COMMITTEE OF THE WHOLE MEETING AGENDA

City Hall Council Chambers

I. Roll Call

II. Consideration Of Previous Minutes

A. Regular Council Meeting 04/04/2023

Documents:

2023.04.04 COUNCIL MINUTES.PDF

B. Committee Of The Whole 04/04/2023

Documents:

2023.04.04 COW MINUTES.PDF

III. Unfinished Business

A. Miscellaneous

B. Resolutions

C. Ordinances

IV. New Business

A. Miscellaneous

B. Resolutions

1. Resolution Reappointing Sherry Brandler To The Library Board. (JB/MB)

Documents:

05-02-23 23-XXX APPOINT LIBRARY BOARD BRANDLER.PDF

2. Resolution Authorizing The Execution Of An Addendum To An Administrative Services Agreement With RxBenefits, Inc., For Pharmacy Claims Related To The Employee Health Benefit Plan. (FH)

Documents:

05-02-23 23-XXX AUTHORIZE ADMINISTRATIVE SERVICES AGREEMENT ADDENDUM RXBENEFITS.PDF
2023.04.13 ADDENDUM RXBENEFITS EMPLOYEE BENEFITS PHARMACY.PDF

3. Resolution Awarding The Bid For Storage Warehouse Repairs. (GS)

4. Resolution Awarding The Bid For Fire Station No. 1 Roof Replacement. (GS)

5. 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)

   Documents:

   05-02-23 23-XXX DECLARE SURPLUS MISCELLANEOUS.PDF

6. Resolution Authorizing The Execution Of A Professional Services Agreement With MINT Decor LLC For Interior Design Of City Hall. (TK/RE)

   Documents:

   05-02-23 23-XXX AUTHORIZE PROFESSIONAL SERVICES AGREEMENT MINT DECOR.PDF
   2023.04.14 PROFESSIONAL SERVICES AGREEMENT MINT DECOR.PDF

7. Resolution Adopting A Financial Management Policy For The City Of Orange Beach. (FH)

   Documents:

   05-02-23 23-XXX AUTHORIZE FINANCIAL MANAGEMENT POLICY.PDF
   FINANCIAL MANAGEMENT POLICY DRAFT.PDF

8. Resolution Authorizing The Execution Of A Memorandum Of Understanding With The City Of Gulf Shores For Airport Automatic Mutual Aid. (MK)

   Documents:

   05-02-23 23-XXX AUTHORIZE MOU GULF SHORES AIRPORT MUTUAL AID.PDF
   2023.04.14 MOU GULF SHORES AIRPORT MUTUAL AID.PDF

9. Resolution Authorizing The Execution Of An Amended And Restated Interlocal Agreement For The Pensacola And Perdido Bays Estuary Program. (WS)

   Documents:

   05-02-23 23-XXX AUTHORIZE AMENDED RESTATED INTERLOCAL AGREEMENT PENSACOLA PERDIDO BAYS ESTUARY PROGRAM.PDF
   2023.04.14 FIRST AMENDED AND RESTATED INTERLOCAL AGREEMENT PENSACOLA PERDIDO BAYS ESTUARY PROGRAM.PDF

C. Ordinances

1. Set A Public Hearing Date For An Ordinance Amending Ordinance No. 172, The

Zoning Ordinance, Case No. 0401-PUD-23, Rollins Road Residential PUD. (Suggested Date 5/16/2023) (KA)

2. Set A Public Hearing Date For An Ordinance Amending Ordinance No. 172, The Zoning Ordinance, Case No. 0408-CU-23, Liberty Linen Warehouse & Boat/RV Storage Addition Conditional Use Approval. (Suggested Date 5/16/2023) (KA)

V. Public Comments

VI. Adjourn

MINUTES OF
REGULAR COUNCIL MEETING
ORANGE BEACH CITY COUNCIL
APRIL 4, 2023 – 5:00 P.M.
CITY HALL – COUNCIL CHAMBERS

I. CALL TO ORDER Mayor Tony Kennon called the meeting to order at 5:00 P.M.

II. INVOCATION Father Paul, St. Thomas by the Sea Catholic Church

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

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

Absent: Councilmember Jeff Silvers

V. CONSIDERATION OF AGENDA

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

VI. CONSIDERATION OF PREVIOUS MINUTES

Flood Damage Prevention Board	03/07/2023
Regular Council Meeting	03/07/2023
Committee of the Whole	03/07/2023

The reading was waived and minutes were approved as written.

VII. REPORTS OF OFFICERS/COMMITTEES

A. City Administrator – Ford Handley	No report.
B. Director, Public Works – Tim Tucker	No report.
C. Director, Community Development – Kit Alexander	No report.
D. Chief, Police Department – Steve Brown	No report.
E. Chief, Fire Department – Mike Kimmerling	No report.
F. City Clerk – Renee Eberly	No report.
G. Director, Finance – Ford Handley	No report.
H. Parks & Recreation – Ford Handley	No report.
I. Director, Utilities – Jeff Hartley	No report.
J. Director, Coastal Resources – Phillip West	No report.
K. Librarian, Public Library – Meagan Bing	No report.
L. Director, Municipal Court – Pam Davis	No report.
M. Director, Expect Excellence – Jonathan Langston	No report.
N. Mayor/Council	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; Blalock, aye; Boyd, aye; Kennon, aye. **Passed. (5-0).**

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; Blalock, aye; Boyd, aye; Kennon, aye. **Passed. (5-0).**

IX. PRESENTATIONS

X. RECOGNITIONS

XI. UNFINISHED BUSINESS

XII. NEW BUSINESS

Miscellaneous

1. Designate nominee for County Board of Equalization. **Motion made (Blalock/Mitchell) to postpone consideration until the next council meeting on April 18, 2023.** Vote unanimous in favor.
2. Approval of a Special Events Retail Liquor License Application by Wharf Restaurant Group LLC for the " Alabama Jail Association Conference" event to be held on April 24-28, 2023, at 4671 Wharf Parkway West. **Motion made (Blalock/Boyd) to approve the liquor license.** Vote unanimous in favor.
3. Approval of a Special Events Retail Liquor License Application by Wharf Restaurant Group LLC for the “National Association of Engineers Conference” event to be held April 18, 2023, at 4671 Wharf Parkway West. **Motion made (Johnson/Blalock) to approve the liquor license.** Vote unanimous in favor.
4. Approval of a Special Events Retail Liquor License Application by Event Concessions, Inc., for the “2023 Pinched Tails Crawfish Cook Off” event to be held May 6, 2023, at 23151 Wharf Lane. **Motion made (Blalock/Boyd) to approve the liquor license.** Vote unanimous in favor.
5. Approval of a Lounge Retail Liquor Class I License Application by High Tide Daiquiris & Mimosas LLC for High Tide Daiquiris & Mimosas, 24823 Commercial Avenue, Unit 1. **Motion made (Mitchell/Blalock) to approve the liquor license.** Vote unanimous in favor.

Resolutions

1. Resolution authorizing the execution of a professional services agreement with 5020 Engineering Resource Group Incorporated for civil engineering and other services. **Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor.
2. Resolution authorizing the execution of a professional services agreement with the University of Alabama for consultation services by the City of Orange Beach’s Coastal Resources Director. **Motion made (Johnson/ Mitchell) to postpone consideration of the item until April 18, 2023.** Vote unanimous in favor.
3. Resolution declaring a vehicle owned by the City of Orange Beach as surplus and unneeded and authorizing the donation of said property to the Town of Repton, Alabama. **Motion made (Blalock/Boyd) to adopt the resolution.** Vote unanimous in favor.

4. Resolution authorizing the purchase of a Recorder Server for the Police Department Dispatch through General Services Administration (GSA) in the amount of $73,725.50. **Motion made (Boyd/Johnson) to adopt the resolution.** Vote unanimous in favor.

5. Resolution authorizing the purchase of Body Armor Rifle Plates for the Police Department through State Bid in the amount of $35,850. **Motion made (Mitchell/Blalock) to adopt the resolution.** Vote unanimous in favor.

6. Resolution authorizing the purchase of In-Car Camera Systems for the Police Department through State Bid in the amount of $656,042. **Motion made (Johnson/Blalock) to adopt the resolution.** Vote unanimous in favor.

7. Resolution awarding the bid for Two Personal Watercrafts with Double Trailer for the Fire Department to Chaves Brothers Management, LLC, in the amount of $34,699.99. **Motion made (Mitchell/Johnson) to adopt the resolution.** Vote unanimous in favor.

8. Resolution awarding the bid for Two UTVs for the Fire Department to Gulf Shores Power Sports, Inc., in the amount of $50,674. **Motion made (Johnson/Blalock) to adopt the resolution.** Vote unanimous in favor.

9. Resolution awarding the bid for SWAT Ballistic Helmets for the Police Department to Blaising Fire and Water, Inc., in the amount of $22,500 and per unit pricing for a maximum of three years. **Motion made (Blalock/Boyd) to adopt the resolution.** Vote unanimous in favor.

10. Resolution awarding the bid for SWAT Communication Headsets for the Police Department to Gulf States Distributors, Inc., in the amount of $25,650 and per unit pricing for a maximum of three years. **Motion made (Boyd/Johnson) to adopt the resolution.** Vote unanimous in favor.

11. Resolution authorizing the purchase of a Knuckleboom Truck for the Public Works Department through Sourcewell in the amount of $227,211.47. **Motion made (Johnson/Blalock) 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. 1208-PUDA-22, Village of Tannin Minor PUD Amendment, 69 Parks Edge Front Porch Addition.

   Motion made (Blalock/Johnson) to reschedule the public hearing indefinitely. Vote unanimous in favor.

Ordinances

1. First Reading – Ordinance amending Chapter 2, Article IV, Section 2-182 of the Code of Ordinances for the City of Orange Beach, Alabama, entitled "Authority and Powers of Heads" to authorize department heads to set certain fees. No action taken. Ordinance will move forward to a second reading.

2. First Reading – Ordinance amending Chapter 42, Article II, Division 2, Section 42-41 of the Code of Ordinances for the City of Orange Beach, Alabama, to ensure ADA compliance in construction of condominiums. **Motion made (Johnson/Boyd) for unanimous consent to suspend the rules to allow for immediate consideration of this ordinance.** Roll call vote revealed: Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Passed. (5-0). Motion made (Johnson/Blalock) to adopt the ordinance.** Roll call vote revealed: Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Passed. (5-0).**

3. First Reading – Ordinance amending Chapter 54 of the Code of Ordinances for the City of Orange Beach, Alabama, to add a new Article V entitled, "Disorderly and Prohibited Conduct on Balconies." **Motion made (Blalock/Boyd) for unanimous consent to suspend the rules to allow for immediate consideration of this ordinance.** Roll call vote revealed: Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Passed. (5-0). Motion made (Blalock/Mitchell) to adopt the ordinance.** Roll call vote revealed: Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Passed. (5-0).**

4. First Reading – Ordinance amending Chapter 50, Article IV, Division 5, Section 50-252 of the Code of Ordinances for the City of Orange Beach, Alabama, to address lodging taxes levied in the police jurisdiction. **Motion made (Blalock/Mitchell) for unanimous consent to suspend the rules to allow for immediate consideration of this ordinance.** Roll call vote revealed: Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Passed. (5-0). Motion made (Mitchell/Johnson) to adopt the ordinance.** Roll call vote revealed: Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Passed. (5-0).**

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: 5:15 P.M.

APPROVED this the 2nd day of May, 2023.

____
Renee Eberly
City Clerk

MINUTES OF
COMMITTEE OF THE WHOLE MEETING
ORANGE BEACH CITY COUNCIL
APRIL 4, 2023 – 6:07 P.M.
CITY HALL – COUNCIL CHAMBERS

The Orange Beach City Council met to review potential items for the April 18, 2023, agenda.

The following members were present:

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

The following members were absent:

Councilmember Jeff Silvers

The following items were discussed:

1. Resolution authorizing execution of a change order with M.W. Rogers Construction Co., L.L.C., for Fire Station No. 3 in an amount not to exceed $21,548.
2. Resolution authorizing the purchase of Artificial Turf (Materials Only) for the Baseball Field at the Sportsplex through Sourcewell in the amount of $517,890.
3. Reminder: Public hearing and first reading for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0306-PUDA-23, The Wharf PUD Modification, Wharf Main Street Addition on April 18, 2023.
4. Reminder: Public hearing and first reading for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0410-PUDA-23, Village of Tannin PUD Modification, 16 The Battery Pool Setback Encroachment on April 18, 2023.

Public Comments:

1. Kimberly Andrews submitted a question on Facebook asking which city sewer project is preventing Point Broadband from connecting new customers past the Wharf traveling into Gulf Shores. Mayor Kennon asked Ms. Andrews to call his office in the morning at (251) 981-6810 for his assistant to get her an answer.
2. Tommy Little, 25329 Windward Lakes Avenue, complained about noise pollution from music being played at the Angry Crab restaurant. Mayor and Council were sympathetic, but stated that the sound has been within the permissible limits of the city's noise ordinance every time it has been measured. Mayor Kennon instructed the Police Chief to reach out to the restaurant to minimize the use of any bass.
3. Councilmember Boyd mentioned a complaint received about the lack of police presence at the location of a recent crash by a boat into a dock by Ono Island. The Police Chief responded that he would look into it.

There being no further business, the meeting adjourned.

Time: 5:38 P.M.

APPROVED this 2nd day of May, 2023.

Renee Eberly
City Clerk

RESOLUTION NO. <u>23-xxx</u>

A RESOLUTION REAPPOINTING SHERRY BRANDLER TO THE LIBRARY BOARD

FINDINGS:

1. Library Board Member Sherry Brandler's term expires May 31, 2023.
2. Sherry Brandler has served in her position faithfully and well.
3. The Library Board has recommended that Sherry Brandler be reappointed to her position on the Library Board of the Orange Beach Public Library.

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

1. That Sherry Brandler is hereby reappointed to serve on the Library Board for a four year term ending on May 31, 2027;
2. That it be reaffirmed that the following persons have been appointed to the Library Board for the Orange Beach Public Library for the terms set out below:

   Joni Blalock, term ending October 31, 2024
   Sharon Ramirez, term ending October 31, 2024
   Frederick Gatch, term ending January 31, 2026
   Beth West, term ending January 31, 2026

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

ADOPTED THIS 2nd DAY OF MAY, 2023.

____
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. 23-xxx, which was duly and legally adopted at a regular meeting of the City Council on May 2, 2023.

____
City Clerk

RESOLUTION NO. 23-xxx

A RESOLUTION AUTHORIZING THE EXECUTION OF AN ADDENDUM TO AN ADMINISTRATIVE SERVICES AGREEMENT WITH RXBENEFITS, INC., FOR PHARMACY CLAIMS RELATED TO THE EMPLOYEE HEALTH BENEFIT PLAN

FINDINGS:

1. The City of Orange Beach and RxBenefits, Inc., have negotiated an addendum (attached Exhibit A) to an existing administrative services agreement whereby RxBenefits, Inc., will provide pharmacy claim services related to the employee health benefit plan for the City of Orange Beach.
2. After having reviewed the addendum, 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 addendum in substantially the form and of substantially the content now before the Council between the City of Orange Beach and RxBenefits, 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 2nd DAY OF MAY, 2023.

____
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. 23-xxx, which was duly and legally adopted at a regular meeting of the City Council on May 2, 2023.

____
City Clerk

ADDENDUM TO ADMINISTRATIVE SERVICES AGREEMENT

THIS ADDENDUM TO ADMINISTRATIVE SERVICES AGREEMENT (this "Addendum"), entered into effective as of **January 1, 2023** (the "Addendum Effective Date"), is made by and between **RxBenefits, Inc**. **f/k/a Prescription Benefits, Inc.** ("Administrator"), and **City of Orange Beach** ("Client"). The parties, intending to be legally bound, hereby agree as follows:

1. Administrator and Client are parties to that certain Administrative Services Agreement dated January 1, 2021 (the "Agreement").

2. Administrator and Client hereby execute this Addendum for the purpose of documenting that Exhibit A (Client Application) to the Agreement has been amended and restated to reflect, among other things, new pricing terms. Such amended and restated Exhibit A (Client Application) shall be attached and affixed to the Agreement as Exhibit A (Client Application) in lieu of the prior Exhibit A (Client Application) upon execution of this Addendum by the parties' authorized representatives below and shall be in full force and effect as said Exhibit A from and after the Addendum Effective Date.

3. Except for the amendment and restatement of Exhibit A (Client Application) effected hereby, the Agreement shall not otherwise be modified, altered or amended in any respect and is hereby ratified and incorporated herein.

IN WITNESS WHEREOF, the undersigned parties have entered into and executed this Addendum effective as of the Addendum Effective Date.

EXHIBIT A

CLIENT APPLICATION

January 1, 2023

[IMPORTANT – PLEASE READ CAREFULLY: Client should complete Section A and carefully review this Exhibit A, which has been completed by Administrator, in order to ensure the accuracy and completeness of such information. Client shall promptly notify Administrator of any inaccuracy or omission with respect to such terms and conditions, if applicable (including, without limitation, the Client Information in Section A).]

A. CLIENT INFORMATION

Client's Name: City of Orange Beach

Client's Mail Address: P.O. Box 458, Orange Beach, Alabama 36561, United States

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B. PLAN DESIGN; MEMBER COST SHARE

Member Cost Share:

Please see current Summary of Benefits.

Client represents and warrants that the design of Client's Plan as reflected in a Plan Design document for Client ("PDD"), accurately reflects the applicable terms of Client's Plan for purposes of this Agreement. Client shall provide Administrator with ninety (90) days prior written notice of any proposed changes to the design of Client's Plan (including the PDD), which changes shall be consistent with the scope and nature of the services to be provided by Administrator under this Agreement. Client agrees that it is responsible for Losses resulting from (a) any failure to implement Plan Design changes which are not communicated in writing to Administrator, or (b) implementation of verbal or written direction regarding exception or overrides to the PDD. In addition, Client shall notify Members of any Plan Design changes prior to the effective date of any such changes as required by applicable law.

C. SERVICES; FORMULARY.

1. Base Administrative Services: The following services are the base administrative services made available to Client and its Members pursuant to the Agreement (including this Exhibit A) (the "Base Administrative Services"), as applicable:

- Administration of eligibility submitted via telecommunication or electronically
- Eligibility maintenance
- Client support system for on-line access to current eligibility
- Administration of Client's Plan Design
- In-network claims adjudication via on-line claims adjudication system
- Designated Account Team
- Client clinical and plan consulting, analysis and cost projections
- Annual analysis of program utilization and impact of plan design and managed care interventions
- Welcome Package and ID Cards (hard copy or digital) for new Members
- Standard Member communications
- Toll-free telephone access to customer service for the program for use by Members and Client's benefits personnel and Representatives

2. Additional Administrative Services. Client will pay for additional administrative services (the "Additional Administrative Services") beyond those included in the Base Administrative Services that are requested by Client and provided or made available by Administrator under the program as follows:

2.1 Transaction Fees

Administrative Services	Fees
Transaction Fees Payable for Administrative Services (per Article IV.B of the Agreement)	**$2.15 per Prescription Drug Claim** made by Members payable on a bi-monthly basis
Transaction Fees Payable for Administrator's Protect Program (individual prices listed in table below)	
• City of Orange Beach Clinical -All Plans-Remove SaveOn SP fee	**$1.25 per claim**

Manufacturer Copay Assistance Programs	Fees
• Out of Pocket Protection (Accumulation)	
• City of Orange Beach Clinical -All Plans-Remove SaveOn SP fee	Not Elected
• Out of Pocket Protection + Variable Copay Assistance Program	
• City of Orange Beach Clinical -All Plans-Remove SaveOn SP fee	Not Elected
• SaveOnSP	
• City of Orange Beach Clinical -All Plans-Remove SaveOn SP fee	Not Elected
• Out of Pocket Protection + SaveOnSP	
• City of Orange Beach Clinical -All Plans-Remove SaveOn SP fee	No Charge (Elected)
Reviews and Appeals Management	
• Low Clinical Value Exclusions (LCV)	**Elected**
○ City of Orange Beach Clinical -All Plans-Remove SaveOn SP fee	**$0.30 per claim**

• High Dollar Claim Review (HDCR)	**Elected**
○ City of Orange Beach Clinical -All Plans-Remove SaveOn SP fee	**$0.95 per claim**
Initial Determinations (i.e. coverage reviews) and Level One Non-Urgent Appeals under the UM program. Examples: Prior Authorization, Step Therapy, Drug Quantity Management	Included in the existing utilization management PMPM charge **OR** Included in the existing PA charge of $55 per initial determination* **OR** **No Charge if Client elects HDCR**
Initial Determinations and Level One Non-Urgent Appeals for benefit reviews. Examples: copay review, plan excluded drug coverage review, administrative plan design review.	$55 per initial determination **OR** **No Charge if Client elects HDCR**
Final Internal Appeals – Level Two Appeals and/or Urgent Appeals for UM, formulary, and benefit reviews.	$10 per review***** **OR** **No Charge if Client elects HDCR**
External Reviews by Independent Review Organizations - for non-grandfathered plans	$800 per review **OR** **No Charge if Client elects HDCR**
Miscellaneous	
Third Party Integration Fees	Charges passed through from provider or mutually agreed upon by Parties

The following terms and conditions apply only if client does not elect HDCR:

* Initial determination – this is the first review of drug coverage based on the Plan's conditions of coverage. Initial determinations are also referred to as initial reviews, coverage reviews, prior authorization reviews, UM reviews, or benefit reviews.

- The Level 2 and Urgent Appeal Service is an optional service for Clients to enroll in and there is an incremental fee of $10 per initial determination.
- Level 2 and Urgent Appeals are not included in the UM package fees.
- The Level 2 and Urgent Appeal Service fee is not charged per appeal. It is charged for each initial review. This allows Client to better estimate their appeal costs since it is based on the number of initial determinations. The fees cover the legal and operational costs involved with handling final and binding appeal reviews, which includes, but is not limited to the following: staffing of clinical professionals and supportive personnel, notifications to patients and prescribers, and maintaining a process aligned with state and federal regulations.
- Charges for the Level 2 and Urgent Appeal Service are billed on the monthly admin invoice for completed initial determination for UM, formulary, and benefit reviews. No subsequent charges are incurred when cases are appealed.
- Appeals can be deemed urgent at Level 1 or Level 2. Urgent appeal decisions are final and binding. If a Level 1 Appeal is processed as urgent, there is no Level 2 appeal.

PBM Services	Fees
Advanced Utilization Management (AUM Bundle)	
• City of Orange Beach Clinical -All Plans-Remove SaveOn SP fee	**$0.57** / PMPM or Passed through from PBM
Member-submitted paper claims processing fee Commercial Medicaid or Medicare subrogation claims fee	$3.00 per claim $3.00 per claim
Advanced Opioid Management Program	$0.32 / PMPM (If Elected)
ACA Statin "Trend Management" Program	$0.03 / PMPM (If Elected)
Combined Benefit Management	

PBM Services	Fees
Services to manage combined medical-pharmacy benefits that are not a consumer-directed health (CDH) plan. Services include ongoing management of the data exchange platform with the medical vendor/TPA, production monitoring and quality control, and designated operations team. Combined benefit types may include deductible, out of pocket, spending account, and lifetime maximum.	$0.10 PMPM per combined accumulator up to maximum of $0.20 PMPM for existing connection with medical carrier or TPA. Fees to establish connection with new medical carrier or TPA are quoted upon request.
Network Pharmacy Service Audits (Options (except Basic) are paid annually by total of paid claims submitted per Client)	
Audit Option One: Enhanced Plus Network Pharmacy Audit. Next day paid claim review with lower dollar (i.e., $50 claim) thresholds. Standard 4% field audit of network with >250 ESI claims. Client-specific field audit of network, special reporting, unique audit modules, specific Client claim audits, regional auditing, extensive compliance checks. Includes next day desk paid claim auditing and standard audit summary reports. 100% of recoveries returned to Client.	$0.04 Per Claim Program Max Annual Billing $300,000.00
Audit Option Two: Basic Network Pharmacy Audit: 30-60 day historical review of paid claims (no next day review) and high thresholds, so lower dollar claims not reviewed. 100% of recoveries returned to Client. Very limited ability for Client requested audits if mutually agreed.	No Charge

Comprehensive Consumer Driven Health (CDH) Solution	
<u>Technical</u> Bi-directional data exchange; dedicated operations; 24-hour a day, seven-days a week monitoring and quality control; performance reporting; and analytics <u>Decision Support</u> Dedicated CDH member services, Prescription Benefit Review Statements, Retail Pricing Transparency <u>Member Adherence</u> ScreenRx Preventive Medications <u>Member Education</u> Proactive, personalized member communications open enrollment tools and member communications library, robust online features, and preventive care proactive, personalized member communications	$0.48 PMPM *these charges would be in addition to any pricing adjustments if greater than ten percent of Client's total utilization for all Plans is attributable to a CDHC. These services and fee are required for all CDH enrollees.
ScreenRx for PPO Plans	$0.25 PMPM (If Elected)
Medicare Part D – Retiree Drug Subsidy (RDS)	
RDS enhanced service (ESI sends reports to CMS on behalf of Client) (i) Notice of Creditable Coverage	$1.12 PMPM for Medicare-qualified Members with a minimum annual fee of $7,500 $1.35/letter + postage
RDS standard service (ESI sends reports to Client) A. Notice of Creditable Coverage	$0.62 PMPM for Medicare-qualified Members with a minimum annual fee of $5,000 $1.35/letter + postage

Communication with physicians and/or members (e.g., program descriptions, notifications, formulary compliance, non-Medicare EOBs, etc.	$1.35/letter + postage
Medicare EOB	$1.75/letter + postage
Custom non-standard materials	Priced upon request
Electronic Pharmacy Benefit Eligibility Verification	
Eligibility confirmation of pharmacy benefit coverage shared with prescribers and other healthcare professionals through their Electronic Medical Records (EMR) or other digital channels. Pass-through charge to Client at PBM's preferred rate with data switch such as Surescripts.	
Miscellaneous	
RxDC Reporting (Submission of P2, D3-D8, and Narrative Response file via HIOS, and any other files deemed necessary)	Charges passed through from PBM
Coordination of Benefits - Custom reimbursement formula - Setup and ongoing maintenance - Product support	$0.01 PMPM, If Elected
Medicare Part B Solution - Integrated Retail & Mail Program - Retail Only Program - Program Introductory Letter	 - $0.42 PMPM - $0.20 PMPM - $1.35/letter + postage

PBM Services – No Additional Fee	
Customer service for Members	Electronic claims processing
Electronic/on-line eligibility submission	Plan setup
Standard coordination of benefits (COB) (reject for primary carrier)	Software training for access to on-line system(s)
FSA eligibility feeds	
A. Network Pharmacy Services	
Pharmacy help desk	Pharmacy reimbursement
Pharmacy network management	Network development (upon request)
B. Home Delivery Services	
Benefit education	Prescription delivery – standard
Reporting Services	
Web-based client reporting	Annual Strategic Account Plan report
Ad-hoc desktop parametric reports	Billing reports
Claims detail extract file electronic (NCPDP format)	Inquiry access to claims processing system
Load 12 months claims history for clinical reports and reporting	
Website Services	
Express-Scripts.com for Members — access to benefit, drug, health and wellness information; prescription ordering capability; and customer service	Mobile App for Members — Includes My Rx Choices, My Medicine Cabinet, Pharmacy Care Alerts, Refills and Renewals, and virtual prescription ID card.
Implementation Package and Member Communications	
• New Member packets (includes two standard resin ID cards or virtual cards, depending on PBM's procedures) • Member replacement cards printed via web (for hard-copy cards, charges are passed through from the PBM)	

• Member-requested replacement packets or Client requested re-carding	$1.50 + postage per packet or card
Clinical	
Concurrent Drug Utilization Review (DUR) Overrides a. Client-requested overrides b. Lost/stolen overrides c. Vacation supplies	No Charge

2.2 Administrator Clinical Programs

- If elected, the ***Low Clinical Value ("LCV")*** exclusion option prevents unnecessary spending by removing LCV medications from the formulary without impact to client rebates while providing equal or more effective medicines at a lower cost. LCV medications are drugs that treat common conditions that do not provide any additional or superior therapeutic value when compared to currently existing therapies already in the marketplace. These medications are excluded in addition to any products that would normally be excluded by the PBM Formulary. This exclusion occurs without affecting Rebate minimum guarantees or contracted discount rates. Administrator reserves the right to amend, from time to time, the list of low clinical value medications. The list of low clinical value medications may be updated quarterly. Client may request a current list of LCV medications.
- If elected, Administrator's ***High Dollar Claim Review program ("HDCR")***, will provide Client with umbrella protection against high-cost Prescription Drug Claims for approved formulary drugs. Prescription Drug Claims over the threshold dollar amount are flagged prior to payment and reviewed for clinical appropriateness. This additional level of clinical oversight protects against unnecessary spending, saving clients money and providing improved visibility into claim reviews, decision processes, and cost savings. If HDCR is elected, Administrator's **Complex Clinical Intervention ("CCI")** program is included. CCI addresses complex case management issues for Plan Participants on a trajectory to generate more than $250,000.00 in annual pharmacy plan spend. Clinical pharmacists reach out to Prescribers to request and review medical documentation and tackle issues such as redundant therapies, dosing errors, potential drug-on-drug interactions, and medication misuse.
- The following may apply TO HDCR:
  - Administrator manages the clinical review process for high dollar claims, providing oversight of the process. Administrator communicates trends and savings results to clients through detailed reporting and analytics.
  - Review turnaround time is dependent on prescriber activity and whether additional information is required. If additional information is required, the reviewer will attempt to contact physician at least once daily for three days; direct contact with the prescriber will discontinue after the third day. The majority of reviews are completed with a disposition within 24 to 72 hours.
  - Following a clinical review, one of four actions will occur: (i) the medication is ***approved***, (ii) the medication claim is ***denied***, (iii) the prescriber may decide to ***withdraw*** and prescribe a different medication, or (iv) the reviewer can ***dismiss*** the claim due to lack of communication from the prescriber; or
  - If denied, an appeal process is available.

- The appeal process:
  - If an initial review is denied, the Member may appeal the decision to have a different pharmacist reviewer evaluate the prior authorization.

- If the denial is upheld upon first appeal, a second appeal may be made, which is completed in consultation with a peer physician reviewer from an Independent Review Organization.
- If the denial is again upheld upon second appeal, a final appeal for a Federal External Review completed by an Independent Review Organization may be made.
- If the denial is upheld by the final review, the appeal process has been exhausted and the decision is final and binding.

- ***Foundational Utilization Management ("UM")***. UM is a bundling of evidence-based clinical programs commonly used to provide appropriate clinical oversight of prescription drug claims. UM ensures the correct clinical evaluation processes are in place. Appropriate quantity limit ("QL") promotes FDA-approved dispensing guidelines by ensuring appropriate quantities are dispensed. Step Therapy ("ST") ensures the most clinically appropriate item is used first as part of adhering to accepted guidelines. When faced with two similar agents, the lowest cost option is promoted first. Prior Authorizations ("PA") ensure FDA-approved guidelines with respect to indications are being met. Utilizing the PBM or customized criteria, Administrator has carved out the QL/ST exception review process as well as all specialty and non-specialty PA reviews to be independently reviewed and documented utilizing a documentation system that allows for ease of auditing through increased visibility of clinical decisions. This component requires that Client elect a standard Utilization Management Programs promoted by Administrator. NOTE: Client must have HDCR component in place to elect UM. The following may apply:
  - Review turnaround time is dependent on prescriber activity and whether additional information is required. If additional information is required, the reviewer will attempt to contact physician at least once daily for three days; direct contact with the prescriber will discontinue after the third day. The majority of reviews are completed with a disposition within 24 to 72 hours;
  - Following a clinical review, one of four actions will occur: (i) the medication is ***approved***, (ii) the medication claim is ***denied***, (iii) the prescriber may decide to ***withdraw*** and prescribe a different medication, or (iv) the reviewer can ***dismiss*** the claim due to lack of communication from the prescriber; or
  - If denied, an appeal process is available.

2.3 Protect Program Guarantee

- **General**: The Administrator clinical programs elected by Client shall be collectively referred to as the "Protect Solutions" for purposes of this Exhibit A. The fees associated with the Protect Solutions which are invoiced to the client shall be referred to herein as the "Protect Fees".
- **Protect ROI Guarantee**: Administrator guarantees that Client will generate savings from the Protect Solutions ("Protect Savings") that are equal to or greater than the Protect Fees paid by Client during the given Contract Year (the "Protect ROI Guarantee"). To the extent that the Protect Fees exceed the Protect Savings in a given Contract Year, Administrator will pay Client an amount equal to the difference between the Protect Fees and the Protect Savings (the "Protect Guarantee Payment".
- **Conditions**:
  - **Eligibility**. To be eligible for the Protect ROI Guarantee, Client must be on one of Administrator's four Protect Program packages:
    - Advanced;
    - Intermediate;
    - Basic; or
    - Custom UM.

    In all instances, Administrator's LCV and HDCR programs must be elected.
- **Protect Savings Validation**: Protect Savings are calculated using a proprietary methodology developed by Administrator that analyzes rejected Claims and the paid alternatives to calculate definitive actual-dollar savings realized as a result of the Protect Solutions. Protect Savings generated by the PA and appeals process are based on the AWP contracted discount for the specific drug

involved in a Claim. Protect Savings generated by the HDCR process are based on the net cost after actual discount. Administrator may use information from PBM in its calculation of Protect Savings (e.g., AWP, gross cost, plan cost, member cost, rejected Claims data). Generic product identifier (GPI) and national drug code (NDC) data will be retrieved from Medi-Span.

- Within one hundred and twenty (120) days after the end of each Contract year, Administrator shall report to Client performance for the Protect ROI Guarantee. If Protect Savings exceeds Protect Fees during a Contract Year, no payment shall be made by Administrator to Client. If Protect Fees exceed Protect Savings, amounts due resulting from an Administrator failure to meet the Protect ROI Guarantee, shall be calculated and paid to Client within thirty (30) days following Administrator's reconciliation report.

- The Protect Guarantee Payment, if any, shall be issued as a credit to Client's account. Client must have the Protect Solutions in place for the entirety of the Agreement Term to be eligible for the Protect ROI Guarantee. If this Agreement is terminated prior to the end of a given Contract Year or if the Agreement is terminated in breach of the terms of the Agreement (e.g., insufficient notice of non-renewal is given), then Administrator is not required to meet the Protect ROI Guarantee set forth above. No Protect Guarantee Payment will be paid (a) until this Agreement (including any applicable Client Application) is executed by Client, or (b) if the Administrative Services Agreement has been terminated as of the date that such Protect Guarantee Payment is to be paid to Client.

- If Client has not paid any outstanding invoice(s) when payment of the Protect Guarantee Payment, if any, is to be made, such outstanding amounts (including any applicable interest, service charge, or other outstanding amount) may be deducted from the Protect Guarantee Payment.

- In the event Administrator fails to meet the Protect ROI Guarantee, the Protect Guarantee Payment described above will be the sole and exclusive remedy available to Client for such failure.

2.4 **PBM Clinical Programs**

- If elected, PBM's ***Manufacturer Assistance Program for Specialty Medications ("MAP")***, consists of 1 or 2 components when available, dependent on the specific Plan Design: (1) Accumulator Protection using Manufacturer Copay assistance dollars to help lower Member out-of-pocket costs and Client costs where funds are not applied to member deductible and member out-of-pocket maximum totals; and (2) Accumulator Protection Plus Variable Cost-Share, where plan changes can maximize available assistance funds to offset Plan costs and cover the Member Cost Share but does not apply to their deductible and out-of-pocket maximum, yielding high savings potential, or Therapeutic Interchange Programs where the specialty pharmacy will move Members to preferred agents in order to allow the usage of copay assistance funds from manufacturers. Requires exclusive specialty pharmacy relationship.

- If elected, the **SaveOnSP program** is a benefit design change implemented by PBM in conjunction with a third-party vendor, SaveOnSP. Within the SaveOnSP program, certain specialty medications are classified as non-essential health benefits. In addition, the targeted drugs are assigned higher copays. In all cases, SaveonSP helps the Member coordinate manufacturer-sponsored copay assistance. SaveOnSP targets drugs in six of the top ten specialty categories. SaveOnSP is also available as "SaveOnSP Advantage" for high deductible health plans.
- If elected, PBM's **Advanced Opioid Management^{SM} program** reaches out to physicians, pharmacists and patients at key touchpoints to minimize early exposure to opioids and to prevent patients from progressing to overuse and abuse. Patients will be required to start therapy with no more than a 7-day supply of short-acting medications (with certain exceptions). Member Education will start at the first fill. Prescribers will be notified at the point of care when specific signs of misuse and abuse are observed.

3. **Pricing Terms.** The financial terms herein are conditioned on an exclusive arrangement and all other specified conditions set forth in this Exhibit A. Client will pay to Administrator the amounts set forth below, net of applicable Copayments. The application of Brand Drug and Generic Drug pricing below may be subject to certain “dispensed as written” (DAW) protocols and Client defined Plan Design and coverage policies for adjudication and Member Copayment purposes. Sales or excise tax or other governmental surcharge, if any, will be the responsibility of Client.

Members will always pay based on the logic below:

- Retail: Lowest of (i) the U&C price, (ii) Plan copayments/coinsurance, or (iii) discounted AWP (including MAC price, when MAC pricing is applicable).
- Mail Order: Lower of (i) Plan copayments/coinsurance or (ii) discounted AWP (including MAC price, when MAC pricing is applicable).
- If no adjudication rates are specified herein, each Prescription Drug Claim will be adjudicated to Client at the applicable ingredient cost and will be reconciled to the applicable guarantee as set forth herein. The discounted ingredient cost will be the lesser of MAC (as applicable), U&C or the applicable AWP discount. Prescription Drug Claims dispensed at ESI Mail Pharmacy will be adjudicated to Client at the applicable ingredient cost and will be reconciled to the applicable guarantee as set forth herein.

3.1 Pricing.

(a) Ingredient Cost. Administrator will offer an average aggregate annual discount as reflected below on Client utilization to be calculated as follows. The pricing below will be implemented as of the Addendum Effective Date. The pricing below will be guaranteed upon the start of Client’s Renewal Term (as described in the Agreement) that begins on or after the Addendum Effective Date.

[1-(total discounted AWP ingredient cost excluding dispensing fees and ancillary charges, and prior to application of Copayments) of applicable Prescription Drug Claims for the annual period divided by total undiscounted AWP ingredient cost (both amounts will be calculated as of the date of adjudication) for the annual period)]. Discounted ingredient cost will be the lesser of MAC (as applicable), U&C or AWP discount.

Notwithstanding anything herein to the contrary: (i) a Prescription Drug Claim that processes at the Brand Drug rates (Participating Pharmacy Reimbursement Rates) and (Mail Pharmacy Reimbursement Rates), as indicated on the ingredient cost field of the Prescription Drug Claim’s data record, shall be reconciled as part of the Brand Drug guarantee below; and (ii) a Prescription Drug Claim that processes at the Generic Drug rates (Participating Pharmacy Reimbursement Rates) and (Mail Pharmacy Reimbursement Rates) above, as indicated on the ingredient cost field of the Prescription Drug Claim’s data record, shall be reconciled as part of the Generic Drug guarantee below. The Prescription Drug Claims that may be excluded from the reconciliation of the pricing guarantees are as identified in the “Prescription Drug Claims Excluded” paragraphs below in addition to Prescription Drug Claims dispensed in Puerto Rico, Guam, Northern Mariana Islands, Virgin Islands, Hawaii, Massachusetts, Alaska, West Virginia, and rural pharmacies. Furthermore, prices may vary in certain states for reasons such as most favored nations laws, other state or local legal requirements, geographic location, or other factors beyond the control of Administrator. In those situations, some Claims may be exempt from reconciliation of the financial guarantees set forth herein. All Claims may be aggregated for purposes of such rates. Claims dispensed in states subject to NADAC or another pricing benchmark required by law for pharmacy reimbursement may be excluded from dispensing fee guarantees only. Additionally, under any retail pricing arrangement(s) subject to NADAC pricing, Administrator will retrospectively invoice Client for the difference between Client’s contracted dispensing fee and any state mandated pharmacy dispensing fee resulting from claims incurred in any state that mandates the use of NADAC or another pricing benchmarks in pharmacy reimbursement.

PARTICIPATING PHARMACY	
BRAND	
• **PPO**	AWP – 20%
GENERIC	
• **PPO**	AWP – 85.75%
RETAIL MAINTENANCE NETWORK (84-90 DAYS' SUPPLY)	
BRAND	
• **PPO**	AWP – 23.5%
GENERIC	
• **PPO**	AWP – 85.75%
MAIL SERVICE PHARMACY	
BRAND	
• **PPO**	AWP – 25%
GENERIC	
• **PPO**	AWP – 88.75%

Prescription Drug Claims Excluded: Specialty Products (other than specialty guarantee), 340B Claims, Subrogation Claims, long term care pharmacy claims, Member Submitted Claims, compounds, OTC products (excluding insulin, diabetic strips, and test strips), vaccines, U&C, and Exclusive or Limited Distribution Products, claims with ancillary charges, products filled through in-house pharmacies and COB claims.

(b) Dispensing Fee. Administrator will guarantee an average aggregate annual per Prescription Drug Claim dispensing fee on Client utilization to be calculated as follows:

[total dispensing fee of applicable Prescription Drug Claims for the annual period divided by total of applicable Prescription Drug Claims for the annual period]

PARTICIPATING PHARMACY	
BRAND	
• **PPO**	$0.35 dispensing fee
GENERIC	
• **PPO**	$0.35 dispensing fee
RETAIL MAINTENANCE NETWORK (84-90 DAYS' SUPPLY)	
BRAND	
• **PPO**	$0.35 dispensing fee
GENERIC	
• **PPO**	$0.35 dispensing fee
ESI MAIL PHARMACY	
BRAND	
• **PPO**	$0.00 dispensing fee
GENERIC	
• **PPO**	$0.00 dispensing fee

Prescription Drug Claims Excluded: Specialty Products (other than specialty guarantee), 340B Claims, Subrogation Claims, long term care pharmacy claims, Member Submitted Claims, compounds, OTC products (excluding insulin, diabetic strips, and test strips), vaccines, U&C, Exclusive or Limited Distribution Products,, claims with ancillary charges, products filled through in-house pharmacies and COB claims. Claims dispensed at West Virginia pharmacies may be excluded from dispensing fee guarantees or claims subject to NADAC or another pricing benchmark required by law for pharmacy reimbursement will be excluded from fee guarantees.

If applicable, Prescription Drug Claims filled through in-house pharmacies that are no bill, no remit or that have not entered into an ESI pharmacy network agreement are excluded from the discount and dispensing fee guarantees.

Dispensing Fees are inclusive of shipping and handling. If carrier rates (i.e., U.S. mail and/or applicable commercial courier services) increase during the Term of this Agreement, the Dispensing Fee guarantees will be increased to reflect such increase(s).

Guarantees will be measured and reconciled on an annual basis within 180 days of the end of each Contract Year. The guarantees are annual guarantees - if this Agreement is terminated prior to the completion of the then current contract year or if the applicable Term or Renewal Term being reconciled is less than twelve (12) months in length (hereinafter, a "Partial Contract Year"), then the guarantees will not apply for such Partial Contract Year. Furthermore, in the event Client terminates the Agreement outside the terms and conditions in the Agreement, Client forfeits the right to receive any shortfall payments for financial guarantees. To the extent Client changes its benefit design or Formulary during the Term of the Agreement, the guarantee will be equitably adjusted if there is a material impact on the discount achieved. Subject to the remaining terms of this Agreement, Administrator will pay the difference of Client's cost for any shortfall between the actual result and the guaranteed result. Shortfall payments for financial guarantees, if any, will not be paid until this Agreement, including any applicable Client Application, and any amendment(s) or addenda to this Agreement or Client Application, is signed. Guarantees for pricing components are measured and reconciled in the aggregate across all pricing components. Any dollar savings generated in excess of one component may be used to offset a shortfall for any other component.

Notwithstanding anything in this Agreement to the contrary, the Generic Drug average annual ingredient cost discount guarantees set forth above will include only those Prescription Drug Claims that processed to Client for payment where the underlying prescription drug product was identified by Medi-Span as having a Multi-Source Indicator code identifier of "Y" on the date dispensed (or was identified by Medi-Span as having a Multi-Source Indicator identifier of an "M," "N," or "O" on the date dispensed, but was substituted and dispensed by the ESI Mail Pharmacy as its "house generic"), unless such Prescription Drug Claim is otherwise excluded above. The Brand Drug average annual ingredient discount guarantees set forth above will include only those Prescription Drug Claims that processed to Client for payment where the underlying prescription drug product was identified by Medi-Span as having a Multi-Source Indicator code identifier of "M", "N", or "O" on the date dispensed (except in cases where the underlying prescription drug product was substituted and dispensed by the ESI Mail Pharmacy as its "house generic"), unless such Prescription Drug Claim is otherwise excluded above. The application of brand and generic pricing may be subject to certain "dispensed as written" (DAW) protocols and Client or Plan defined Plan Design and coverage policies for adjudication and Member Copayment purposes. If Medi-Span discontinues reporting Multi-Source Indicator identifiers, Administrator reserves the right to make an equitable adjustment as necessary to maintain the parties' relative economics and the pricing intent of this Agreement. Notwithstanding anything in this Agreement to the contrary, any Rebate guarantees set forth in this Agreement will be reconciled using the BGA.

Any claim that is considered a single source generic will be included in the generic reconciliation.

3.2 Specialty Products

(a) Exclusive Specialty. If Client elects Exclusive Specialty, then ESI Specialty Pharmacy is the exclusive provider of Specialty Products for the reimbursement rates shown on the Exclusive ESI Specialty Pharmacy Specialty Product List. Any Specialty Product dispensed at a Participating Pharmacy (for example, Limited Distribution Products not then available through ESI Specialty Pharmacy or overrides) will be reimbursed at the standard Participating Pharmacy Specialty Product rates shown below. Upon ESI Specialty Pharmacy acquisition of Exclusive or Limited Distribution Products, Members will obtain prescriptions through ESI Specialty Pharmacy.

(b) Precision Specialty. In situations where regulations prevent implementation of Exclusive Specialty arrangements, Plans may implement a Precision Specialty arrangement where the ESI Specialty Pharmacy or a Specialty Precision Network participating retail pharmacy are the exclusive pharmacies that may fill Specialty Products for Members (other than Exclusive or Limited Distribution Products not available at the ESI Specialty Pharmacy or a Specialty Precision Network participating retail pharmacy).

(c) Dispensing Fee for Specialty Products.

	Dispensing Fee*
Exclusive ESI Specialty Pharmacy	$0.00
Participating Pharmacy Specialty Products	$0.35

* Dispensing Fees are inclusive of shipping and handling. If carrier rates (i.e., U.S. mail and/or applicable commercial courier services) increase during the Term of this Agreement, the Dispensing Fee guarantees will be increased to reflect such increase(s).

(d) **SPECIALTY NET EFFECTIVE DISCOUNT GUARANTEE** Administrator guarantees the overall annual net effective discount for the products listed on the Specialty Products List (excluding Limited Distribution Products) pursuant to the table below. Within one hundred and eighty (180) days following the end of each Contract Year, Administrator will calculate the actual net effective discount for the products listed on the Specialty Products List to determine if the guarantee has been met. Client will retain any amount that the actual net effective discount exceeds the guaranteed net effective discount. The calculation for the actual net effective discount will be as follows: ((Total Ingredient Cost for the products listed on the Specialty Products List) divided by (Total AWP for the products listed on the Specialty Products List)) minus 1. This guarantee is contingent on Client's participation in the National Preferred Formulary or Basic Formulary and an exclusive, precision, or open specialty arrangement, as applicable. For Exclusive Specialty guarantees to be reconciled annually and any shortfalls paid, Client must be enrolled in the Exclusive Specialty program for the entire Contract Year.

Average Annual Ingredient Cost Guarantee: Exclusive or Precision Specialty Arrangements	AWP- 22.5%

(e) Exclusions. For Exclusive Specialty arrangements, the specialty guarantee shall only apply to Plans for which the ESI Specialty Pharmacy is the exclusive pharmacy that may fill Specialty Products for Members, other than Exclusive or Limited Distribution Products not available at the ESI Specialty Pharmacy. In addition to the general exclusions identified above, all non-Specialty Products, and all Exclusive or Limited Distribution Products are excluded from the specialty guarantee. Prescription Drug Claims filled through in-house pharmacies that are no bill, no remit or that have not entered into an ESI pharmacy network agreement are excluded from the specialty guarantee.

(f) Exclusive or Limited Distribution Products. Administrator guarantees that the overall annual net effective discount for Exclusive or Limited Distribution Products will be at least AWP (-) minus 15.00% for Client. This does not apply to gene therapy.

(g) Ancillary Supplies, Equipment, and Services. For Specialty Products needing an additional charge to cover costs of all ASES required to administer the Specialty Products, Administrator, ESI or ESI Specialty Pharmacy will bill at the following standard per diem and nursing fee rates set forth below, maintained and updated by ESI from time to time. If ESI elects to bill Client's medical plan for ASES, Administrator will work with ESI to coordinate the invoicing and payment of ASES through Client's medical plan. If Client's medical plan will not cover the cost of ASES billed through ESI or ESI Specialty Pharmacy, Client shall be responsible for the costs of all ASES. If a Specialty Product dispensed or ASES provided by ESI Specialty Pharmacy is billed to Administrator or a Client directly by ESI Specialty Pharmacy instead of being processed through ESI, Client will timely pay Administrator, and Administrator will timely pay ESI Specialty Pharmacy for such claim pursuant to the rates below. ESI Specialty Pharmacy shall have 360 days from the date of service to submit such electronic or paper claim.

Therapeutic Class	Brand Name	Nursing & Per Diem
Immune Deficiency	All Immune Deficiency Drugs requiring Per Diem	$60.00 / Infusion
Enzyme Deficiency	All Enzyme Deficiency Drugs required Per Diem	$60.00 / Infusion
Miscellaneous Specialty Conditions	Duopa	$65.00 / Day
Miscellaneous Specialty Conditions	Soliris	$60.00 / Infusion
PAH	Flolan, Veletri, Epoprostenol Sodium (generic-Flolan/Veletri), and Remodulin	$65.00 / Day
PAH	Ventavis	$65.00 / Day
PAH	Tyvaso	$30.00 / Day
Inflammatory Conditions	Remicade	$60.00 / Infusion
Alpha 1 Deficiency	All Alpha 1 Deficiency Drugs requiring Per Diem	$55.00 / Infusion
Nursing Rates	All drugs / therapies requiring nursing	$150.00 per initial visit up to two (2) hours/$75.00 per additional hour or a fraction thereof

(h) Specialty Products will be excluded from the non-specialty price guarantees set forth in the Agreement. In no event will the ESI Mail Pharmacy or Participating Pharmacy pricing terms specified in the Agreement, including, but not limited to, the annual average ingredient cost discount guarantees, apply to Specialty Products.

3.3 Vaccine Claims. NO VACCINE CLAIMS WILL BE INCLUDED IN ANY PRICING OR REBATE GUARANTEE SET FORTH IN THE AGREEMENT).

(a) General terms applicable to Vaccine Claims

1. "Vaccine Claim" means a claim for a Covered Drug which is a vaccine.
2. "Vaccine Vendor Transaction Fee" means the data interchange fee that ESI is charged by its third party vendor to convert Vaccine Claims submitted electronically by physicians to NCPDP 5.1 format in order for PBM to process the claim.
3. Vaccine Claims shall adjudicate at the lower of U&C or the amounts shown in the table below. In the case of Vaccine Claims, the U&C shall be the retail price charged by a Participating Pharmacy for the particular vaccine, including administration and dispensing fees, in a cash transaction on the date the vaccine is dispensed as reported to PBM by the Participating Pharmacy.
4. The Vaccine Administration Fee for Vaccine Claims for Members enrolled in Client's Medicaid programs, if any, will be capped at the maximum reimbursable amount under the state Medicaid program in which the Member is enrolled.
5. All Vaccine Claims will be subject to any Transaction Fees set forth in the Agreement.

6. Vaccine Claims will be charged a program fee of $2.50 per Vaccine Claim (except for Medicare Part D covered Vaccine Claims, if applicable). The Vaccine Program Fee will be billed separately to Client as part of the administrative invoice according to the billing frequency set forth in this Agreement.

(b) Commercial (Including Medicaid and Exchange, if applicable)

	Participating Pharmacy INFLUENZA	Participating Pharmacy ALL OTHER VACCINES	Member Submitted Vaccine Claims (excluding foreign claims)
Vaccine Administration Fee	Pass-Through (capped at $15 per vaccine claim)	Pass-Through (capped at $20 per vaccine claim and $40 per covid vaccine claim)	Submitted amount
Ingredient Cost	Participating Pharmacy Ingredient Cost as set forth in the Agreement	Participating Pharmacy Ingredient Cost as set forth in the Agreement	Submitted amount
Dispensing Fee	Participating Pharmacy Dispensing Fee as set forth in the Agreement	Participating Pharmacy Dispensing Fee as set forth in the Agreement	Submitted amount
Administrative Fee/Vaccine Claim	Administrative Fee per Prescription Drug Claim as set forth in the Agreement		Administrative Fee per Prescription Drug Claim (plus manual claim administrative fee) as set forth in the Agreement
Vaccine Program Fee	$2.50 per vaccine claim		N/A

(c) Medicare Part D Covered Vaccine Claims: Medicare Part D Vaccine Claims shall adjudicate at the lower of U&C or the amounts shown in the table below.

	Participating Pharmacies/ESI Mail Pharmacy/ESI Specialty Pharmacy	Member Submitted Vaccine Claims (excluding foreign claims)	Vaccine Claims Submitted Electronically by Physicians
Vaccine Administration Fee	Pass-Through (capped at $20 per Vaccine Claim)	Lower of submitted amount or pharmacy contracted rate (capped at $20 if administered at a Participating Pharmacy)	Pass-Through (capped at $20 per Vaccine Claim)
Ingredient Cost	Pass-Through	Lower of submitted amount or pharmacy contracted rate	Pass-Through
Dispensing Fee	Pass-Through	Lower of submitted amount or pharmacy contracted rate	Pass-Through
Vendor Transaction Fee	N/A	N/A	Pass-through at ESI cost for Vendor Transaction Fee (currently $3.75, subject to change)

D. <u>REBATES</u>

1. **<u>Rebate Amounts</u>**. Subject to: (i) the conditions set forth in Sections 2 through 4 below and elsewhere in this Agreement; and (ii) Client meeting the Plan Design conditions identified in the table below, the following guaranteed amounts will be payable to Client during the Term of this Agreement:

REBATES PER BRAND DRUG	FORMULARY: ESI NATIONAL PREFERRED
PARTICIPATING PHARMACIES (1-83 DAYS' SUPPLY)	
• **PPO**	$265.00 per Brand Drug claim
RETAIL MAINTENANCE NETWORK (84-90 DAYS' SUPPLY	
• **PPO**	$700.00 per Brand Drug claim
MAIL SERVICE PHARMACY	
• **PPO**	$700.00 per Brand Drug claim
SPECIALTY PRODUCTS	
• **PPO**	$2,600.00 per Brand Drug claim

(1) The Extended Days' Supply pricing set forth in this Agreement shall be subject to certain requirements, as follows. Extended Days' Supply shall mean; (1) for all lines of business other than Medicare or EGWP, any supply of a covered drug of 84 days or greater; and (2) for Medicare or EGWP, if applicable, any supply of a covered drug of 35 days or greater. Certain Participating Pharmacies have agreed to participate in the extended (84 – 90) day supply network ("Maintenance Network") for maintenance drugs. Rebate amounts in the 84 – 90 Days' Supply row in the table set forth above are applicable only if Client implements a Plan Design that requires Members to fill such days' supply at a Maintenance Network Participating Pharmacy (i.e., Client must implement a Plan Design whereby Members who fill extended days' supply prescriptions at a Participating Pharmacy other than a Maintenance Network Participating Pharmacy do not receive benefit coverage under the Plan for such prescription). If no such Plan Design is implemented, Rebate amounts for such days' supply will be the same as for Prescription Drug Claims for less than an 84 days' supply, and Rebate amounts for an 84 – 90 days' supply in the table set forth above shall not apply, even if a Maintenance Network Participating Pharmacy is used.

2. **Exclusions For Non-Specialty Rebates:** Specialty Products, Member Submitted Claims, Subrogation Claims, biosimilar products (excluding Semglee), Exclusive and Limited Distribution Products, vaccines, OTC products (excluding insulin, diabetic strips, and test strips), claims older than 180 days, products filled through in house or 340b Claims, COB claims, and claims pursuant to a 100% Member Copayment plan are not eligible for the guaranteed Rebate amounts set forth in Section D.1 above.

   Exclusions For Specialty Rebates: Member Submitted Claims, Subrogation Claims, biosimilar products (excluding Semglee), Exclusive and Limited Distribution Products, vaccines, OTC products (excluding insulin, diabetic strips, and test strips), claims older than 180 days, products filled through in house or 340b Claims, COB claims, and claims pursuant to a 100% Member Copayment plan are not eligible for the guaranteed Rebate amounts set forth in Section D.1 above.

3. **Rebate Payment Terms.** Subject to the conditions set forth herein, Administrator will receive from ESI the quarterly Rebate payments within approximately one hundred twenty (120) days following the end of a calendar quarter for Rebates received during the prior calendar quarter. Upon receipt, Administrator will credit Client's account. For Prescription Drug Claims dispensed through in-house pharmacies, if applicable, Rebate payments shall only be paid if ESI is billing pharmaceutical manufacturers on behalf of the in-house pharmacies.

4. **Conditions**

4.1 PBM contracts with pharmaceutical manufacturers for Rebates on its own behalf and for its own benefit, and not on behalf of Client. Accordingly, PBM retains all right, title and interest to any and all actual Rebates received from manufacturers. PBM will pay to Administrator (and Administrator shall pay to Client) amounts equal to the Rebate amounts allocated to Client, as specified above, from PBM's general assets (neither Client, its Members, nor Client's Plan retains any beneficial or proprietary interest in PBM's general assets). Client acknowledges and agrees that neither it, its Members, nor its Plan will have a right to interest on, or the time value of, any Rebate payments received by PBM during the collection period or moneys payable under this Section. No amounts for Rebates will be paid until this Agreement, including any applicable Client Application, is executed by Client. PBM and Administrator will have the right to apply Client's allocated Rebate amount to unpaid Fees. PBM will retain Manufacturer Administrative Fees on Specialty Products.

4.2 PBM reserves the right to adjust the Rebate guarantees if Rebate revenue is materially decreased because Brand Drugs move off-patent to generic status or due to a change in applicable law.

4.3 Client acknowledges that it may be eligible for Rebate amounts under this Agreement only so long as Client, its affiliates, or its agents do not contract directly or indirectly with anyone else for discounts, utilization limits, Rebates or other financial incentives on pharmaceutical products or formulary programs for Prescription Drug Claims processed by PBM pursuant to the Agreement, without the prior written consent of PBM. In the event that Client negotiates or arranges with a pharmaceutical manufacturer for Rebates or similar discounts for any Covered Drugs hereunder, but without limiting PBM's right to other remedies, PBM may immediately withhold any Rebate amounts earned by, but not yet paid to, Client as necessary to prevent duplicative Rebates on Covered Drugs. To the extent Client knowingly negotiates and/or contracts for discounts or Rebates on claims for Covered Drugs without prior written approval of PBM, such activity will be deemed to be a material breach of this Agreement, entitling PBM to suspend payment of Rebate amounts hereunder and to renegotiate the terms and conditions of this Agreement.

4.4 Under its Rebate program, PBM may implement PBM's Formulary management programs and controls, which may include, among other things, cost containment initiatives, and communications with Members, Participating Pharmacies, and/or physicians. PBM reserves the right to modify or replace such programs from time to time. Guaranteed Rebate amounts, if any, set forth herein, are conditioned on adherence to various Formulary management controls, benefit design requirements, claims volume, and other factors stated in the applicable pharmaceutical manufacturer agreements, as communicated by PBM to Client from time to time. If any government action, change in law or regulation, change in the interpretation of any law or regulation, or any action by a pharmaceutical manufacturer has an adverse effect on the availability of Rebates, then PBM and Administrator may make an adjustment to the Rebate terms and guaranteed Rebate amounts, if any, hereunder.

4.5 Rebate Acknowledgment; No Representation; Rebate Limitations. Client acknowledges that Administrator is not making any representation, warranty or guarantee of any kind or nature, either express, implied or otherwise, regarding the amount of Rebates to be paid or remitted to Client pursuant to this Agreement, except as specifically set forth in writing herein. In addition, Client waives, releases and forever discharges PBM and Administrator from any Losses arising from a pharmaceutical company's (a) failure to pay Rebates; (b) breach of an agreement related to Rebates; or (c) negligence or misconduct affecting Rebates. Client acknowledges that whether and to what extent pharmaceutical companies are willing to provide Rebates to Client may depend upon a variety of factors, including the content of the PDL, the Plan Design, Client meeting criteria for Rebates, and the extent of participation in PBM's formulary management programs, as well as PBM/Administrator receiving sufficient information regarding each Claim for submission to pharmaceutical companies for Rebates. Client acknowledges and agrees that PBM may, but shall not be required to, initiate any collection action to collect any Rebates from a pharmaceutical company. In the event PBM does initiate collection action against a pharmaceutical company to collect Rebates, PBM may offset any reasonable costs, including reasonable attorneys' fees and expenses, arising from any such action. Notwithstanding any provision of this Agreement to the contrary, Administrator shall only be responsible for payment of Rebates to Client pursuant to the terms of this Agreement if such Rebates are actually received by Administrator during the Term of this Agreement. In no event shall Administrator be obligated to pay Rebates to Client until Administrator receives payment for the same Rebates from PBM. In the event Client terminates the Agreement outside the terms and conditions in the Agreement, Client forfeits the right to receive any Rebates received by Administrator on Client's behalf after the date of such termination or notice of termination. Client acknowledges that Administrator shall not be obligated to pay Client any Rebates described herein until this Agreement, including any applicable Client Application, and any amendment(s) or addenda to this Agreement or Client Application, is signed by Client. PBM and Administrator reserve the right to apply Client's allocated Rebate amount to unpaid Fees.

5. Rebate amounts paid to Client pursuant to this Agreement are intended to be treated as "discounts" pursuant to the federal anti-kickback statute set forth at 42 U.S.C. §1320a-7b and implementing regulations. Client is obligated if requested by the Secretary of the United States Department of Health and Human Services, or as otherwise required by applicable law, to report the Rebate amounts and to provide a copy of this notice. PBM will refrain from doing anything that would impede Client from meeting any such obligation.

6. Notwithstanding anything in the Agreement to the contrary, in the event PBM does not receive a manufacturer payment for a particular Brand Drug claim due to its identification by a pharmaceutical manufacturer as being a 340B eligible claim (even where such claim may not meet the definition of a "340B Claim"), ESI may reduce a subsequent Rebate quarterly payment (or reconciliation payment, if applicable) to account for any previously-paid Rebate amounts attributable to such claim up to one year after the Claims date of service.

E. MISCELLANEOUS

1. Member Cost Share. Administrator may, but shall not be obligated to, dispense or cause to be dispensed a prescription even if the prescription is not accompanied by the applicable Member Cost Share described above in this Exhibit A. Administrator will refund any amount submitted by a Member in excess of the Member's applicable Member Cost Share. In the event a Member submits an insufficient Member Cost Share and the Member fails to remit the balance of the Member Cost Share amount to Administrator (or its designee) within thirty (30) days of Administrator's (or its designee's) request, then Administrator shall have the right to invoice Client for, and Client shall have an obligation to pay Administrator (or its designee), the amount of the uncollected Member Cost Share(s). Client shall, in turn, have the right to recover uncollected Member Cost Shares from its Members at Client's determination. Shipping of prescriptions submitted without the appropriate Member Cost Share may be delayed.

2. Additional Optional Services: Charges for additional optional services not otherwise identified and priced in this Exhibit A (Client Application) shall be quoted upon request and/or as applicable. The Parties acknowledge that the arrangement between Administrator and PBM is a pass-through arrangement. To the extent Client requests or PBM administers services of PBM that are not outlined in this Agreement, Administrator will pass through any such charges from PBM to Client.

3. Translation Services. To the extent Client requests translation services from Administrator or PBM (for translating member materials, brochures, etc.) and there is a charge from Administrator's or PBM's translation services provider, such charge will be passed through to Client.

4. RESERVATION OF RIGHTS. Administrator expressly reserves (and Client hereby confirms, acknowledges and agrees to such reservation) the right to modify or amend financial provisions in this Agreement (including without limitation this Client Application/Exhibit A) in the event of:

   4.1 A change in the scope of services to be performed by Administrator or PBM or the assumptions upon which the financial provisions included in this Agreement are based (including PBM's pricing provided to Administrator) and/or: (1) any new – or change in existing – state or federal law or regulation, or the interpretation thereof, and/or; (2) any government imposed or industry wide change that would impede Administrator's ability to provide the pricing described in this Agreement, including without limitation any prohibition or restriction on the right of Administrator or any third party's ability to receive rebates from PBM and/or pharmaceutical manufacturers.

4.2 Implementation or addition of a high deductible health plan/consumer-driven health plan option.

4.3 Implementation or addition of a 100% Member paid plan.

4.4 A change in the coverage of Medicare eligible Plan Participants, irrespective of the resulting change in total number of Members.

4.5 A change to the methodology by which AWP is calculated or reported.

4.6 A change in PBM's PDL or the PBM Prescribing Guide or Administrator's alignment with such PDL or PBM Prescribing Guide. In any event, Administrator will use its commercially reasonable efforts to provide Client with 30 days' notice prior to addition or removal of a drug from the PDL or PBM's Prescribing Guide. In the event safety concerns or regulatory action require PBM to remove a drug sooner, Administrator shall notify Client of the removal of a drug from the PDL or the Prescribing Guide within three (3) business days.

4.7 Termination of Administrator's contractual arrangement with PBM.

F. DEFINITIONS

Effective as of the Addendum Effective Date, the following definitions are either deleted and replaced with the following or added to the Agreement, as applicable:

1. "Brand Drug" means a prescription drug identified as such in ESI's master drug file using indicators from First Databank (or other source nationally recognized in the prescription drug industry used by ESI for all clients) on the basis of a standard Brand/Generic Algorithm utilized by ESI for all of its clients, a copy of which may be made available for review by Administrator, Client, or its Auditor upon request. Notwithstanding the foregoing, certain prescription drug medications that are licensed and then currently marketed as brand name drugs, where there exists at least one (1) competing prescription medication that is a generic equivalent and interchangeable with the marketed brand name drug, may process as "Generic Drugs" for Prescription Drug Claim adjudication and Member Copayment purposes.

2. "Non-Drug Claims" means a product or supply that does not have a drug component and can be identified utilizing Express Scripts proprietary list of non-drug NDCs.

G. EXECUTION BY CLIENT

Client hereby represents and warrants that the information contained in Section A of this Client Application is true and correct in all respects and Client hereby agrees to the specific terms, conditions and financial arrangements set out in this Exhibit A (Client Application). Client agrees that if any information in Section A changes, Client will give Administrator prompt notice of such changes. Furthermore, Client understands that this Exhibit A (Client Application) is a part of the Administrative Services Agreement between Client and Administrator to which it is attached and incorporated into by reference and that Client is bound by all terms and conditions of such Administrative Services Agreement.

All capitalized terms used in this Exhibit A (Client Application) but not specifically defined herein shall have the meanings given to such terms in the Administrative Services Agreement to which this Exhibit A (Client Application) is attached and made a part of.

IN WITNESS WHEREOF, Client has caused this Exhibit A (Client Application) to be executed as of the Addendum Effective Date. In the event this Client Application is amended by the Parties after the Addendum Effective Date, the Parties may substitute such amended Client Application for the former Client Application, provided the Parties set forth the date from and after which such amended Client Application shall be effective. Any such amended Client Application must be signed by Client's authorized representative and acknowledged, agreed to, accepted and dated by Administrator's authorized representative.

CLIENT:

City of Orange Beach

By: ______________________

Printed Name: Ford Handley

Its: ______________________

Acknowledged, agreed to and accepted by:

ADMINISTRATOR:

RxBenefits, Inc.

By: ______________________

Printed Name: Lauren Simmons

Its: Vice President of Compliance & Legal Affairs

DocuSign

Certificate Of Completion

Envelope Id: 19957971094D48878E06079BEA1CEA02
Status: Sent
Subject: FOR CLIENT SIGNATURE: Addendum to ASA between City of Orange Beach and RxBenefits
Source Envelope:

Document Pages: 20	Signatures: 0	Envelope Originator:
Certificate Pages: 5	Initials: 0	Docusign
AutoNav: Enabled		3700 Colonnade Parkway
EnvelopeId Stamping: Enabled		Suite 600
Time Zone: (UTC-08:00) Pacific Time (US & Canada)		Birmingham, AL 35243
		docusign@rxbenefits.com
		IP Address: 35.185.192.36

Record Tracking

Status: Original 3/15/2023 10:24:08 AM	Holder: Docusign docusign@rxbenefits.com	Location: DocuSign

Signer Events	Signature	Timestamp
Ford Handley fhandley@orangebeachal.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 4/13/2023 6:17:24 AM ID: 6ff6670d-a20b-4823-9e2e-a1fb91aa0b7f		Sent: 4/13/2023 5:26:28 AM Viewed: 4/13/2023 6:17:24 AM
Lauren Simmons lsimmons@rxbenefits.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
abice@rxbenefits.com abice@rxbenefits.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 9/28/2021 12:15:44 PM ID: fb3c748f-f9b9-4071-bc55-10c28fb96b53	COPIED	Sent: 3/15/2023 10:24:10 AM Viewed: 3/15/2023 10:39:00 AM
dleipert@rxbenefits.com dleipert@rxbenefits.com Paralegal Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 3/15/2023 10:24:10 AM Viewed: 3/15/2023 11:09:00 AM

Carbon Copy Events	Status	Timestamp
hslaughter@rxbenefits.com hslaughter@rxbenefits.com Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	COPIED	Sent: 3/15/2023 10:24:10 AM
Tiffany Powers tpowers@cobbsallen.com Senior Client Executive Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 4/12/2023 5:01:28 AM ID: a153e517-de48-4545-a1f7-77cfb004efa2	COPIED	Sent: 4/13/2023 5:26:29 AM Viewed: 4/13/2023 5:29:24 AM

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	3/15/2023 10:24:10 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, RxBenefits, Inc. (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the Ã¦I agreeÃ† button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign Ã´Withdraw ConsentÃ¶ form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact RxBenefits, Inc.:
You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: lsimmons@rxbenefits.com

To advise RxBenefits, Inc. of your new e-mail address
To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at lsimmons@rxbenefits.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..
In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.
To request paper copies from RxBenefits, Inc.
To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to lsimmons@rxbenefits.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.
To withdraw your consent with RxBenefits, Inc.
To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
ii. send us an e-mail to lsimmons@rxbenefits.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

Operating Systems:	Windows2000Â¬ or WindowsXPÂ¬
Browsers (for SENDERS):	Internet Explorer 6.0Â¬ or above
Browsers (for SIGNERS):	Internet Explorer 6.0Â¬, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
Screen Resolution:	800 x 600 minimum
Enabled Security Settings:	Ã² Allow per session cookies Ã² Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.
Acknowledging your access and consent to receive materials electronically
To confirm to us that you can access this information electronically, which will be similar to

other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the Ã¦I agreeÃ† button below.
By checking the Ã¦I AgreeÃ† box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and

- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and

- Until or unless I notify RxBenefits, Inc. as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by RxBenefits, Inc. during the course of my relationship with you.

RESOLUTION NO. 23-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	CELL PHONES	LOT	
ADMIN	FILING CABINETS	2	DONATE TO SCHOOL
ADMIN	MISCELLANEOUS FURNITURE	LOT	CHAIRS, TABLES, CABINETS, MIRRORS
ADMIN / LOGISTICS	2006 DODGE RAM 1500 PICKUP TRUCK (#734)	1	VIN 1D4HA18P26J179562
ADMIN / LOGISTICS	2005 DODGE RAM 2500 PICKUP TRUCK (#791)	1	VIN 3D7KR28D75G805889
ADMIN / LOGISTICS	MILITARY GENERATORS	2	
COASTAL RESOURCES	1997 FORD F800 TRUCK (#438)	1	VIN 1FDNF80C8VVA21228
COASTAL RESOURCES	1993 GMC U-HAUL TRUCK (#1063)	1	VIN 1GDE6H1P9PJ509972
COASTAL RESOURCES	1989 INTERNATIONAL U-HAUL TRUCK (#1064)	1	VIN 1HTJUZRK3KH675480
COASTAL RESOURCES	WIND SURF BOARDS	2	
COASTAL RESOURCES	WINDSURFING GEAR	LOT	SAILS, SPARS, ETC.
COASTAL RESOURCES	SAILING CANOE PARTS	LOT	RUDDER, FLOAT BAGS, ETC.
EXPECT EXCELLENCE	2006 FORD E350 15 PASSENGER VAN (#804)	1	VIN 1FBSS31L26DA42723
PARKS / MUSEUM	MISCELLANEOUS MUSEUM ITEMS	1	NOT TRUE ORANGE BEACH ARTIFACTS
PERFORMING ARTS	2005 FORD EXPLORER SUV (#107)	1	VIN IFMZU72J25ZA75445
POLICE	2008 CHEVROLET TAHOE 4WD SUV (#256)	1	VIN 1GNFK03008R185052
PUBLIC WORKS	2001 CHEVROLET SILVERADO 1500 PICKUP TRUCK (#850)	1	VIN 1GCEC14W61Z254052
PUBLIC WORKS	2003 FORD F150 PICKUP TRUCK (#736)	1	VIN 1FTRF17WX3NA81473

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 Orange Beach City School System has expressed interest in surplus filing cabinets.

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 two (2) filing cabinets to the Orange Beach City Board of Education on behalf of the City of Orange Beach; and

5. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 2nd DAY OF MAY, 2023.

____
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. 23-xxx, which was duly and legally adopted at a regular meeting of the City Council on May 2, 2023.

____
City Clerk

RESOLUTION NO. <u>23-xxx</u>

A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH MINT DECOR LLC FOR INTERIOR DESIGN OF CITY HALL

FINDINGS:

1. The City of Orange Beach and MINT Decor LLC have reached an agreement (attached Exhibit A) whereby MINT Decor LLC will provide interior design services for the City of Orange Beach.
2. The Agreement authorizes a scope of work related to interior design of City Hall.
3. 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 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 MINT Decor 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 2nd DAY OF MAY, 2023.

____
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. 23-xxx, which was duly and legally adopted at a regular meeting of the City Council on May 2, 2023.

____
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 MINT Decor LLC (hereinafter "Contractor"), as follows:

WHEREAS, Contractor is engaged in the business of developing an interior and design concept for three lobbies, break room, hallway, entryway and various spaces throughout City Hall;

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 interior design services, and to represent the City as requested as their 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: visiting the property to establish personal preferences, budget and areas to be included in scope of project; taking necessary measurements, photos, and discussing timelines; and developing an interior and design concept for three lobbies, break room, hallway, entryway and various spaces throughout, as required by the City, and other services as requested.

II. COMPENSATION

Fees for work completed and reimbursable expenses will be invoiced to the City on a monthly basis, with a fixed Design Fee of $1,500.00, plus the cost of approved materials. A storage fee of $150.00/month will be charged if renovation and/or new build completion date exceeds 30 days from initial completion date.

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 until completion of the renovation.

IV. GENERAL PROVISIONS

A. The City understands that all custom design orders are final sale, and cost of the item will not be reimbursed if revisions to the item are requested.

B. Contractor shall remain in ownership of the design, including all design boards, drawings, samples, other material prepared by us during the project. Design Boards are property of Mint Décor LLC until down payment has been received.

C. Contractor will make every effort to procure merchandise shown in the presentation and subsequently approved. Contractor reserves the right to reselect items that are backordered or discontinued.

D. During the development of the design concept, Contractor shall make a reasonable amount of revisions without additional charge. If revisions are requested after design approval by the City, an additional fee shall be charged.

E. Contractor agrees to permit at all reasonable times and places an audit of its books and records by City's duly authorized representatives.

F. 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.

G. Contractor shall act as a representative 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. 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.

M. 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.

N. All notices of cancellation, requests, demands, or other communications shall be in writing and duly delivered to the following address for City at:

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

Copy to: City Attorney

And to Contractor at:

MINT Decor
12 Market Street
Orange Beach, Alabama 36561

O. 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.

P. 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.

Q. The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rending 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.

R. 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.

S. 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:

____
City Clerk

CONTRACTOR:

MINT Decor LLC

By: ____
Ardie Pearce

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_____________, 2023.

____
Notary Public
(SEAL) 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 Ardie Pearce, whose name as Principal of MINT Decor LLC, 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, 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 this the__________day of_____________, 2023.

____
Notary Public
(SEAL) State of Alabama At-Large
My Commission Expires: ________________________

RESOLUTION NO. 23-xxx

A RESOLUTION ADOPTING A FINANCIAL MANAGEMENT POLICY FOR THE CITY OF ORANGE BEACH

FINDINGS:

1. A Financial Management Policy is recommended by the City's auditors for the purpose of providing direction in budgeting, reserve balances, debt management and accounting, auditing, and financial reporting practices.
2. After having reviewed said agreement, the City Council has determined that a Financial Management Policy 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 Financial Management Policy for the City of Orange Beach is hereby established to read as per the attached Exhibit A; and
2. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 2nd DAY OF MAY, 2023.

____
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. 23-xxx, which was duly and legally adopted at a regular meeting of the City Council on May 2, 2023.

____
City Clerk

POLICY # 8.22	
Subject	Financial Management Policy
Date Adopted	
Agenda Item	
Obsolete Versions	N/A

POLICY STATEMENT

The purpose of this document is to serve as an all-encompassing financial management policy for The City of Orange Beach (the "City"), which will provide direction in budgeting, reserve balances, debt management and accounting, auditing, and financial reporting practices. Moreover, this will provide recommended methods to accomplish and adhere to the proposed procedures contained herein. This policy document will create, manage, and ensure ongoing adherence to a purposeful, planned, and deliberate set of guidelines to create both operating and restricted accounts. A conservative approach should be followed when dealing with public funds.

PROCEDURAL REQUIREMENT

In order to carry out this policy, the following steps must be taken:

BUDGETARY POLICY PROCEDURES:

1. **Budget Preparation.** The Finance Director prepares an annual budget for each fiscal year of the City. The budget process begins in August of each year when the heads of the various city departments are presented with reports assisting them to prepare and submit budget requests for the immediately succeeding fiscal year. The departmental requests are submitted to and reviewed by the Finance Director upon receipt thereof and public budget deliberations are conducted by the City Council in October and November to provide an opportunity for department managers to present information on their budgets and to offer comments with respect to the

proposed budget. During the deliberations, the City Council may modify any departmental budget request to such extent as it deems appropriate.

2. **<u>Revenue Estimates</u>.** Budgeted revenues are based on statistical computation of past collections from the previous 5 years, applied to current revenue trends. Tools utilized for the establishment of these trends include property tax abstracts and other statistical revenue data from current collections. Any growth projections are to be conservative in nature.

3. **<u>Adoption of Budget</u>.** The City Council is required to adopt the annual budget no later than December 31 of each year. The appropriations must not exceed the total revenues and reserves available for appropriation. Expenditures may not legally exceed budgeted appropriations. Adjustments to the Budget during the fiscal year must be approved by the City Council. Any changes must be within the revenues and reserves estimated to be available, or as approved by the City Council.

4. **<u>Budgeting Administration</u>.** Formal budgeting integration is used during the fiscal year as a management control device for the City's General Fund, Special Revenue Funds, Debt Service Funds and Capital Project Funds. The budget is adopted on a departmental "line-item" basis consistent with generally accepted accounting principles. The City Clerk at the request of a department head, may let for bid any routine annual purchase or any equipment purchase or contract which is specifically identified in the annual budget. All contracts must be approved by the City Council before execution and must comply with Purchasing Policy. The City of Orange Beach's expense items are classified in three broad categories: Compensation, Operations, and Capital. The compensation and capital categories are supported by detailed lists of employees by position and approved capital items. The operating category contains many and varied line items. For budgetary control, this operating category will be treated as a total although each department has a detailed line-item budget. City staff members are prohibited from encumbering any funds in these broad categories which exceed the budgeted amounts. The Finance Director or designee may make transfers between "operating" line items. Further budget control is maintained by prohibiting transfers between the compensation, operations, and capital categories without the consent of the Council at a regularly scheduled meeting by resolution spread upon its minutes.

DEBT MANAGEMENT POLICY:

1. **<u>Purpose</u>.** The purpose of this policy is to establish the guidelines for the issuance of debt by the City. Debt levels and the related annual debt service expenditures are important long-term obligations that must be managed with available short and long-term resources. This policy also addresses the level of indebtedness that the City can reasonably expect to incur without jeopardizing its existing financial position. Adherence to a debt management policy, along with the utilization of other sound and prudent financial practices and the City's other financial policies, will assure the lending market that the City is well managed and will meet its obligations in a timely manner.

2. **Principles.** The City's debt management policy seeks to encourage the following principles:

   a. Complete payment of principal and interest on all outstanding debt.

   b. The payment of City debt will be secured by full faith, credit and taxing power held by the City, in the case of general obligation warrants and by the pledge of specific, limited revenues in the case of revenue warrants. The City may also issue warrants through a public building authority (or other appropriate issuer) secured by an annual appropriation lease (or other revenue source). On occasion the City or a political subdivision thereof may serve as a conduit to other issuers. The City will not pledge revenues to these conduit issuers and will have no obligation, moral or legal, to repay conduit debt issued under the authority of the City, except as approved by the City Council.

   c. Principal and interest retirement schedules will be constructed to: (1) achieve a low borrowing cost to the City, (2) accommodate the debt service payments of existing debt, and (3) respond to market conditions at the time of sale.

   d. Factors which the City will consider prior to the issuance of debt include:
      i. Does the useful life of assets being financed exceed the term of the financing?
      ii. Are financial resources available, sufficient, and reliable to service both the existing and new debt?
      iii. Will the issuance of debt adversely affect the City's credit ratings, and if so, how can that best be mitigated?
      iv. The City will strive to manage its debt level, operating performance, reserves, and management practices to maintain strong credit ratings, and minimize its cost of capital. As of 2021, the County's general obligation debt is rated S&P: AA+ and Moody's: Aal.
      v. The proposed uses of the debt should be expended within 3 years.

   e. The City reserves the right to conduct a negotiated or competitive sale in the future depending on market conditions. All methods of sale are subject to City Council approval.

3. **Planning and Performance**. Debt management means adopting and maintaining financial plans for both the issuance and repayment of debt. Planning for the repayment of debt will include analysis of the operating budget to determine if the fund will incur the additional debt service required by the new debt.

4. **<u>Use of Short-Term and Long-Term Debt.</u>** Short-term debt should be limited to borrowing to cover short-term, temporary cash flow shortages within the City's fiscal year using tax anticipation notes in those instances where there is an inadequate level of cash flow or using bond anticipation notes when cash is required to initiate a capital project prior to the receipt of bond proceeds. The City Council should manage the City's finances to avoid the use of short-term debt when possible. Long-term debt should be issued for the acquisition, construction, or improvement of land, buildings, infrastructure, and public improvements when the use of debt is appropriate and within the principles outlined above. Current year budget appropriations and accumulated reserve funds may be used to minimize the amount of long-term borrowing that is required, but, keeping in mind that the City must maintain adequate liquidity and reserves.

5. **<u>Purpose of Debt</u>.** General obligation debt and annual lease appropriation debt funded by general fund receipts and other appropriate sources shall be used for projects that provide a general benefit to City residents and that cannot otherwise be self-supporting. Debt incurred for use by an enterprise fund, even if backed by a general obligation pledge of the City, should be self-supporting and repaid from the revenues of such fund, unless a general benefit to City residents can be demonstrated.

6. **<u>Repayment of Debt</u>.** The City Council will conservatively project the revenue sources that will be utilized to repay any debt and will analyze the impact of both the additional debt service as well as any additional operating expenses resulting from the improvement, to determine if new debt should be issued and to structure the appropriate repayment terms for each debt issue.

7. **<u>Use of Variable Rate Debt, Balloon Payments, etc.</u>** The City Council recognizes the use of variable rate debt, balloon payments, derivative products such as interest rate swaps, carries additional risks. While this policy does not preclude the use of such options, additional considerations apply:

    a. Generally, fixed rate debt should be preferred over variable rate debt. However, at times there may be considerations which favor variable rate debt. If variable rate debt is utilized, it should be limited to no more than 5% of the City's total debt.

    b. Balloon payments pose future refinancing, and interest rate, risks. Before incorporating balloon payments into a financing structure, the City should consider its ability to pay the balloon payment from its reserves in the event a refinancing was not available or advantageous. The size of the balloon payment, its timing, and the window of opportunity to refinance prior to the balloon, are all relevant considerations.

RESERVE BALANCES POLICY:

1. **<u>Purpose</u>.** The City Council believes that sound financial management requires that sufficient funds be maintained by the City for unanticipated expenditures and revenue shortfalls during the fiscal year as may be caused by economic downturns in local/state/federal levels, natural disasters, and other unforeseen circumstances. Maintaining such funds will help sustain the stability of the City's finances and reduce the need for short-term borrowing.

2. **<u>Objective</u>**. The City Council's objective is for twenty percent (20%) of general fund budget expenditures to be set aside as a reserve in a planned and consistent manner and that these moneys may not be spent for regular City expenditures to maintain the City's creditworthiness.

3. **<u>Reserve Balance Expenditures</u>**. The reserve balances will be established by the City Council for the purpose of covering unanticipated revenue shortfalls and paying non-recurring, unanticipated expenditures and capital expenditures of the City or as otherwise approved by the City Council. To this end, the City Council prefers to use the reserve balances to alleviate unanticipated short-term budgetary issues such as revenue shortfalls or unforeseen expenses. Any expenditure of the reserve balances by the City Council for such purposes shall require a majority approval of the City Council members.

4. **<u>Reserve Fund Appropriations.</u>** Annually, the City Council will propose funding of the contingency reserve balances through the budget to maintain the balance at the minimum amount. If expenditures reduce the contingency reserve balance below the established minimum amount, the City Council will, as part of its approval of such expenditures, adopt a plan to restore the funds to the prescribed level. Fund Balance reserves shall be evaluated annually to provide necessary citizen services while maintaining strong financial position.

CONSTRUCTION PROGRAMS FUND POLICY

1. **<u>Purpose</u>**. The purpose of the Construction Programs Fund Policy is to establish and maintain dedicated funds to be annually budgeted, funded and used for new facilities or facility improvements. The overall goal of the Construction Programs Fund Policy is to order the City's fiscal expenditures while coordinating public investment with adopted plans and policies to properly manage the City's long-term investments.

2. **<u>Capital Improvements Budget.</u>** The City will prepare and adopt a Capital Improvements Budget which will detail planned capital projects over a five-year period. The Capital Improvements Budget will detail for each capital project, the estimated project cost, description, and funding source. The Capital

Improvements Budget will be adopted in conjunction with the annual budget.

3. **Capital Improvement Project Requirements**. All capital improvement projects must be justified based on providing a basic service, improving or rehabilitating deteriorating facilities, reducing costs, promoting jobs or economic development, or otherwise benefiting a large population segment or target area of the City. They must also be compatible with other planned projects and overall City development plans.

4. **Construction Programs Fund**. The City may if deemed necessary and/or beneficial, establish one or more dedicated funds to service capital improvement projects undertaken by the City. Funds in the Construction Programs Fund(s) shall be restricted in use to capital improvement projects of the City.

5. **Funding Sources.** The Construction Programs Fund(s) shall be funded through appropriations from the City Council on an annual basis. All capital improvement projects of the City shall be funded from the Construction Programs Fund(s) unless specifically financed from other sources such as City warrants, notes or other indebtedness, or other revenue sources specifically dedicated to such projects. All uncompleted projects must be reconsidered annually to determine if unspent funds need to be recommitted to a given project or reallocated to other planned projects.

6. **Budget Shortfalls.** Notwithstanding anything herein to the contrary, in the event of an operating budget or General Fund shortfall, the funds from the Construction Programs Fund(s) may be transferred into the County General Fund to alleviate in whole, or in part, such shortfall.

ACCOUNTING, AUDITING AND FINANCIAL REPORTING POLICY

1. **Purpose**. The purpose of this Accounting, Auditing and Financial Reporting Policy is to establish and maintain high standards for accounting practices in the City, thereby enabling the City Council, the City Administrator, Finance Director, and the City Clerk to make sound decisions in preparing and adopting the City budget and managing City finances.

2. **Accounting**. The accounting practices of the City will conform to Generally Accepted Accounting Principles for local governments as established by the Governmental Accounting Standards Board. The Finance Director will establish and maintain a system of fund accounting and shall measure financial position and results of operations using GASB approved methodologies and practices.

3. **Auditing**. The City Council complies with state mandated requirements that annual audits be conducted by the Alabama Department of Examiners of

Public Accounts.

4. **Monthly and Annual Financial Reporting**. Monthly financial reports are generated for the City Council's management purposes. These will consist of:

   a. Budget Report showing revenues collected and appropriations expended for the previous month with the variance from the budget amounts for each line item.

   b. Statement of Revenue, Expenditures, and Changes in Fund Balance showing revenues and expenditures and the difference between the two, the beginning fund balance for the period, the ending fund balance; and

   c. Balance Sheet showing City assets less liabilities and the fund balance.

The Finance Director will prepare an annual financial report. This report should include financial statements for each of the funds of the City, as well as appropriate additional disclosures as necessary for the complete understanding of the financial statements presented. In addition, for each item that exceeds a 10% variance from the previous year, the report should include a narrative discussion to explain how the City's current financial position and results of financial activities compare with those of the prior year and with budgeted amounts. This process is completed by the auditors during their financial audit process. Input from the entire management team is essential.

POST ISSUANCE COMPLIANCE POLICY

1. **Continuing Disclosure Requirements.** The Finance Director shall maintain and ensure compliance with all continuing disclosure requirements as provided for by the City's outstanding debt obligations, including but not limited to, the posting of the City's audited financial statements to the City Website at orangebeachal.gov or other such repository as designated by the City's continuing disclosure requirements set forth in the City's outstanding debt obligations or coordinating such filings with a dissemination agent engaged by the City for such purpose.

2. **Issuance of Tax-Exempt Obligations.** Upon the issuance of tax-exempt obligations by the City, the Finance Director shall (i) confirm with bond counsel the filing of all related forms with the Internal Revenue Service, and (ii) obtain and keep the transcript of proceedings prepared by bond counsel.

3. **Recordkeeping**. The following records shall be maintained by the City Clerk with respect to the issuance of City obligations:

a. Transcript of proceedings:
   i. Documentation evidencing the allocation and expenditure of the proceeds of the obligations.
   ii. Documentation evidencing the use of facilities financed with tax exempt proceeds.

   iii. Documentation relating to arbitrage rebate compliance; and
   iv. Continuing annual disclosures.

4. **Arbitrage Rebate and Arbitrage Yield Restriction.** Relating to the issuance and monitoring of outstanding tax-exempt obligations of the City, the Finance Director shall:

   a. Engage the services of an arbitrage/rebate consultant for assistance in compliance with any arbitrage related issues; this consultant may be the bond counsel, financial advisor, or other qualified entity or individual.

   b. Work with bond counsel, financial advisor and/or arbitrage/rebate consultant to monitor compliance with "temporary period expenditures" for expenditure of warrant proceeds, typically three years for new money obligations, and provide for yield restriction of investments or "yield reduction payments" if exceptions are not satisfied.

   c. Work with bond counsel and/or financial advisor to ensure investments acquired with tax-exempt obligation proceeds are purchased at fair market value. This may include use of bidding procedures under the regulatory safe harbor (Section 1.148-5(d) of the Regulations).

   d. Consult with bond counsel prior to the creation of funds which would reasonably be expected to be used to pay debt service on tax-exempt obligations to determine in advance whether such funds must be invested at a restricted yield.

   e. Consult with bond counsel and/or financial advisor before engaging in post issuance credit enhancement transactions (e.g., bond insurance, letter of credit).

   f. Consult with bond counsel, financial advisor, and/or arbitrage/rebate consultant to identify situations in which compliance with applicable yield restriction depends upon subsequent investments (e.g., purchase of 0% SLGS from U.S. Treasury) and monitor implementation; and

   g. Work with arbitrage/rebate consultant to arrange for timely computation of rebate/yield reduction payment liability and, if an amount is payable, for timely filing of Form 8038T, Arbitrage Rebate, Yield Reduction and Penalty In lieu of Arbitrage Rebate (or applicable successor form), and payment of such liability. Rebate Yield Reduction payments are ordinarily due at 5-year intervals.

5. **Private Use of Facilities**. "Private Use" means the use of warrant-financed property in a trade or business by any person other than a 501(c)(3) or state or local government entity, or by a 501(c)(3) entity in an unrelated trade or business.

a. Examples of Private Use include:

i. Leases of government property to non-government entities.
ii. Noncompliant management or service contracts.
iii. Transfer of ownership to a private user of warrant financed facilities; and
iv. Naming rights arrangements with a private user.

While it is not anticipated that there will be a Private Use issue with respect to the warrant- financed facilities, if a question arises about a specific proposed Private Use, the Finance Director shall consult bond counsel as to whether such use constitutes a Private Use with respect to the outstanding tax-exempt obligations of the City. The Finance Director shall keep records of private use, if any, of facilities of the City financed with tax-exempt obligations. Private use of such facilities shall be reviewed once a year. If a change in private use occurs, bond counsel will be consulted to determine if remedial action is necessary.

FORMS/ATTACHMENTS/EXHIBITS

N/A

RESOLUTION NO. 23-xxx

A RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF GULF SHORES FOR AIRPORT AUTOMATIC MUTUAL AID

FINDINGS:

1. The City of Orange Beach and the City of Gulf Shores have reached an agreement (attached Exhibit A) whereby Gulf Shores Fire Rescue and Orange Beach Fire Rescue will provide automatic mutual aid upon dispatch by Baldwin County 911 for incidents related to the Gulf Shores International Airport.
2. After having reviewed said 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 Mayor and City Clerk are hereby authorized to execute and attest, respectively, the memorandum of understanding in substantially the form and of substantially the content now before the Council between the City of Orange Beach and the City of Gulf Shores, 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 2nd DAY OF MAY, 2023.

____
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. 23-xxx, which was duly and legally adopted at a regular meeting of the City Council on May 2, 2023.

____
City Clerk

CITY OF GULF SHORES ALABAMA

SMALL TOWN, BIG BEACH™

Memorandum of Understanding
Airport Automatic Mutual Aid

I. Upon receipt of an Aircraft Alert Classification of level 3 (Alert 3) or other indications of an actual aircraft crash or fire, Baldwin County 911 shall automatically dispatch Gulf Shores Fire Rescue and Orange Beach Fire Rescue for mutual aid.
II. This MOU shall apply whether the incident is on or off of an airport.
III. This agreement may be terminated by either party giving to the other party a thirty (30) day notice of termination in writing.

This agreement shall become effective on: ______________________

City of Orange Beach

Mayor ______________________ Date: ____________
Name and signature

Fire Chief Michael S Kimmerling ______________________ Date: 4/13/23
Name and signature

City of Gulf Shores

Mayor ______________________ Date: ____________
Name and signature

Fire Chief ______________________ Date: ____________
Name and signature

Post Office Box 299
Gulf Shores, AL 36547

RESOLUTION NO. 23-xxx

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR THE PENSACOLA AND PERDIDO BAYS ESTUARY PROGRAM

FINDINGS:

1. On November 6, 2018, City Council adopted Resolution No. 18-177 authorizing an interlocal agreement for the Pensacola and Perdido Bays Estuary Program.
2. The Pensacola and Perdido Bays Estuary Program is moving to nonprofit status and requires an updated agreement.
3. Pensacola Bay, Perdido Bay, and their associated waterways provide boating, fishing, hunting and other outdoor recreational and economic opportunities for citizens and visitors of Alabama and Florida.
4. Mismanagement of Pensacola Bay and Perdido Bay may exacerbate flooding and property loss, negatively impact water quality and estuarine habitat, negatively affect the local economy, and threaten the health, safety and welfare of Alabama’s and Florida's citizens and visitors.
5. In October of 2018, Escambia County, Santa Rosa County, and Okaloosa County, City of Gulf Breeze, City of Milton, City of Pensacola, and Town of Century, Florida; and Baldwin County, and the City of Orange Beach, Alabama (the “Parties”) entered into an Interlocal Agreement, as authorized by Section 163.01, Florida Statutes, et seq., and Alabama Code § 11-102-1, et seq., (1975), to cooperatively utilize their powers and resources in the most efficient and economical manner possible to develop and implement a Comprehensive Conservation & Management Plan (CCMP) to restore and protect the Pensacola Bay System and Perdido Bay System, and their associated watersheds as defined in Article I of the Interlocal Agreement (the “Estuary Program”).
6. This First Amended and Restated Interlocal Agreement will provide for the creation of a Florida not-for-profit corporation, governed by a corporate board of directors appointed by the Parties to represent them for the purpose of administering and carrying out the Estuary Program that has been successfully developed and implemented under the 2018 Interlocal Agreement.
7. Administering the Estuary Program through a not-for-profit corporation will provide for more efficient and flexible operations, with continued governance by the Parties’ appointed representatives who will serve as the board of directors of the corporation.
8. 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 Mayor is hereby authorized to execute the agreement (attached Exhibit A) in substantially the form and of substantially the content now before the Council between the City of Orange Beach and the aforementioned entities 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 2nd DAY OF MAY, 2023.

____

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. 23-xxx, which was duly and legally adopted at a regular meeting of the City Council on May 2, 2023.

____
City Clerk

FIRST AMENDED AND RESTATED
PENSACOLA AND PERDIDO BAYS ESTUARY PROGRAM
INTERLOCAL AGREEMENT

This Interlocal Agreement (hereinafter referred to as the "Agreement") is executed and made effective by and among: Escambia County, Santa Rosa County, and Okaloosa County, political subdivisions of the State of Florida; Baldwin County, a political subdivision of the State of Alabama (hereinafter referred to as the "Counties"); City of Gulf Breeze, City of Milton, City of Pensacola, and Town of Century, municipal corporations of the State of Florida; and City of Orange Beach, a municipal corporation of the State of Alabama (hereinafter referred to as the "Cities") (each being at times referred to as "Party" or "Parties").

WITNESSETH:

WHEREAS, the Florida Parties are authorized by Section 163.01, Florida Statutes, et seq., to enter into interlocal agreements and thereby cooperatively utilize their powers and resources in the most efficient and economical manner possible; and

WHEREAS, the City of Orange Beach is an Alabama Class 8 municipality vested with a portion of the state's sovereign power to protect the public health, safety, and welfare pursuant to *Alabama Code §*11-45-1 et seq. (1975), and has specific authority to enter into contracts with counties and municipal corporations for the joint exercise of their powers and resources pursuant to *Alabama Code* §11-102-1 et seq. (1975); and

WHEREAS, Baldwin County is a political subdivision of the State of Alabama which is vested with certain authority as provided by state law, which includes the authority to provide for and protect the public health, safety, and welfare in the exercise of enumerated powers, and pursuant to *Alabama Code* § 11-102-1, et seq., (1975), Baldwin County has the authority to enter into contracts with counties and municipal corporations for the joint exercise of any power or service that state or local law authorizes each contracting entity to execute individually, subject to the limitations set forth in applicable laws, rules and regulations, including, but not limited to, *Alabama Code* § 11-102-5 (1975); and

WHEREAS, the Florida political subdivisions of Escambia and Santa Rosa Counties and the Florida municipal corporations of the Cities of Gulf Breeze, Milton, and Pensacola entered into an interlocal agreement, *Restated Interlocal Agreement Establishing Local Funding Requirements for the Bay Area Resource Council*, on May 18, 1987, revised on July 22, 1997, and last revised on August 9, 2005, establishing the Bay Area Resource Council (hereinafter the "BARC") to ensure effective water resource planning, preservation, and coordination; and

WHEREAS, on August 31, 2017, the Parties were notified of intent to award funds to establish the Pensacola and Perdido Bays Estuary Program (hereinafter referred to as the "Estuary Program" or "Program") through a Cooperative Agreement between the Gulf Coast Ecosystem Restoration Council (hereinafter referred to as the "RESTORE Council") and the US Environmental Protection Agency's (USEPA) Gulf of Mexico Program (GMP); and

WHEREAS, the Estuary Program succeeds and absorbs the BARC's mission; and

WHEREAS, the Estuary Program is established to develop and implement a Comprehensive Conservation & Management Plan (CCMP) to restore and protect the Pensacola Bay System and Perdido Bay System, and their associated watersheds as defined in Article I; and

WHEREAS, this Agreement establishes the Estuary Program to develop and implement the CCMP through close cooperation with the Parties, local, state, and federal agencies, and the public for effective planning, restoration, and protection of the Pensacola Bay System and Perdido Bay System.

NOW, THEREFORE, in consideration of the mutual terms and conditions contained in this Agreement, the receipt and adequacy acknowledged by them, the Parties agree as follows:

ARTICLE 1 – PURPOSE OF AGREEMENT

1.1 Recitals: The recitals contained in the preamble of this Agreement are declared to be true and correct and are hereby incorporated into this Agreement.

1.2 Geographic Territory: The geographic territory of the Estuary Program shall include the Pensacola Bay System (Figure 1) and the Perdido Bay System (Figure 2) and their associated watersheds, including all bayous, bays, creeks, rivers, and streams contained within. The Pensacola Bay System includes: Blackwater Bay, East Bay, Escambia Bay, Pensacola Bay, and Santa Rosa Sound, as well as the Blackwater River, East River, Escambia River, and Yellow River. The Perdido Bay System includes: Bay La Launch, Big Lagoon, Perdido Bay, and Wolf Bay, as well as the Blackwater River, Perdido River, and Styx River. Collectively, the waterbodies in the geographic territory shall be referred to as the "Bay Systems".

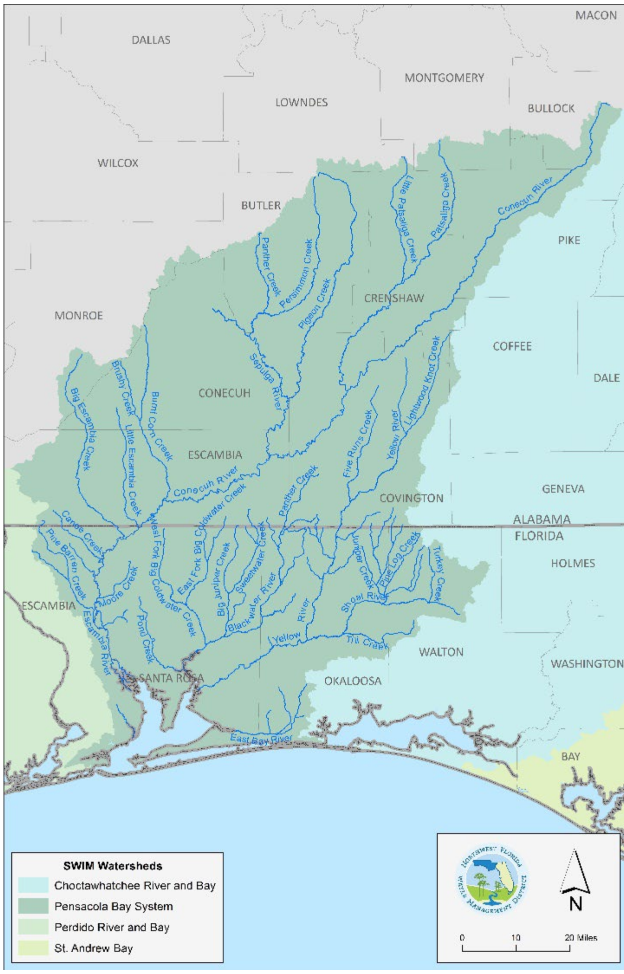

Figure 1: Pensacola Bay System

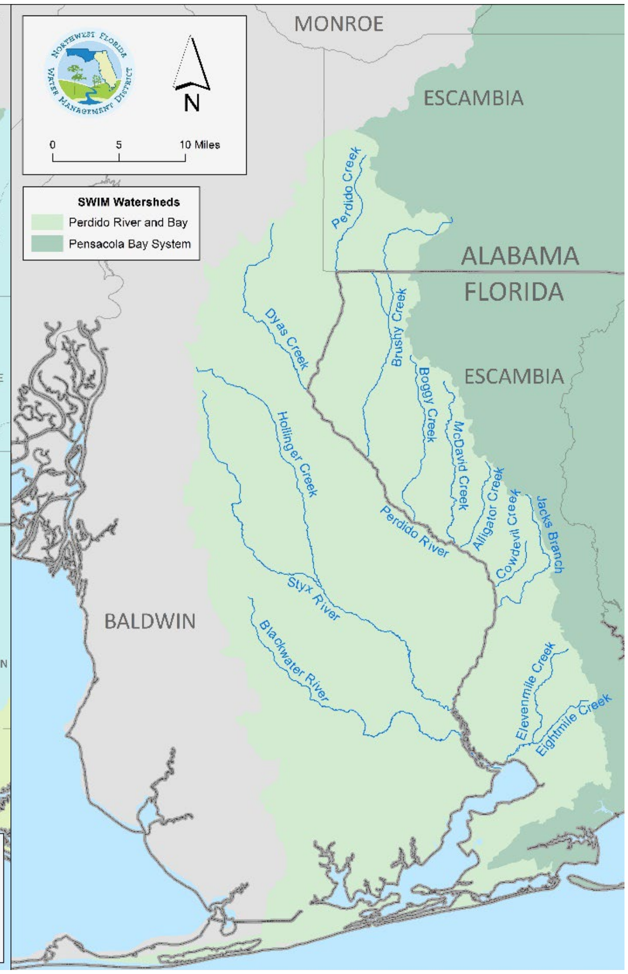

Figure 2: Perdido Bay System

1.3 Purpose: The Estuary Program will guide the development and implementation of a Comprehensive Conservation and Management Plan (CCMP) to improve water quality and living resources for the Bay Systems, as defined in section 1.2, through publicly identified outcomes and goals developed by the Parties, local, state, and federal agencies, and the public.

The Parties agree to work collaboratively and effectively on the development and implementation of the CCMP to meet the following outcomes:

a) Water quality improvement;
b) Restoration and conservation of habitat;
c) Healthy ecosystems that support wildlife and fisheries;
d) Improve surface and ground water quality and quantity, and flood control;
e) Enhance community resilience; and
f) Revitalize the coastal economy and quality of life.

ARTICLE 2 – AUTHORITY, COMPOSITION, AND POWERS

2.1 Authority: This Agreement is an interlocal agreement, as authorized by Section 163.01, Florida Statutes, et seq., (hereinafter referred to as the Act) and pursuant to the authority of subsection (4) of the Act, all Florida Parties qualify to be a part of this Agreement under such Act. The Alabama Parties have authority to enter into this agreement pursuant to applicable state law, including, but not limited to, *Alabama Code* § 11-102-1, et seq., (1975), subject to the limitations set forth in applicable law, rules and regulations, including, but not limited to, *Alabama Code* § 11-102-5 (1975). Collectively, such laws are hereinafter referred to as the "Enabling Acts."

2.2 Immunity: Pursuant to the Enabling Acts, and other laws, all privileges and immunities from liability, exemptions from laws, ordinances, and rules; and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents or employees of any public agents or employees of any public agency when performing their respective functions within the territorial limits for their respective agencies shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, or employees extraterritorially under the provisions of this Agreement.

2.3 Composition:

2.3.1 Creation of a Florida Not-for-Profit Corporation: Pursuant to the Act, an independent public body corporate and politic, to be known as the Pensacola and Perdido Bays Estuary Program, Inc., a Florida not-for-profit corporation (the "Corporation"), shall be created for the purpose of administering and carrying out the purpose of the Estuary Program.

2.3.2 Corporation Board: The Board of the Corporation shall serve as the Top Level Organizational Unit (TLOU) and be comprised of the Parties. Escambia County and Santa Rosa County will each appoint and be represented by two voting directors, all other Parties will each appoint and be represented by one voting director. Each Party will also appoint an alternate director for the Corporation Board from time to time to serve when their primary director is not available. Each Party may change their director or alternate director from time to time with prior written notice by a duly authorized representative of any change to the Corporation Board before any meeting. The Corporation Board shall have policy-making powers for the Estuary Program in addition to those powers explicitly set forth in this Agreement.

a) Meetings. The Corporation Board should convene not less than quarterly. Meetings should be convened as needed as described in the bylaws;

b) Quorum. Except as otherwise specifically set forth herein or in the bylaws, a quorum for Corporation Board meetings shall be a majority of the Corporation Board directors;

c) Officers. The Corporation Board shall elect (i) a chair and vice chair of the Corporation Board; and (ii) other Corporation Board officers as deemed necessary by the Corporation Board. Election processes and term limits shall be described in the bylaws;

d) Voting. Each director shall have one vote. Voting will be conducted in person to the maximum extent possible, and other voting processes and criteria shall be described in the bylaws;

e) No compensation. All directors of the Corporation Board shall serve without compensation; and

f) Additional Board Members. The Corporation Board may allow other governmental entities, regulatory agencies, or other entities, to the extent allowed by law, to participate as members of the Corporation Board, provided they are approved by a supermajority vote of the Corporation Board. Upon approval, such Party must execute a Joinder Agreement by which it agrees to comply with all the provisions of this Agreement.

2.3.3 Committees: At the direction of the Corporation Board, the Corporation Board or Estuary Program staff may establish or terminate committees as it deems necessary including, without limitation, the Technical Committee, the Community Committee, the Education Committee, the Business Partnership Committee, and the Environmental Justice Committee. Procedures for establishing the nature (fact-finding or advisory) of a committee and its membership shall be described in the bylaws. All committee members shall serve without compensation.

2.4 Powers, Functions, and Responsibilities:

2.4.1 Powers: Pursuant to the Enabling Acts, the Estuary Program has the power to engage in agreements or contracts with other public or private entities for provisions of assistance in planning, financing, and coordinating the physical, chemical, biological, economic, and aesthetic aspects of the Bay Systems. The Estuary Program may establish rules, regulations, bylaws, and organization necessary to perform the Estuary Program's intended functions; provided, however, no such rules or regulations will operate in a manner that obligates a Party to act without the approval of the Party's governing body.

2.4.2 Exercise of Powers: All powers, privileges, and duties vested in or imposed upon the Estuary Program shall be exercised and performed upon a majority vote of a quorum of members; provided, however, subject to Corporation Board oversight, the exercise of such executive, administrative, and ministerial powers may be delegated by the Corporation Board to any of its officers, staff, or agents, to the extent provided under Florida Law. Any such delegation of powers may be withdrawn at any time for any reason.

2.4.3 Limitations of Powers: The Estuary Program shall have no power of taxation, regulation, eminent domain, law enforcement, nor obligate or bind a Party to act without approval by the Party's governing body.

2.5 Responsibilities:

2.5.1 Personnel: The Corporation Board shall be responsible for hiring, supervising, evaluating, and/or terminating the Executive Director. The Executive Director shall be responsible for hiring, supervising, evaluating, and/or terminating subordinate staff. The Executive Director must receive approval from the Corporation Board prior to the establishment of any new positions.

2.5.2 Budget: The Corporation Board shall approve an annual budget. Processes for establishing the budget shall be described in the bylaws.

2.5.3 Adoption of the CCMP Goals and Priorities: The Parties hereby agree that once approved by the Corporation Board, the Goals for the geographic territory of the Pensacola and Perdido Bays Estuary Program as described in the CCMP will be submitted for approval and adoption by each of the Parties. The Parties shall endeavor to undertake reasonable efforts to achieve the Goals within the time periods described and shall work cooperatively to achieve all of the Goals applicable to them in a cost-effective manner. Additionally, the Parties agree to work together in good faith and undertake reasonable effort to address other actions and recommendations in the CCMP.

2.5.4 Bylaws: The Corporation Board by super-majority vote shall create, adopt, amend and update Bylaws or appropriate rules of procedure for the Pensacola and Perdido Bays Estuary Program for its governance and which shall remain in effect until modified by the Corporation Board.

2.5.5 Modification: The CCMP and its incorporated Goals shall not be amended, changed, extended, modified, or supplemented without unanimous consent of all the Parties. The process for modification shall be defined in the Corporation Board bylaws.

ARTICLE 3 – FUNDING

3.1 Funding: Recurring funding contributions will be necessary to fund Estuary Program operations and implementation of the CCMP. Program operations will be financed by local, state, and federal government contributions, donations, grants, assistance funds and bequests. Contributions recommended for each Party shall be determined by a super-majority vote of the Corporation Board; however, nothing contained herein shall obligate any Party to appropriate or expend any monies for the Estuary Program or make any contributions thereto without the prior approval of the Party's governing body.

ARTICLE 4 – TERM

4.1 Term: The term of this Agreement shall commence upon its execution by all Parties and shall continue indefinitely unless terminated as provided for herein.

4.2 Termination: Estuary Program membership may be terminated by any Party for convenience, upon sixty (60) days written notice by the terminating Party to the other Parties of such termination. This Agreement may be terminated by the then Parties upon sixty (60) days written notice to one other.

4.3 Sunset Review: This Agreement shall be subject to a review by the Corporation Board five (5) years from the Effective Date of this Agreement and on the same day of each five (5) year period thereafter at which time the Corporation Board shall evaluate the appropriateness and effectiveness of this Agreement and the Estuary Program. The Corporation Board shall vote by majority vote on whether to recommend terminating this Agreement, amending this Agreement or to let the status quo prevail.

ARTICLE 5 – GENERAL PROVISIONS

5.1 Fiscal Year: The Estuary Program shall observe a fiscal year beginning on October 1 and ending September 30 of each year.

5.2 Records: The Parties acknowledge that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Florida and/or Alabama open records laws. In the event a Party fails to abide by the provisions of such laws, the other Parties may, without prejudice to any right or remedy and after giving that Party seven (7) days written notice, during which period the Party fails to allow access to such documents, terminate this Agreement.

5.3 Survival: All other provisions, which by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

5.4 Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the Parties stipulate that venue for any matter, which is a subject of this Agreement, shall be in Escambia County, Florida.

5.5 Severability: The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement, and the balance hereof shall be construed to be enforced as if this Agreement did not contain such invalid or unenforceable portion of provision.

5.6 Modification: This Agreement may be modified, altered or amended only by a written instrument recommended by the Corporation Board and subsequently approved and executed by the Parties hereto.

5.7 Execution: This Agreement shall not be effective, nor shall it have any force and effect whatsoever, until all the Parties have duly executed this Agreement and filed the Agreement pursuant to section 5.8.

5.8 Filing: The Estuary Program shall, pursuant to Section 163.01(11), Florida Statutes, file a copy of this Agreement and any other amendments thereto with the Clerk of the Circuit Court of each County where the Parties are located.

5.9 Debt: Neither the Estuary Program nor any Party shall have the power to incur any debt or obligation which shall become the responsibility of any other Party.

5.10 Benefit: This Agreement is for the benefit of the Parties only and is not intended to confer any rights or benefits, either direct, indirect, intended or implied, to any third party.

5.11 Liability: Each Party to this Agreement, its officers, employees and agents do not assume and specifically disclaim any liability for the acts, omissions, or negligence of the other Parties, their officers, employees and agents, arising from or related to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the respective dates under each signature: the Counties, through their respective Boards of County Commissioners, signing by and through their Chairmen, and the Cities through their respective City Managers and/or Mayors.

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SIGNATURE PAGES ATTACHED

ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: ________________________________
Lumon J. May, Chairman

Date: ______________________________

ATTEST:

By: _________________________
Pam Childers
Clerk of the Circuit Court

(SEAL)

SANTA ROSA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: ________________________________
Colten Wright, Chairman

Date: ______________________________

ATTEST:

By: _________________________
Donald C. Spencer
Clerk of the Circuit Court

(SEAL)

OKALOOSA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: ______________________________
Robert A. "Trey" Goodwin, Chairman

ATTEST:

Date: ____________________________

By: ________________________
J.D. Peacock, II
Clerk of the Circuit Court

(SEAL)

BALDWIN COUNTY, ALABAMA, a political subdivision of the State of Alabama acting by and through its duly authorized Board of County Commissioners.

By: ______________________________
Charles F. Gruber, Chairman

Date: ____________________________

ATTEST:

By: ________________________
Ronald J. Cink
Interim County Administrator

(SEAL)

CITY OF GULF BREEZE, a Florida Municipal Corporation acting by and through its duly authorized City Council.

By: ________________________________
Cherry Fitch, Mayor

ATTEST:

Date: ______________________________

By: _________________________
Leslie H. Guyer, CMC, City Clerk

(SEAL)

CITY OF MILTON, a Florida Municipal Corporation acting by and through its duly authorized City Council.

By: ________________________________
Heather Lindsey, Mayor

Date: ______________________________

ATTEST:

By: _________________________
Dawn Molinero
City Clerk

(SEAL)

CITY OF PENSACOLA, a Florida Municipal Corporation acting by and through its duly authorized City Council.

By: ________________________________
D.C. Reeves, Mayor

Date: ______________________________

ATTEST:

By: __________________________
Ericka Burnett
City Clerk

(SEAL)

TOWN OF CENTURY, a Florida Municipal Corporation acting by and through its duly authorized Town Council.

By: ________________________________
Benjamin Boutwell, Mayor

ATTEST:

Date: ______________________________

By: _________________________
Leslie Howington
Town Clerk

(SEAL)

CITY OF ORANGE BEACH, a Alabama Municipal Corporation acting by and through its duly authorized City Council.

By: ________________________________
Tony Kennon, Mayor

Date: ______________________________

ATTEST:

By: _________________________
Renee Eberly
City Clerk

(SEAL)