REGULAR COMMITTEE OF THE WHOLE MEETING AGENDA

I. Roll Call

II. Consideration of Previous Minutes

1. Regular Council Meeting 09/07/2023
2. Committee of the Whole 09/05/2023

III. Unfinished Business

Miscellaneous

Resolutions

Ordinances

IV. New Business

Miscellaneous

1. Discuss appointment of Municipal Judge. (TK)

Resolutions

1. Resolution authorizing the execution of a consulting agreement with The Andy Andrews Group for an employee training program. (JB)

Public Hearings

1. Reminder: Public hearing and first reading for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0901-CU-23, McInnis Company Office and Storage on October 3, 2023.

Ordinances

V. Public Comments

VI. Adjourn

MINUTES OF
REGULAR COUNCIL MEETING
ORANGE BEACH CITY COUNCIL
SEPTEMBER 5, 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 Councilmember Jeff Boyd

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

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

Absent: Councilmember Joni Blalock

V. CONSIDERATION OF AGENDA

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

VI. CONSIDERATION OF PREVIOUS MINUTES

Flood Damage Prevention Board	08/01/2023
Regular Council Meeting	08/01/2023
Committee of the Whole	08/01/2023
Work Session	08/08/2023

The reading was waived and minutes were approved as written.

VII. REPORTS OF OFFICERS/COMMITTEES

1. City Administrator – Ford Handley — No report.
2. Director, Public Works – Tim Tucker — No report.
3. Director, Community Development – Kit Alexander — No report.
4. Chief, Police Department – Steve Brown — No report.
5. Chief, Fire Department – Mike Kimmerling — No report.
6. City Clerk – Renee Eberly — No report.
7. Director, Finance – Ford Handley — Report attached.
8. Parks & Recreation – Ford Handley — No report.
9. Director, Utilities – Jeff Hartley — No report.
10. Director, Coastal Resources – Phillip West — No report.
11. Librarian, Public Library – Meagan Bing — No report.
12. Director, Municipal Court – Pam Davis — No report.
13. Director, Expect Excellence – Jonathan Langston — No report.
14. Mayor/Council

Councilmember Mitchell announced that the Mako School Pep Rally will be held on September 14, 2023.

Jessica Langston, Performing Arts Coordinator, announced that the production of Junie B. Jones will begin on September 29, 2023.

Nicole Woerner, Coastal Resources, announced that Coastal Cleanup will be held on September 16, 2023, from 8:00 AM to 12 Noon.

Councilmember Mitchell shared that Mr. Stan Moss who runs the Christian Service Center is ill and needs prayers.

VIII. AUDITING OF ACCOUNTS

Motion made (Mitchell/Silvers) to certify that cash requirements with no related interests are within budget and appropriate for payment. Vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Boyd, aye; Kennon, aye. **Motion passed. (5-0).**

Motion made (Mitchell/Johnson) to certify that cash requirements with related interests in Swift Supply are within budget and appropriate for payment. Vote revealed: Silvers, abstain; Johnson, aye; Mitchell, aye; Boyd, aye; Kennon, aye. **Motion passed. (4-0-1).**

IX. PRESENTATIONS

1. Proclamation declaring September 17-23, 2023, as Constitution Week. Mayor Kennon read the proclamation aloud.
2. Proclamation declaring September 2023 as Gynecologic Cancer Awareness Month. Jim Crandall, father of Laura Crandall Brown and founder of the Laura Crandall Brown Foundation, accepted the proclamation.

X. RECOGNITIONS

1. Recognition of Mike Kimmerling, retiring Fire Chief. Mayor and Council gave Chief Kimmerling high praise for his service and leadership. Chief Kimmerling spoke in gratitude.

XI. UNFINISHED BUSINESS

Resolutions

1. Resolution awarding the bid for the new Wildlife Center, Phase II Interior Buildout, to Rolin Construction, Inc., in an amount not to exceed $720,000. **Motion made (Silvers/Boyd) to postpone consideration until the next council meeting on September 12th.** Vote unanimous in favor. **Motion passed.**

XII. NEW BUSINESS

Miscellaneous

1. Approval of a Restaurant Retail Liquor License Application by Lauria's 2 Inc. for Lauria's at 25637 Canal Road, Suites 11 and 12. **Motion made (Silvers/Mitchell) to approve the liquor license.** Vote unanimous in favor. **Motion passed.**

Resolutions

1. Resolution appointing Jeffrey F. Smith as Interim Fire Chief for the City of Orange Beach, Alabama. **Motion made (Silvers/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
2. Resolution reappointing Susan Boggs to the Gulf Shores and Orange Beach Tourism Board of Directors. **Motion made (Mitchell/Boyd) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

3. Resolution authorizing the execution of a cooperative agreement with the Alabama Department of Environmental Management (ADEM) for the city to provide permitting, regulating, monitoring, and inspection services and be reimbursed in an amount not to exceed $37,950. **Motion made (Johnson/Silvers) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

4. Resolution adopting an amended Procurement Policy for the City of Orange Beach. **Motion made (Boyd/Mitchell) to adopt the resolution.** Vote unanimous in favor.

5. Resolution authorizing the execution of amendment three to the subaward grant agreement with the Alabama Department of Conservation and Natural Resources for the RESTORE Act-funded North Sewer Force Main Upgrade. **Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

6. Resolution authorizing the execution of a subaward grant agreement with the National Fish and Wildlife Foundation for the removal and recycling of large-scale marine debris caused by Hurricane Sally in the amount of $367,959.44. **Motion made (Silvers/Boyd) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

7. Resolution authorizing the execution of a professional services agreement with Watermark Design Group, LLC, for architectural services. **Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

8. Resolution authorizing execution of a task order with Watermark Design Group, LLC, to provide design, bid, and construction administration services for roof replacement at the Justice Center following the April 10, 2021, hailstorm in an amount not to exceed $75,800. **Motion made (Boyd/Silvers) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

9. Resolution authorizing the execution of a task order with McCollough Architecture, Inc., to provide design services for an event pavilion at the Coastal Arts Center in an amount not to exceed $13,500. **Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

10. Resolution appropriating funds to the Orange Beach Board of Education to support city school system operations in an amount not to exceed $3,640,770. **Motion made (Silvers/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

11. Resolution authorizing execution of a performance agreement with McLean Motor Sports Productions, LLC, for the "Bama Coast Cruisin'" event as part of the 2023 Freedom Fest. **Motion made (Mitchell/Boyd) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

12. Resolution authorizing the purchase of a Video Surveillance System at Fire Station No. 3 for the Fire Department through State Bid in the amount of $29,088.39. **Motion made (Silvers/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

13. Resolution accepting a proposal from ThreatAdvice Technologies to improve the wireless internet network at the Sportsplex in the amount of $52,002.73. **Motion made (Mitchell) to adopt the resolution. Motion failed for lack of a second. Motion made (Silvers/Johnson) to table the item.** Vote unanimous in favor. **Motion passed.**

14. Resolution authorizing settlement in the case of Wireman, et al., v. The City of Orange Beach. **Motion made (Boyd/Silvers) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

15. Resolution authorizing consent to judgment in the case of Brenizer Living Trust Dated January 28, 2003 v. City of Orange Beach. **Motion made (Mitchell/Silvers) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

16. Resolution authorizing execution of a task order with Sawgrass Consulting, LLC, for preparation of a land survey and subdivision final plat of the property located north of the ICW and east of the Foley Beach Express, also known as Wharf Landing, in an amount not to exceed $9,500. **Motion made (Mitchell/Boyd) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

17. **Motion made (Boyd/Mitchell) to take from the table the resolution accepting a proposal from ThreatAdvice Technologies to improve the wireless internet network at the Sportsplex in the amount of $52,002.73.** Vote unanimous in favor. **Motion made (Silvers/Boyd) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

Public Hearings

1. Public hearing to consider business license revocation of Super Salt Life LLC for charter boat "Southern Belle".

   The public hearing has been cancelled due to the issue being resolved and withdrawn.

2. Public hearing for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0801-CU-23, Money Bayou Storage Buildings at 4400 and 4402 Money Bayou Drive Conditional Use Approval.

   Griffin Powell, Planner II, presented the case overview requesting conditional use of undeveloped property zoned GB (General Business) to construct a storage facility covering 11,600 square feet along with an office area covering 1,700 square feet. Planning Commission gave this application a favorable recommendation (8-0).

   Councilmember Mitchell noted that not all of the office space will be used to support the storage business, but there will be no customer traffic to that building.

   There being no opposition, the public hearing adjourned.

Ordinances

1. First Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0801-CU-23, Money Bayou Storage Buildings at 4400 and 4402 Money Bayou Drive Conditional Use Approval. **Motion made (Johnson/Silvers) for unanimous consent to suspend the rules to allow for immediate consideration of this ordinance.** Roll call vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Boyd, aye; Kennon, aye. **Motion passed. (5-0). Motion made (Johnson/Silvers) to adopt the ordinance.** Roll call vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Boyd, aye; Kennon, aye. **Motion passed. (5-0).**

2. First Reading – Ordinance amending Chapter 10, Article II, Section 10-28 of the Code of Ordinances of the City of Orange Beach, Alabama, to ban exotic animals and provide regulations for sheltering by agents of recognized wildlife associations and zoos. No action taken. Ordinance will move forward to a second reading.

3. First Reading – Ordinance amending Chapter 2, Article II, Division 2, Section 2-40(b) of the Code of Ordinances of the City of Orange Beach, Alabama, to establish an electronic meeting policy for City Council. **Motion made (Silvers) for unanimous consent to suspend the rules to allow for immediate consideration of this ordinance. Motion failed for lack of a second.** Ordinance will move forward to a second reading.

XIII. PUBLIC COMMENTS

None

XIV. ADJOURN

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

Time: 5:44 P.M.

APPROVED this the 3rd day of October, 2023.

____
Renee Eberly
City Clerk

MINUTES OF
COMMITTEE OF THE WHOLE MEETING
ORANGE BEACH CITY COUNCIL
SEPTEMBER 5, 2023 – 5:45 P.M.
CITY HALL – COUNCIL CHAMBERS

The Orange Beach City Council met to review potential items for the September 12, 2023, agenda.

The following members were present:

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

The following members were absent:

Councilmember Joni Blalock

The following items were discussed:

1. Reschedule Council and Committee of the Whole Meetings on September 19, 2023, to September 12, 2023.
2. Resolution amending Resolution No. 23-070 and authorizing the purchase of a Knuckleboom Truck for the Public Works Department through the Sourcewell purchasing cooperative from Ingram Equipment Company, LLC, in the amount of $234,926.
3. Resolution authorizing the execution of a performance contract with Tanner Myatt for golf instruction services.
4. Resolution authorizing the execution of a performance contract with Brandy Reeves for tennis instruction services.
5. Resolution authorizing the purchase of a Drone for the Police Department through the Sourcewell purchasing cooperative from Axon Enterprise, Inc., in the amount of $69,324.84.
6. Resolution authorizing the purchase of Six Drones for the Police Department through the BuyBoard purchasing cooperative from Adorama Camera, Inc., in the amount of $90,029.58.
7. Resolution authorizing the execution of a professional services agreement with Sun Coast Builders, Inc., for structural engineering and related services.
8. Resolution authorizing the execution of a task order with Sun Coast Builders, Inc., to provide structural engineering services for the Temporary High School Weight Room in an amount not to exceed $2,500.
9. Resolution authorizing the execution of a task order with Sun Coast Builders, Inc., to provide structural engineering services for Batting Cages in an amount not to exceed $3,800.
10. Resolution authorizing execution of a professional services agreement with J. F. Morris Performance LLC for theater performance direction for "The Wizard of Oz."
11. Resolution authorizing the execution of a use agreement with the Coastal Alabama Business Chamber for the 50th Annual National Shrimp Festival.
12. Resolution authorizing a franchise for CrozzzzCabz, Inc., to operate a taxi service within the city limits and police jurisdiction of the City of Orange Beach.

13. Resolution authorizing a franchise for Gulf Logistics, LLC, dba Gulf Limousine, to operate a taxi service within the city limits and police jurisdiction of the City of Orange Beach.
14. Resolution authorizing a franchise for Coast Group Transportation, LLC, dba Coast Cab, to operate a taxi service within the city limits and police jurisdiction of the City of Orange Beach.
15. Resolution authorizing a franchise for BCC Waste Solutions, LLC, to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris.
16. Resolution authorizing the purchase of Lighting for the Softball Field at the Sportsplex through the Sourcewell purchasing cooperative from Musco Sports Lighting, LLC, in the amount of $86,500.
17. Resolution amending the Fiscal Year 2023 Budget to create a project budget for a Temporary School Weight Room not to exceed $250,000.
18. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0901-CU-23, McInnis Company Office and Storage. Public hearing set for October 3, 2023.
19. Ordinance amending Chapter 70, Article II, Section 70-22 of the Code of Ordinances for the City of Orange Beach, Alabama, to change the speed limit on portions of Canal Road and State Highway 180.

<u>Public Comments:</u>

None

There being no further business, the meeting adjourned.

Time: 5:52 P.M.

APPROVED this 12th day of September, 2023.

____
Renee Eberly
City Clerk

REGULAR COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 12, 2023

Departments: City Clerk

Description of Topic: Discuss appointment of Municipal Judge. (TK)

Background/Description: The two year term of Judge Callaghan expires September 20, 2023.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:
None

ITEM 1.

REGULAR COMMITTEE OF THE WHOLE MEETING
SEPTEMBER 12, 2023

Departments: City Clerk

Description of Topic: Resolution authorizing the execution of a consulting agreement with The Andy Andrews Group for an employee training program. (JB)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable): $120,000 to be budgeted for FY2024.

ATTACHMENTS:

1. 10-03-23 23-xxx Authorize Consulting Agreement Andy Andrews Employee Training
2. 2023.09.08 Consulting Agreement Andy Andrews Employee Training

RESOLUTION NO. 23-xxx

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONSULTING AGREEMENT WITH THE ANDY ANDREWS GROUP FOR AN EMPLOYEE TRAINING PROGRAM

FINDINGS:

1. The City of Orange Beach and The Andy Andrews Group have reached an agreement (attached Exhibit A) whereby The Andy Andrew Group will provide the "Creating Measurable Results" training program for the City of Orange Beach.
2. After having reviewed the agreement, the City Council has determined that the provisions are in the best interest of the City of Orange Beach, Alabama.

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

1. That the Mayor is hereby authorized to execute the agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach and The Andy Andrews Group as an act for and on behalf of the City of Orange Beach subject to final approval by the City Attorney;
2. That the City Council authorizes payment in an amount not to exceed $120,000 to The Andy Andrews Group to provide the "Creating Measurable Results" training program for a term of one year for up to 400 city employees; and
3. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 3rd DAY OF OCTOBER, 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 October 3, 2023.

____
City Clerk

The Andy Andrews Group
Consulting Agreement

Thank you for choosing AAndrews Consulting, LLC, dba The Andy Andrews Group to advise and implement the exclusive process known as "Creating Measurable Results" for the City of Orange Beach, Alabama. We are excited to partner with you.

This consulting agreement ("the Agreement") is entered into this _______ day of _____________,2023 by and between AAndrews Consulting, LLC, dba The Andy Andrews Group ("Consultant"), a limited liability company, with a mailing address of 4751 Main Street, Suite 214, Orange Beach, AL 36561, and the City of Orange Beach ("Client") whose address is 4151 Orange Beach Boulevard, Orange Beach, AL 36561.

The Client and the Consultant agree as follows:

1. Services

In order to reveal the "Creating Measurable Results" materials customized for the Client, the Consultant will provide the following:

-**Video Training Sessions –** Consultant to create and deliver two video lessons per month. Each lesson is to have 2 discussion questions in order to facilitate conversation and provide a means by which group leaders can think through and teach parts of this process. Videos are to be sent to Client **every other Wednesday**.

Team Meeting - Consultant will speak at one in-person kick-off meeting.

2. Compensation

Consulting Fee: $______ per year ($_____ per month)

The fee calculation is _____number of employees at $300.00 per year.

Consultant Initial ______ Client Initial_______

3. Payment

Client may pay the contract fee in full at the time of the agreement or in monthly installments of $__________. payable on the 10^{th} day of the month. Payments are to be made to The Andy Andrews Group, 4751 Main Street, Suite 214, Orange Beach, AL 36561. The first payment will be due on ______________. The preferred payment method is via check or ACH. A 3% service fee will be added for credit card payments.

4. Terms

While Creating Measurable Results is a full, three-year curriculum, this Agreement will be for a period of one year commencing on the ______day of _________________ 2023 and ending on the ______day of _________________ 2024. To extend beyond the end date listed above and continue the professional relationship with the Consultant, the Client must simply notify Consultant of this intention in writing by the ______day of _________________ 2024. Negotiations must be concluded, and a new contract executed by the ______day of _________________ 2024.

5. Confidentiality

The Client agrees to maintain the absolute confidentially of all the terms, conditions, and arrangements contained in the agreement and/or associated with the appearance by Consultant. Any breach of this confidentiality shall be deemed a material breach of this Agreement for which the breaching Party shall be held liable for any resulting damages.

6. Ownership of Materials

The Client acknowledges and agrees that any and all materials, work products, and/or any other works produced by the Consultant, and all results and proceeds of the Client's engagement and the services rendered hereunder, including without limitation, any other content or materials eligible for copyright, patent, or trademark protection, (all such works and results and proceeds being referred to collectively as "Materials") shall not be considered **'work made for hire'** as contemplated by the United States Copyright Act. The Consultant shall retain the creative rights to all original materials, data, and similar items, produced by the Consultant hereunder in connection with the Services under this agreement. All services and materials used by the Consultant shall at all times be the sole property of the Consultant and under no circumstances shall the Client have any interest in or rights to the title to such materials. The Client acknowledges that the Consultant may use and modify existing materials for the Client's benefit and that the Client holds no rights to such materials. The Client, however, may use and disclose internally the Client's customized materials "Creating Measurable Results" throughout the term of the Agreement and after the Agreement has been terminated.

Consultant Initial ______ Client Initial_______

7. Proprietary Information and Use of Materials

Except as provided elsewhere in this Agreement, all information disclosed by one Party to the other Party shall be deemed to be confidential and proprietary ("Proprietary Information"). Such Proprietary Information includes, without limitation, information regarding marketing, sales programs, sales volume, sales conversion rates, sales methods and processes, sales proposals, products, services, vendors, customer lists, training manuals, sales scripts, marketing scripts, names of investors, and customer information, operating procedures, pricing policies, strategic plans, intellectual property, information about a Party's employees and other confidential or Proprietary Information belonging to or related to a Party's affairs. The receiving Party acknowledges and agrees that in any proceeding to enforce this Agreement, it will be presumed that the Proprietary Information constitutes protectable trade secrets and that the receiving Party will bear the burden of proving that any portion of the Proprietary Information was publicly or rightfully known and disclosed by the receiving Party. The Parties, their employees, subsidiaries, affiliates, agents, and assigns agree to hold all Proprietary Information, regardless of when or how disclosed, in strict confidence and with not less than the same degree of care that they provide for their own confidential and proprietary information. The Parties warrant and represent that the degree of care contemplated herein is adequate and the Parties will take any and all steps reasonably necessary to preserve such Proprietary Information. It is agreed that the Engagement, including without limitation the Consultant's address, may not be recorded by any means, including without limitation, on audio tape, videotape, or film, nor may it be broadcast or streamed on the Internet, in whole or in part, without the prior written permission of the Consultant. All materials provided by the Consultant are protected by Copyright Laws of the USA. Nothing in this Agreement shall prohibit or limit the receiving Party's use of information that can be demonstrated as: (a) previously known to the receiving Party, (b) independently developed by the receiving Party, (c) acquired from a third party, not under similar nondisclosure obligations to the disclosing Party, or (d) acquired through the public domain through no breach by the receiving Party of this Agreement.

<u>Release.</u> The Client agrees that the Consultant has the right to use materials created pursuant to this Agreement for the Consultant's portfolio, samples, and self-promotion including advertising for the Consultant's business including without limitation Facebook or Instagram, or any other social media platform. In the event the Client wishes to exclude some specific materials from the release under this paragraph or to limit the time period of such release, The Consultant and the Client may agree in writing to such limitation.

<u>Remedies.</u> The Parties acknowledge that the Proprietary Information exchanged is valuable and unique and that disclosure in breach of this Agreement will result in irreparable injury to the adversely affected Party, for which monetary damages, on their own, would be inadequate. Accordingly, the Parties agree the adversely affected Party shall have the right to seek an

Consultant Initial ______ Client Initial_______

immediate injunction enjoining any such breach or threatened breach of the Agreement. Parties will notify promptly (but in no event later than three (3) business days from the date of discovery) of any Proprietary Information Breach and, at Breaching Party's cost and expense, assist and cooperate with any disclosures to affected parties and other remedial measures as requested or required under any privacy or data protection law. This provision and the assurances made in this Section 7 shall survive termination of this Agreement.

8. Additional Services

All services outside the scope of this Agreement that are requested by the Client and which the Consultant agrees to perform will be negotiated on a per request basis. The Client will be notified and must approve in writing (email is sufficient) additional services before they will be performed, although the Consultant may not necessarily be able to inform the Client in advance of the total cost of such additional services. The Client will also be given opportunity to purchase additional services at package rates when deemed appropriate by the Consultant.

9. Limitation of Liability

The Consultant shall not be liable for any incidental, consequential, indirect, or special damages, or for any loss of profits or business interruptions caused or alleged to have been caused by the
performance or nonperformance of the Services. The Client agrees that in the event the Consultant is determined to be liable for any such loss, the Client's sole remedy against the Consultant is limited to a refund of payments made by the Client for said Services, less expenses paid to subcontractors or to third parties. The Consultant is not responsible for errors which result from faulty or incomplete information supplied to the Consultant by the Client. The Client also agrees to not seek damages in excess of the contractually agreed upon limitations directly or indirectly through suits by or against other parties. The Consultant shall not be liable to the Client for any costs, damages, or delays due to causes beyond its control, expressly including without limitation, unknown site characteristics, changes in policies, and changes in terms of services.

10. Dispute Resolution

Any conflict or dispute of this agreement shall be adjudicated by mediation. The mediator, to be selected by the Consultant, shall have the power to award damages, costs, and attorney's fees in his/her discretion and subject to the principles of equity. The Client agrees to reimburse the Consultant for any expenses incurred collecting any and/or all of the payments due under this contract. This contract is to be construed under Alabama Law, without regard to its conflicts of law provisions, and the parties submit to the jurisdiction of Baldwin County, Alabama. In the event, the parties are unable to reach an agreement, both parties agree to

Consultant Initial ______ Client Initial_______

binding arbitration by a single arbitrator, selected by the Consultant in accordance with the Rules for Commercial Arbitration of the American Arbitration Association at the location of Orange Beach, Alabama.

11. Correspondence

Any notice, request, demand or other communication required or permitted as a part of this agreement shall be in writing and may be sent by any of the following methods:

(a) personal delivery

(b) reputable overnight courier (such as Federal Express or UPS)

(c) certified or registered mail, postage prepaid, and return receipt requested,

All correspondence should be addressed as set forth below:

To Consultant:
Andy Andrews
The Andy Andrews Group
4751 Main Street, Suite F214
Orange Beach, AL 36561

To Client
Ford Handley
The City of Orange Beach
4151 Orange Beach Boulevard
Orange Beach, AL 36561

12. Force Majeure

Notwithstanding any other provision of this Agreement, in the event that the performance of any obligation under this Agreement by either party is prevented due to acts of God, exchange controls, export or import controls, or any other government restriction, wars, hostilities, blockades, civil disturbances, revolutions, strikes, terrorist attacks, lockouts, or any other cause beyond the reasonable control of a party, such party shall not be responsible to the other parties for failure or delay in performance of its obligations under this Agreement. Each party shall promptly notify the other parties of such Force Majeure condition and reschedule the event for a time after the Force Majeure occurrence has ended.

13. Entire Agreement

This Agreement is the final, complete and exclusive Agreement of the Parties. No modification of or amendment to this Agreement shall be effective unless in writing and signed by each of the Parties.

Consultant Initial ______ Client Initial_______

14. Severability

If any provision of this Agreement shall be held to be illegal, invalid, or unenforceable, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, the remaining provisions of this Agreement shall remain in full force and effect.

15. Headings

The headings used in this Agreement are for convenience only and shall not be used to limit or construe the contents of this Agreement.

16. Interpretation and Enforcement

The parties understand and agree that the construction and interpretation of this Agreement is governed by the laws of the State of Alabama. In the event that either party must initiate legal action to enforce this Agreement, the Parties agree that the proper venue for such action shall be the courts of the State of Alabama.

By their signatures below, the parties hereby understand and agree to all terms and conditions of this Agreement.

Consultant	**Client**
Signature: ___________________________	Signature: _________________________
Company: ___________________________	Company: _________________________
By: ________________________________	By: _______________________________
Date: _______________________________	Date: ______________________________