# REGULAR COMMITTEE OF THE WHOLE MEETING AGENDA

**I. Roll Call**

**II. Consideration of Previous Minutes**

1. Work Session 08/20/2024
2. Regular Council Meeting 08/20/2024
3. Committee of the Whole 08/20/2024

**III. Unfinished Business**

**Miscellaneous**

**Resolutions**

**Ordinances**

**IV. New Business**

**Miscellaneous**

**Resolutions**

1. Resolution appointing members to the Solid Waste Disposal Authority. (RE)
2. Resolution authorizing the submittal of a Hazard Mitigation Grant Program application for a First Responder Safe Room. (NW)
3. Resolution authorizing the execution of a performance contract with Tanner Myatt for golf instruction services. (NA)
4. Resolution awarding the bid for Canal Road Multi-Use Trail Connectivity Projects. (RE/CP)

**Public Hearings**

**Ordinances**

## V. Public Comments

## VI. Adjourn

**MINUTES OF**
**ORANGE BEACH CITY COUNCIL**
**WORK SESSION**
**AUGUST 20, 2024 – 10:00 A.M.**
**COASTAL ARTS CENTER**

The Orange Beach City Council met on August 20, 2024, at 10:02 A.M. with Mayor Tony Kennon presiding.

The following members were present:

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

The following members were absent:

None

The following items were discussed:

1. Orange Beach Public Library summer reading statistics.
2. Verizon cellular service issues.
3. Abbey Road PUD.
4. Alabama Gulf Coast Zoo funding request.
5. Safe Harbor Animal Coalition.
6. Friends of Army Aviation proposal.
7. Board of Adjustment appointments.
8. Greenhouse project.
9. Phoenix South Point construction notice.
10. Vape/CBD stores.
11. Mediacom presentation.
12. Garden Club update.
13. Orange Beach Ladies Tennis League.
14. Emergency preparedness.
15. Bridge traffic.
16. Litigation settlement negotiation update.
17. Possible future Civic Center.
18. Real property proposal.
19. Wireless tower proposal.
20. Point Broadaband fiber cabinet location request.

21. Veterans Memorial.
22. Complaints about trailer storage on vacant commercial and residential lots.
23. Athletic Complex construction update.
24. Resident beach hanger tags.
25. Financial update.
26. Traffic study on Perdido Beach Boulevard.
27. Fire recruit school graduate report.
28. Annexation request by David Gatlin.

Councilmember Jeff Boyd left at 1:57 P.M.

29. Bayou Place retention pond request.
30. Rental space request by Randy Hall with Liquid Life.
31. HR survey report.
32. Capital project planning.
    a. Pool renovation/expansion.
    b. Beach barn expansion.
    c. Pickleball courts.
    d. Contorno property.
33. Fiscal Year 2025 budget schedule.
34. Employee healthcare costs for 2025.
35. Scheduling of next council work session for September 17, 2024.
36. Softball championship sign location.
37. Finance Department wayfinding signage.
38. Sportsplex turf maintenance.

There being no further business, the meeting adjourned.

Time: 2:26 P.M.

**APPROVED** this 17th day of September, 2024.

____________________________________
Renee Eberly
City Clerk

**MINUTES OF**
**REGULAR COUNCIL MEETING**
**ORANGE BEACH CITY COUNCIL**
**AUGUST 20, 2024 – 5:00 P.M.**
**CITY HALL – COUNCIL CHAMBERS**

**I. CALL TO ORDER** Mayor Tony Kennon called the meeting to order at 4:59 P.M.

**II. INVOCATION** Reverend Jim Kinder, Orange Beach United Methodist Church

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

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

Absent: None

**V. CONSIDERATION OF AGENDA**

**Motion made (Blalock/Johnson) to reconsider an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0503-PUD-24, Abbey Road PUD.** Vote revealed: Silvers, abstain; Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (5-0-1).**

**Motion made (Blalock/Mitchell) to approve the agenda as written with the addition to reconsider the ordinance for Abbey Road PUD.** Vote revealed: Silvers, abstain; Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (5-0-1).**

**VI. CONSIDERATION OF PREVIOUS MINUTES**

| | |
|---|---|
| Work Session | 07/16/2024 |
| Regular Council Meeting | 07/16/2024 |
| Committee of the Whole | 07/16/2024 |

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 – Adam Roberson — No report.
4. Chief, Police Department – Steve Brown — No report.
5. Chief, Fire Department – Jeff Smith — No report.
6. City Clerk – Renee Eberly — No report.
7. Director, Finance – Ford Handley — No report.
8. Parks & Recreation – Nicole Ard — 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 – Ford Handley — No report.

14. Mayor/Council

    Council reminded the community that the first high school football game will be this Friday in Elberta.

## 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; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (6-0).**

**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; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (5-0-1).**

## IX. PRESENTATIONS

## X. RECOGNITIONS

## XI. UNFINISHED BUSINESS

**Ordinances**

1. Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0503-PUD-24, Abbey Road PUD. **Motion made (Blalock/Johnson) to adopt the ordinance excluding the zoning deviations for sidewalks and street lighting.** Vote revealed: Silvers, abstain; Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (5-0-1).**

   **Motion made (Blalock/Boyd) to grant the zoning deviation to allow for no sidewalks.** Councilmember Boyd stated that he originally voted against the PUD because he felt there were too many deviations from the zoning ordinance and that condominiums could be built by-right instead of houses. Upon further investigation, he has realized that four separate apartment units built could be built. Councilmember Boyd stated that he prefers homes with a reduced number of deviations rather than by-right apartments. Vote revealed: Silvers, abstain; Johnson, nay; Mitchell, nay; Blalock, nay; Boyd, nay; Kennon, nay. **Motion failed. (0-5-1).**

   **Motion made (Blalock/Boyd) to grant the zoning deviation to allow for no street lighting.** Vote revealed: Silvers, abstain; Johnson, nay; Mitchell, nay; Blalock, nay; Boyd, nay; Kennon, nay. **Motion failed. (0-5-1).**

2. Second Reading – Ordinance amending Chapter 38, Article II of the Code of Ordinances for the City of Orange Beach, Alabama, entitled "Emergency Medical Treatment and Transport Services." **Motion made (Johnson/Silvers) to adopt the ordinance.** Vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (6-0).**

## XII. NEW BUSINESS

**Miscellaneous**

1. Approval of a Retail Beer (On or Off Premises) and Retail Table Wine (On or Off Premises) Liquor License Application by Coffeebean Partners The Wharf LLC for The Southern Grind at 4751 Main Street, Suites F116 and F117. **Motion made (Silvers/Mitchell) to approve the liquor license.** Vote unanimous in favor. **Motion passed.**

**Resolutions**

1. Resolution authorizing the execution of a performance contract with Brandy Reeves for tennis instruction services. **Motion made (Johnson/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

2. Resolution adopting a City of Orange Beach FY2025 Transportation Plan. **Motion made (Mitchell/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

3. Resolution authorizing the purchase of a Video Surveillance System for the Sportsplex through State Bid from Vision Security Technologies Inc. in the amount of $97,941.07. **Motion made (Silvers/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

4. Resolution authorizing execution of a performance agreement with Garner C. Tampary Memorial Foundation, Inc., for the "2nd Annual Merry Memories Tinsel Trail" event. **Motion made (Boyd/Silvers) to adopt the resolution.** Council discussed briefly. Vote unanimous in favor. **Motion passed.**

5. Resolution authorizing execution of a task order with Watermark Design Group, LLC, to provide design, bid, and construction administration services for restrooms at the Sportsplex in an amount not to exceed $24,000. **Motion made (Mitchell/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

6. Resolution reappointing Shawn Goe and Rusty Hart to the Fire Code Board of Appeals. **Motion made (Johnson/Boyd) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

7. Resolution authorizing the execution of a task order with AECOM for a speed limit study along SR-182 in an amount not to exceed $9,000. **Motion made (Mitchell/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

8. Resolution reappointing Tony Kennon to the Gulf Shores and Orange Beach Tourism Board of Directors. **Motion made (Silvers/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

9. Resolution authorizing the execution of a service agreement with NxtSoft Cybersecurity Solutions, LLC, dba ThreatAdvice, for endpoint protection. **Motion made (Johnson/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

10. Resolution amending the fee schedule for emergency medical treatment and transport services. **Motion made (Silvers/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

11. Resolution adopting rental agreements and amending the fee schedule for the Coastal Arts Center. **Motion made (Silvers/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

12. Resolution awarding the bid for a Multi Station Surveying System to C W Lawley, Incorporated, dba Transit and Level Clinic, in the amount of $58,058.50. **Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

13. Resolution accepting a proposal from ThreatAdvice Technologies for endpoint protection. This item is a duplicate of #9. No action taken.

14. Resolution authorizing execution of an implementation agreement with the Alabama Department of Conservation and Natural Resources for the Reducing Marine Impacts on Birds and Sea Turtles Restoration Project. **Motion made (Blalock/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

15. Resolution authorizing execution of a software service agreement with MCCi, LLC, for expansion of Laserfiche to process invoices. **Motion made (Mitchell/Silvers) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

## XIII. PUBLIC COMMENTS

None

## XIV. ADJOURN

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

Time: 5:12 P.M.

**APPROVED** this the 17th day of September, 2024.

Renee Eberly
City Clerk

**MINUTES OF**
**COMMITTEE OF THE WHOLE MEETING**
**ORANGE BEACH CITY COUNCIL**
**AUGUST 20, 2024 – 5:13 P.M.**
**CITY HALL – COUNCIL CHAMBERS**

The Orange Beach City Council met to review potential items for the September 3, 2024, agenda.

<u>The following members were present:</u>

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

<u>The following members were absent:</u>

None

<u>The following items were discussed:</u>

1. Discuss request from Alabama Gulf Coast Zoo for annual sponsorship. Joel Hamilton, Zoo Director, thanked the City Council for their support and explained the benefits of sponsorship.
2. Discuss expiring terms on the Board of Adjustment.
3. Resolution authorizing the execution of a task order with McCollough Architecture, Inc., to provide design services for a Pickleball Bathroom Building in an amount not to exceed $14,000.
4. Resolution authorizing execution of a FY2023 Assistance to Firefighters Grant Award Agreement with the U.S. Department of Homeland Security for the purchase of portable radios for the Fire Department.
5. Resolution authorizing the purchase of a Greenhouse (materials only) for the Coastal Resources Department through Sourcewell from Atlas Greenhouse, LLC, in the amount of $75,305.33.
6. Resolution authorizing execution of Change Order No. 1 for the Justice Center Roof and Fascia Replacement with The Green-Simmons Company, Inc., to increase design pressures in an amount not to exceed $45,667.
7. Resolution authorizing the purchase of a Video Surveillance System for the Golf Center through State Bid from Vision Security Technologies, Inc., in the amount of $30,889.08.
8. Resolution authorizing execution of an amendment to the grant award agreement with the National Audubon Society for the stewardship of Coastal Alabama beach nesting bird habitat.
9. 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 to be reimbursed in an amount not to exceed $37,950.
10. Resolution authorizing execution of a professional services agreement with Thompson Engineering, Inc., for survey, modeling, design, and engineering services to complete the Orange Beach Stormwater Master Plan Project.
11. Reminder: Public hearing and first reading for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0801-CU-24, Keel Storage Phase 4 Addition on September 3, 2024.

Public Comments:

1. Councilmember Silvers confirmed with staff that the professional services agreement with Thompson Engineering for a stormwater master plan focuses on drainage issues in Bear Point.
2. Mayor Kennon shared the recent passings of Lee Barnes, Sue Cardwell, and Gordon Burdette.
3. Ford Handley, City Administrator, recognized Nicole Woerner, Coastal Resources Grant Manager, for her assistance with obtaining a 2024 State of Alabama GoMESA grant award to renovate the Orange Beach City Schools Sea, Sand, and Stars Facility.
4. Jackie McGonigal, Wind and Water Learning Center Coordinator, gave a presentation on the successful 2024 summer sail camp program. She gave special thanks to this year’s group of instructors.
5. Mayor Kennon recognized Meagan Bing, Library Director, for increases in program participation and a successful summer reading program at the Orange Beach Public Library.
6. Glen Kaiser, Gulf Shores & Orange Beach Tourism Board Chair, thanked the Mayor for serving on the board and extended an invitation to City Councilmembers to attend board meetings.
7. Cindy Ross, Social Media Consultant, shared that the Summerdale Miracle League Ballfields project has been awarded $1.5 million in 2024 State of Alabama GoMESA grant funding to take it to completion. Councilmember Silvers recognized Mayor Kennon for coming up with the idea to challenge other Baldwin County municipalities with matching funds, because the partnership of multiple organizations greatly enhanced the Miracle League’s ability to secure the grant.
8. Marc Anderson, Special Projects Coordinator, reminded the audience that Freedom Fest will be October 4-5, 2024.

There being no further business, the meeting adjourned.

Time: 5:32 P.M.

**APPROVED** this 17th day of September, 2024.

____________________________________

Renee Eberly
City Clerk

**REGULAR COMMITTEE OF THE WHOLE MEETING**
**SEPTEMBER 3, 2024**

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**Departments:** City Clerk

**Description of Topic:** Resolution appointing members to the Solid Waste Disposal Authority. (RE)

**Background/Description:**

**Action Options/Recommendation:**

**Source of Funding (if applicable):**

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**ATTACHMENTS:**

1. 09-17-24 24-xxx Appoint Solid Waste Disposal Authority

**RESOLUTION NO. 24-xxx**

**A RESOLUTION APPOINTING MEMBERS TO THE SOLID WASTE DISPOSAL AUTHORITY**

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FINDINGS:

1. Orange Beach City Council authorized the incorporation of the Solid Waste Disposal Authority on October 21, 2003, through Resolution No. 2005.
2. The six-year terms of the Solid Waste Disposal Authority members are set to expire on September 30, 2024.
3. It is necessary to appoint new board members.

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

1. That the Orange Beach City Council hereby appoints the following individuals to serve as members of the board of directors of the Solid Waste Disposal Authority:

| Name | Term Expires |
|---|---|
| Jeff Boyd, Councilmember | September 30, 2030 |
| Joni Blalock, Councilmember | September 30, 2030 |
| Jerry Johnson, Councilmember | September 30, 2030 |
| Tony Kennon, Mayor | September 30, 2030 |
| Annette Mitchell, Councilmember | September 30, 2030 |
| Jeff Silvers, Councilmember | September 30, 2030 |
| Ford Handley, City Administrator | September 30, 2030 |

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

ADOPTED THIS 17th DAY OF SEPTEMBER, 2024.

________________________________
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. 24-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 17, 2024.

________________________________
City Clerk

**ITEM 2.**

**REGULAR COMMITTEE OF THE WHOLE MEETING**
**SEPTEMBER 3, 2024**

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**Departments:** Coastal Resources

**Description of Topic:** Resolution authorizing the submittal of a Hazard Mitigation Grant Program application for a First Responder Safe Room. (NW)

**Background/Description:**

**Action Options/Recommendation:**

**Source of Funding (if applicable):** 90/10 Federal/Local funding. City's share would be $627,916.49 out of a total estimated project cost of $6,279,164.90 if grant is successful.

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**ATTACHMENTS:**

1. 09-17-24 24-xxx Authorize Grant Application Hazard Mitigation Program Safe Room

**RESOLUTION NO. 24-xxx**

**A RESOLUTION AUTHORIZING THE SUBMITTAL OF A HAZARD MITIGATION GRANT PROGRAM APPLICATION FOR A FIRST RESPONDER SAFE ROOM**

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FINDINGS:

1. On September 20, 2020 the Federal Emergency Management Agency (FEMA) issued a major disaster declaration for the State of Alabama in response to Hurricane Sally.
2. With the declaration FEMA, through the State of Alabama Emergency Management Agency, has made federal funds available for the Hazard Mitigation Grant Program (HMGP) which provides resources to assist states, territories, and local communities in an effort to support sustainable action that reduces or eliminates long-term risk to people and property from future disasters.
3. The City wishes to construct a First Responder Safe Room to act as a base of operations for our emergency response teams during future disasters. First Responder Safe Rooms are considered eligible for funding under the Hazard Mitigation Grant Program.
4. The City Council for the City of Orange Beach, Alabama, has reviewed a proposed grant application to the Federal Emergency Management Agency for a First Responder Hurricane Safe Room.
5. In the event a grant is awarded, funding from the HMGP is limited to a maximum of ninety (90%) of the total proposed project cost estimated at $6,279,164.90.
6. After having reviewed said Agreement, the City Council has determined the terms are in the best interests 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 City of Orange Beach will hold in reserve $627,916.49, ten percent (10%) of the proposed project cost, for the purpose of matching the Hazard Mitigation Grant;
2. That in the event the grant is awarded, the City of Orange Beach understands that it will sign assurances to comply with all applicable Federal and State laws, rules and regulations;
3. That the Mayor and City Clerk are hereby authorized to execute and attest, respectively, the application and associated documents between the City of Orange Beach and the Federal Emergency Management Agency, as an act for and on behalf of the City of Orange Beach, subject to final approval by the City Attorney; and
4. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 17th DAY OF SEPTEMBER, 2024.

______________________________
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. 24-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 17, 2024.

______________________________
City Clerk

# REGULAR COMMITTEE OF THE WHOLE MEETING
## SEPTEMBER 3, 2024

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**Departments:** City Clerk

**Description of Topic:** Resolution authorizing the execution of a performance contract with Tanner Myatt for golf instruction services. (NA)

**Background/Description:**

**Action Options/Recommendation:**

**Source of Funding (if applicable):**

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**ATTACHMENTS:**

1. 09-17-24 24-xxx Authorize Performance Contract Golf Tanner Myatt
2. 2024.08.30 Performance Contract Tanner Myatt Golf

**RESOLUTION NO. 24-xxx**

**A RESOLUTION AUTHORIZING THE EXECUTION OF A PERFORMANCE CONTRACT WITH TANNER MYATT FOR GOLF INSTRUCTION SERVICES**

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FINDINGS:

1. The City of Orange Beach and Tanner Myatt have reached an agreement (attached Exhibit A) whereby Tanner Myatt will provide golf instruction services for the City of Orange Beach.
2. The City Council believes having a golf instructor available to provide lessons and skill-development classes serves the health, safety, and welfare of the public, and desires to engage Contractor to provide such services for the benefit of Orange Beach residents and visitors. Further, having golf instruction available to the City's Expect Excellence program and City School students is advantageous to the City.
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 Tanner Myatt 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 17th DAY OF SEPTEMBER, 2024.

________________________________
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. 24-xxx, which was duly and legally adopted at a regular meeting of the City Council on September 17, 2024.

________________________________
City Clerk

**PERFORMANCE CONTRACT**

This Agreement is made and entered into by and between the City of Orange Beach, an Alabama municipal corporation (the "City") and Tanner Myatt (sometimes hereinafter "Contractor"), as follows:

1. Recitals:
   a. Contractor is a golf teacher who provides instruction.
   b. The City desires to engage Contractor to provide such services for the benefit of Orange Beach residents and visitors.
   c. In consideration of the mutual covenants and agreements hereinafter set forth to be kept and performed by the other, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties do hereby covenant and agree as follows.
2. Contractor's Obligations:
   a. Contractor shall offer golf lessons, and related skill-development classes at the Orange Beach Golf Center.
   b. Contractor shall provide, at no charge at least twenty hours a year of golf instruction for the City's Expect Excellence Program and/or the public schools within the City of Orange Beach.
   c. Contractor must have an Orange Beach Business License.
   d. Contractor will schedule lesson times with the Orange Beach Golf Center prior to the lessons.
   e. Contractor will assist with open houses and small programs for the Golf Center at the request of the Golf Center Coordinator.
3. City's Obligations:
   a. City agrees to make available during normal operational hours an agreed portion of the range for the Contractor to provide lessons.
   b. City will provide an indoor space (Simulator Room) during weather events. Contractor will schedule lesson times in this space at least 1 hour in advance with the Orange Beach Golf Center. Use of the Simulator Room is subject to availability.
   c. City will provide students free memberships/discounted golf center rates and free range tokens during the year.
4. Compensation:

   Contractor will be permitted to retain the fees earned for the instructional services provided under this Agreement.
5. Term:

   The term of this agreement shall begin on September 19 2024, and end on September 18, 2025, unless terminated earlier in accordance with paragraph 10. This agreement may be renewed annually by resolution adopted by the City Council.
6. Independent Contractor:
   a. 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 venturer 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.

b. Contractor, in the performance of its operations and obligations hereunder, shall not be deemed to be an agent of City but shall be deemed to be an Independent Contractor in every respect and shall take all steps at its own expense, as City may from time to time request, to indicate that it is an Independent Contractor. City does not and will not assume any responsibility for the means by which or the manner in which the services by Contractor provided for herein are performed, but on the contrary, Contractor shall be wholly responsible therefor.

7. Assignment:

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

8. Insurance:

a. Contractor shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor under this Agreement, including the following, at a minimum:

   i. Worker's compensation insurance as required by law; and

   ii. Commercial general liability insurance with minimum coverage limits of $100,000 per person and $300,000 per occurrence, naming the City of Orange Beach and the City's officers, employees, and consultants as additional insured. The policy shall be with a carrier and in a form acceptable to the City at the City's sole discretion.

b. Any insurance carried by the City, its officers, or its employees or contractors is excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

c. Contractor shall provide to the City a Certificate of Insurance as evidence that required polices are in full force and effect.

9. Indemnity:

Contractor agrees to indemnify and hold the City, its elected and appointed officials, officers, agents, and employees, harmless from all costs, liabilities and claims for damages of any kind, including interest and attorneys' fees, arising in any way out of the performance of this Agreement and/or the activities of Contractor, its principals, directors, agents, servants and employees in the performance of this Agreement, for which the City is alleged to be liable. This section is not as to third parties or to anyone a waiver of any defense of immunity or statutory damages cap otherwise available to Contractor or City and these defenses and matters may be raised in the City's behalf in any action or proceeding arising from this Agreement.

10. Compliance with Law:

Contractor hereby agrees to comply strictly with all the laws of the State of Alabama and of the United States, and the laws and ordinances of any other jurisdiction in which contractor may perform any work pursuant to this agreement.

11. Termination:

This agreement may be terminated by either party for any reason upon thirty (30) days notice of the intent to terminate.

12. Final Agreement:

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

13. Modifications:

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

14. Severability:

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

15. Laws Governing:

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

16. Permits, Licensing, etc:

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

17. 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.

18. Notices:

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

    City of Orange Beach:

    City Clerk<br>
    Post Office Box 458

Orange Beach, Alabama 36561

With Required Copy to:

City Attorney
Post Office Box 458
Orange Beach, Alabama 36561

And to Contractor:

Tanner Myatt
6867 Crimson Lane
Gulf Shores, Alabama 36542

IN WITNESS WHEREOF, we have hereunto set our hands and seal on this the _______ day of _________________________, 2024.

CITY OF ORANGE BEACH,
An Alabama Municipal Corporation

By: ___________________________________________
Mayor Anthony T. Kennon

ATTEST:

_______________________________________
Renee Eberly, City Clerk

CONTRACTOR:

TANNER MYATT

By: ___________________________________________
Tanner Myatt

STATE OF ALABAMA
COUNTY OF BALDWIN

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

Given under my hand and seal on the ______ day of ________________________, 2024.

(SEAL) ____________________________________________

Notary Public
My Commission Expires: ________________________

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said County in said State, hereby certify that Alex Huffman 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, she, as such owner and with full authority, executed the same voluntarily for and as the act of said municipal corporation on the day the same bears date.

Given under my hand and seal on the ______ day of ________________________, 2024.

(SEAL) ____________________________________________

Notary Public
My Commission Expires: ________________________

## REGULAR COMMITTEE OF THE WHOLE MEETING
## SEPTEMBER 3, 2024

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**Departments:** City Clerk

**Description of Topic:** Resolution awarding the bid for Canal Road Multi-Use Trail Connectivity Projects. (RE/CP)

**Background/Description:** Bid opening scheduled for September 12, 2024.

**Action Options/Recommendation:**

**Source of Funding (if applicable):**

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**ATTACHMENTS:**
None