coast Zoo has expressed interest in the worn out fire hose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, AS FOLLOWS:

1. That the aforementioned personal property owned by the City of Orange Beach, Alabama, is not needed for public or municipal purposes;
2. That the Mayor and City Clerk are hereby authorized and directed to dispose of the surplus property, as described above, on behalf of the City of Orange Beach, Alabama, by appropriate legal methods;

3. That the proceeds derived from such disposal shall be deposited in the General Fund of the City of Orange Beach;
4. That the Mayor and City Clerk are hereby authorized and directed to execute the documents necessary to donate and convey surplus fire hose, as described above, to the Alabama Gulf Coast Zoo on behalf of the City of Orange Beach; and
5. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 20th DAY OF SEPTEMBER, 2022.

Renee Eberly
City Clerk

C E R T I F I C A T E

I, Renee Eberly, City Clerk of the City of Orange Beach, Alabama, do hereby certify that the foregoing is a true and correct copy of Resolution No. 22-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 20, 2022.

City Clerk



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Administration

Description of Topic:

Resolution reappointing Mike Contorno and Tim Harry to the Board of Adjustment. (KA)

Action Options/Recommendation:

Source of Funding (if applicable) :

ATTACHMENTS:

Description

▣ Resolution

RESOLUTION NO. 22-xxx

**A RESOLUTION REAPPOINTING
MIKE CONTORNO AND TIM HARRY
TO THE BOARD OF ADJUSTMENT**

FINDINGS:

1. The terms of Board of Adjustment members Mike Contorno and Tim Harry are expiring September 2022.
2. City Council has also determined that it is in the best interest of the City of Orange Beach to reappoint Mike Contorno and Tim Harry.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, AS FOLLOWS:

1. That Mike Contorno be and is hereby reappointed to serve on the Board of Adjustment for a three-year term which ends September 2025;
2. That Tim Harry be and is hereby reappointed to serve on the Board of Adjustment for a three-year term which ends September 2025;
3. That it be reaffirmed that the following persons have been appointed to the Board of Adjustment for the terms set out below:

Tim Blackwell, three-year term ending September 2023

Linda Bradley, three-year term ending September 2023

Greg Kennedy, three-year term ending September 2023

Jimmy Boyd, supernumerary, three-year term ending September 2023

Ryan Beebe, supernumerary, three-year term ending September 2025

4. That this Resolution shall become effective upon its adoption.

ADOPTED THIS 20th DAY OF SEPTEMBER, 2022.

Renee Eberly
City Clerk

C E R T I F I C A T E

I, Renee Eberly, City Clerk of the City of Orange Beach, Alabama, do hereby certify that the foregoing is a true and correct copy of Resolution No. 22-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 20, 2022.

City Clerk



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: No Department Selected

Description of Topic:

Resolution authorizing execution of a professional services agreement with J. F. Morris Performance LLC for theater performance direction for "The Little Mermaid." (JL)

Action Options/Recommendation:

Source of Funding (if applicable) :

Budgeted, Performing Arts Professional Fees, \$15,250

ATTACHMENTS:

Description

- ▣ Resolution
- ▣ Agreement

RESOLUTION NO. 22-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT WITH
J. F. MORRIS PERFORMANCE LLC
FOR THEATER PERFORMANCE DIRECTION
FOR “THE LITTLE MERMAID”**

FINDINGS:

1. The City of Orange Beach has reached an agreement (attached Exhibit A) with J. F. Morris Performance LLC whereby J. F. Morris Performance LLC will provide theater performance direction for the City’s spring 2023 production of *The Little Mermaid* by the Performing Arts division of the City of Orange Beach Expect Excellence program.
2. After having reviewed the agreement, the City Council has determined that the provisions are in the best interest of the City of Orange Beach, Alabama.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, AS FOLLOWS:

1. That the Council authorizes the Mayor and City Clerk to execute and attest, respectively, the agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach and J. F. Morris Performance LLC as an act for and on behalf of the City of Orange Beach subject to final approval by the City Attorney; and
2. That this Resolution shall become effective upon its adoption.

ADOPTED THIS 20th DAY OF SEPTEMBER, 2022.

Renee Eberly
City Clerk

C E R T I F I C A T E

I, Renee Eberly, City Clerk of the City of Orange Beach, Alabama, do hereby certify that the foregoing is a true and correct copy of Resolution No. 22-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 20, 2022.

City Clerk

PROFESSIONAL SERVICES CONTRACT

This Agreement is made and entered into by and between the City of Orange Beach, a Class 8 Alabama municipal corporation (hereinafter the "City") and J.F. Morris Performance LLC, an Alabama limited liability company (hereinafter the "Contractor"), as follows:

1. Recitals.

WHEREAS, the City desires to engage Contractor to provide theatrical performance direction for the City's Expect Excellence Performing Arts program's spring 2023 theatre performance of "The Little Mermaid," or such other production as selected by the City;

WHEREAS, the Contractor is skilled in providing such services and is available and willing to perform such services on the terms and conditions set forth in this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth to be kept and performed by the other, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties to hereby covenant and agree as follows:

2. Consulting Services to be Performed.

- a) Contractor will provide theatre direction for the City's spring 2023 theatre performance of "The Little Mermaid," or such other production as selected by the City.
- b) Contractor will perform such other services with regard to the City's theatre performance, including actor coaching and blocking, costume, lighting and set design, and promotional materials as are mutually agreed to between the Contractor and the City.

3. Compensation.

- a) As full and total compensation for the services to be provided pursuant to this Agreement, Contractor shall be paid \$15,250, plus pre-approved expenses incurred as part of Contractor's performance of this contract, in accordance with City policies.
- b) Contractor agrees to abide by the City's established policies, and agrees that any travel and expenses must be approved in advance by the City.
- c) Contractor shall be paid in five (5) monthly payments of \$3,050.00 upon the City's receipt of properly documented invoices for directing services performed.

4. Term.

The term of this Agreement is five (5) months commencing September 6, 2022, and ending February 5, 2023.

5. Independent Contractor.

- a) Notwithstanding any of the provisions of this Agreement, it is agreed that the City has no financial interest in the business of Contractor and shall not be liable for any debts or obligations incurred by Contractor, nor shall City be deemed or construed to be a partner, joint venturer or otherwise interested in the assets of Contractor, or in the sums earned or derived by Contractor.
- b) Contractor, in the performance of its operations and obligations hereunder, shall not be deemed to be an agent of City but shall be deemed to be an independent Contractor in every respect and shall take all steps at its own expense as City may from time to time request to indicate that it is an independent Contractor. City does not, and will not, assume any responsibility for the means by which or the manner in which the services by

Contractor provided for herein are performed but, on the contrary, Contractor shall be wholly responsible therefor.

6. Insurance.

- a) For the term of this Agreement, the Contractor shall acquire and maintain in full force and affect the policy of insurance evidenced by the certificate of insurance attached hereto, with the City being named as an additional insured.
- b) Said certificate shall require that said insurance coverage will not be altered or terminated unless City shall be given written notice of such alteration or termination delivered to City not less than thirty (30) days before the effective date of such alteration or termination.

7. Assignment.

Contractor acknowledges that its identity and peculiar capacity to provide the services described hereinabove constitute a material consideration for City's having entered into this Agreement. Therefore, Contractor shall not transfer or assign this Agreement or any of the rights or privileges granted herein without the prior written consent of City; which consent shall be granted or denied solely at City's discretion.

8. Compliance with Law.

Contractor hereby agrees to comply strictly with all the laws of the State of Alabama and of the United States, and the laws and ordinances of any other jurisdiction in which contractor may perform any work pursuant to this Agreement. Contractor further agrees to comply with all rules, regulations, policies, and City ordinances that apply to sporting or other activities at City properties and facilities.

9. Termination.

This Agreement may be terminated by either party for any reason upon thirty (30) days notice of the intent to terminate. Upon termination, Contractor shall be paid *pro rata* for all services actually rendered up to the effective date of termination. This Agreement may be terminated immediately by the City upon failure of the required background check or drug testing, as set out in paragraph 16, below.

10. Final Agreement.

This Agreement is the final expression of the Agreement between the parties, and the complete and exclusive statement of the terms agreed upon, and shall supersede all prior negotiations, understandings or agreements. There are no representations, warranties, or stipulations, either oral or written, not contained herein.

11. Modifications.

Any alterations, variations, modifications or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, approved by the City Council, and signed by the duly authorized representatives of both parties.

12. Severability.

The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the enforceability of the remainder of this Agreement unless the part or parts which are void, invalid or otherwise unenforceable shall substantially impair the value of the entire Agreement with respect to either party.

13. Law Governing.

This Agreement shall be governed by the laws of the State of Alabama, and the appropriate venue for any actions arising out of this Agreement would be Baldwin County, Alabama.

14. Permits, etc.

Contractor shall obtain, at its own expense, all necessary licenses, permits, insurance, authorizations and assurances necessary in order to abide by the terms of this Agreement.

15. Background Check and Drug Testing.

Contractor consents to the City of Orange Beach to conduct a background check and drug testing in order for Contractor to provide coaching services as set out herein. Contractor shall provide all required information to the City in order to conduct the background check and drug testing including, but not limited to, full name (maiden name), physical address, date of birth, social security number, driver's license state and number.

16. Notices.

All notices of cancellation, requests, demands or other communications shall be in writing and duly delivered to the addresses appearing below:

City of Orange Beach
City Clerk
Post Office Box 458
Orange Beach, AL 36561

Copy to:
City Attorney
P.O. Box 458
Orange Beach, AL 36561

And to Contractor:

Jacob Morris
7350 Tara Dr. N
Mobile, AL 36619

IN WITNESS WHEREOF, we have hereunto set our hands and seal on this the ____ day of _____, 2022.

CITY OF ORANGE BEACH

By: _____
Tony Kennon
Mayor

ATTEST:

Renee Eberly, City Clerk

Jacob Morris, owner
J.F. Morris Performance LLC

[ACKNOWLEDGEMENTS ON FOLLOWING PAGE]

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said County in said State, hereby certify that Tony Kennon and Renee Eberly, whose names as Mayor and City Clerk, respectively, of the City of Orange Beach, a municipal corporation, are signed to the foregoing agreement, and who are known to me, acknowledge before me on this day, that, being informed of the contents of the above and foregoing, they, as such officers and with full authority, executed the same voluntarily for and as the act of said municipal corporation on the day the same bears date.

Given under my hand and seal this the _____ day of _____, 2022.

(SEAL)

Notary Public
State of Alabama
My Commission Expires: _____

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public, in and for said County in said State, hereby certify that Jacob Morris, owner of J.F. Morris Performance LLC, whose name is signed to the foregoing agreement, and who is known to me, acknowledged before me this day that, being informed of the contents of the above and foregoing agreement, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the _____ day of _____, 2022.

(SEAL)

Notary Public
My Commission Expires: _____

ITEM 1.



COMMITTEE OF THE WHOLE MEETING SEPTEMBER 6, 2022

Departments: Community Development

Description of Topic:

Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0908-PUDA-22, The Wharf PUD Major Modification, Culver's. (Suggested date 10/4/2022) (KA)

Action Options/Recommendation:

Source of Funding (if applicable) :

ITEM 2.



COMMITTEE OF THE WHOLE MEETING SEPTEMBER 6, 2022

Departments: Community Development

Description of Topic:

Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0801-CU-22, JPEM Duplex Conditional Use at 29110 Perdido Beach Blvd. (Suggested date 10/4/2022) (KA)

Action Options/Recommendation:

Source of Funding (if applicable) :



**COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 6, 2022**

Departments: Community Development

Description of Topic:

Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0903-PUDA-22, Mariner Lakes PUD Major Modification, Bel Air Multi-Family Residential Amendment. (Suggested date 10/4/2022) (KA)

Action Options/Recommendation:

Source of Funding (if applicable) :
