



REGULAR COMMITTEE OF THE WHOLE MEETING AGENDA

I. Roll Call

II. Consideration of Previous Minutes

1. Regular Council Meeting 10/01/2024
2. Committee of the Whole 10/01/2024

III. Unfinished Business

Miscellaneous

Resolutions

Ordinances

IV. New Business

Miscellaneous

1. Discuss petition to annex into the City of Orange Beach submitted by Intracoastal Investments, LLC. (RE)

Resolutions

1. Resolution authorizing the execution of a software service and hardware purchase agreement with Flock Group, Inc., for license plate recognition cameras for the Police Department. (SB)
2. Resolution authorizing the purchase of Portable Radios for the Fire Department through State Bid from Motorola Solutions, Inc., in the amount of \$882,125.64. (JS)
3. Resolution authorizing the purchase of Exercise Equipment for the Adult Fitness Center through the Sourcewell Purchasing Cooperative from Life Fitness in the amount of \$99,606.01. (NA)
4. Resolution authorizing the execution of a software service agreement with Peak Software Systems, Inc., dba Sportsman Software, for recreation program member management. (NA)

5. Resolution establishing fees for the Orange Beach Shooting Range. (PW)
6. Resolution authorizing the execution of a professional services agreement with Allen Engineering and Science, Inc., for engineering, planning, environmental consulting, and construction assistance services. (PW)
7. Resolution authorizing the execution of GOMESA Grant Agreement Amendment No. 1 to extend the term of the original agreement. (NW)
8. Resolution accepting a proposal from Safe Span, L.L.C., for bridge safety inspections in an amount not to exceed \$2,800. (CP)
9. Resolution authorizing execution of a lease agreement with the Alabama Law Enforcement Agency for office space and boat slips for the Police Department. (SB)

Public Hearings

1. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1101-PUDA-24, Saltwater Cottages PUD, POA Sidewalk. (Suggested date 11/5/2024) (GP)
2. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1007-ZT-24, Section 2.02, Words & Terms Defined, Definition of Grade Plane. (Suggested date 11/5/2024) (GP)

Ordinances

V. Public Comments

VI. Adjourn

**MINUTES OF
REGULAR COUNCIL MEETING
ORANGE BEACH CITY COUNCIL
OCTOBER 1, 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** Pastor Fred Franks, Island Church
- III. PLEDGE OF ALLEGIANCE** 12U Mako Cheerleaders and Coach Nicole May
- 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 approve the agenda as written. Vote unanimous in favor.

VI. CONSIDERATION OF PREVIOUS MINUTES

Regular Council Meeting 09/03/2024
Committee of the Whole 09/03/2024

The reading was waived and minutes were approved as written.

VII. REPORTS OF OFFICERS/COMMITTEES

- | | |
|---|------------|
| 1. <u>City Administrator – Ford Handley</u> | No report. |
| 2. <u>Director, Public Works – Tim Tucker</u> | No report. |
| 3. <u>Director, Community Development – Adam Roberson</u> | No report. |
| 4. <u>Chief, Police Department – Steve Brown</u> | No report. |
| 5. <u>Chief, Fire Department – Jeff Smith</u> | No report. |
| 6. <u>City Clerk – Renee Eberly</u> | No report. |
| 7. <u>Director, Finance – Ford Handley</u> | No report. |
| 8. <u>Parks & Recreation – Nicole Ard</u> | No report. |
| 9. <u>Director, Utilities – Jeff Hartley</u> | No report. |
| 10. <u>Director, Coastal Resources – Phillip West</u> | No report. |
| 11. <u>Librarian, Public Library – Meagan Bing</u> | No report. |
| 12. <u>Director, Municipal Court – Pam Davis</u> | No report. |
| 13. <u>Director, Expect Excellence – Ford Handley</u> | No report. |
| 14. <u>Mayor/Council</u> | |

Councilmember Silvers reminded the public about Freedom Fest being held on Friday and Saturday, October 4-5, 2024, at the Wharf. He also acknowledged the families who are sheltering with relatives in the area or relocating from areas devastated by Hurricane Helene.

Mayor Kennon recognized Caroline Utsey (formerly Grimes) for her selection by Disney to perform as Disney Princess Belle.

Councilmember Blalock praised the Expect Excellence Performing Arts team for their successful production of Alice in Wonderland Jr.

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

XII. NEW BUSINESS

Miscellaneous

1. Approval of a Lounge Retail Liquor Class I License Application by Gulf Babe Wine Boutique, LLC, for Gulf Babe Wine Boutique, 4593 Main Street, Space C101. **Motion made (Boyd/Blalock) to approve the liquor license.** Vote unanimous in favor. **Motion passed.**

Resolutions

1. Resolution authorizing the execution of a task order with Thompson Engineering, Inc., for construction inspection and administration services for Canal Road Multi-Use Trail Connectivity Projects in an amount not to exceed \$375,000. **Motion made (Mitchell/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
2. Resolution awarding the bid for construction of the Coastal Alabama Sea Turtle Center to Klarman & Day General Contractors, LLC, in an amount not to exceed \$1,200,000. **Motion made (Silvers/Johnson) to postpone consideration until the next meeting on October 15, 2024.** Vote unanimous in favor. **Motion passed.**
3. Resolution awarding the annual bid for Coastal Arts Center Event Tent Rental to Gulf Coast Events & Rentals LLC per unit pricing in an amount not to exceed \$71,750 per year for a maximum term of three years. **Motion made (Silvers/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
4. Resolution authorizing execution of a professional services agreement with J.F. Morris Performance LLC for theater performance direction for "Shrek The Musical." **Motion made (Johnson/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
5. Resolution authorizing the execution of a software service agreement with Peak Software Systems, Inc., dba Sportsman Software, for Golf Center member management software. **Motion made (Silvers/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

6. Resolution accepting a proposal from ThreatAdvice Security Services, LLC, to connect the Field House and Batting Cage Buildings at the Sportsplex to the fiber network in the amount of \$19,280.90. **Motion made (Mitchell/Silvers) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
7. 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 Expect Excellence Music Building following the April 10, 2021, hailstorm in an amount not to exceed \$15,200. **Motion made (Johnson/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
8. Resolution authorizing the City of Orange Beach, Alabama, to grant an easement to Point Broadband Fiber Holding, LLC . **Motion made (Johnson/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

Ordinances

1. First Reading – Ordinance approving the petition for annexation of the Gatlin Property into the City of Orange Beach, Alabama. No action taken. Ordinance will move to a second reading.
2. First Reading – Ordinance amending Chapter 50 of the Code of Ordinances for the City of Orange Beach, Alabama, to add a new Article XIII entitled "Recreational Vehicle Rentals". **Motion made (Boyd/Johnson) 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; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (6-0).** **Motion made (Blalock/Mitchell) to adopt the ordinance.** Roll call vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (6-0).**
3. First Reading – Ordinance amending Chapter 70, Article VIII of the Code of Ordinances for the City of Orange Beach, Alabama, entitled "Golf Carts". **Motion made (Silvers/Blalock) 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; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (6-0).** **Motion made (Silvers/Johnson) to adopt the ordinance.** Roll call vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (6-0).**

XIII. PUBLIC COMMENTS

None

XIV. ADJOURN

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

Time: 5:17 P.M.

APPROVED this the 5th day of November, 2024.

Renee Eberly
City Clerk

**MINUTES OF
COMMITTEE OF THE WHOLE MEETING
ORANGE BEACH CITY COUNCIL
OCTOBER 1, 2024 – 5:17 P.M.
CITY HALL – COUNCIL CHAMBERS**

The Orange Beach City Council met to review potential items for the October 15, 2024, agenda.

The following members were present:

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

The following members were absent:

None

The following items were discussed:

1. Set a meeting of the Solid Waste Authority. Council set the Solid Waste Authority Meeting for October 15, 2024, at 4:50 P.M.
2. Discuss purchase of real property.
3. Resolution authorizing the purchase of a Video Surveillance System for the Batting Cages at the Sportsplex through State Bid from Vision Security Technologies Inc. in the amount of \$26,825.15.
4. Resolution awarding the bid for 2024 Roadway Resurfacing.
5. Resolution appropriating funds to the Orange Beach Board of Education for safety enhancements in an amount not to exceed \$30,000.
6. Resolution authorizing the execution of a professional services agreement with Gunn & Associates, P.C., for electrical engineering services.
7. Resolution authorizing the execution of a task order with Gunn & Associates, P.C., for pickleball court lighting in an amount not to exceed \$15,900.
8. Resolution authorizing the execution of a payment processing agreement with CSG Forte Payments, Inc.
9. Reminder: Public hearing and first reading for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0901-PUDA-24, Fish Camp Landing PUD, Updated Marina Plan on October 15, 2024.
10. Reminder: Public hearing and first reading for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0902-PUDA-24, Columbia Southern University PUD, Sign Amendment on October 15, 2024.

Public Comments:

1. Renee Eberly, City Clerk, notified the City Council that an additional item authorizing an agreement with the Orange Beach Water Authority to share construction costs for adding water and sewer system pipelines will be on the council agenda for approval on October 15, 2024.

There being no further business, the meeting adjourned.

Time: 5:27 P.M.

APPROVED this 5th day of November, 2024.

Renee Eberly
City Clerk



**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: City Clerk

Description of Topic: Discuss petition to annex into the City of Orange Beach submitted by Intracoastal Investments, LLC. (RE)

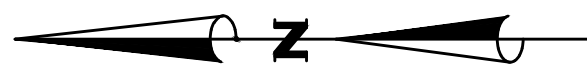
Background/Description:

Action Options/Recommendation:

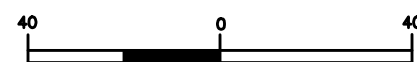
Source of Funding (if applicable):

ATTACHMENTS:

1. 2024.10.03 Petition to Annex - Intracoastal Investments Survey
2. 2024.10.03 Petition to Annex - Intracoastal Investments



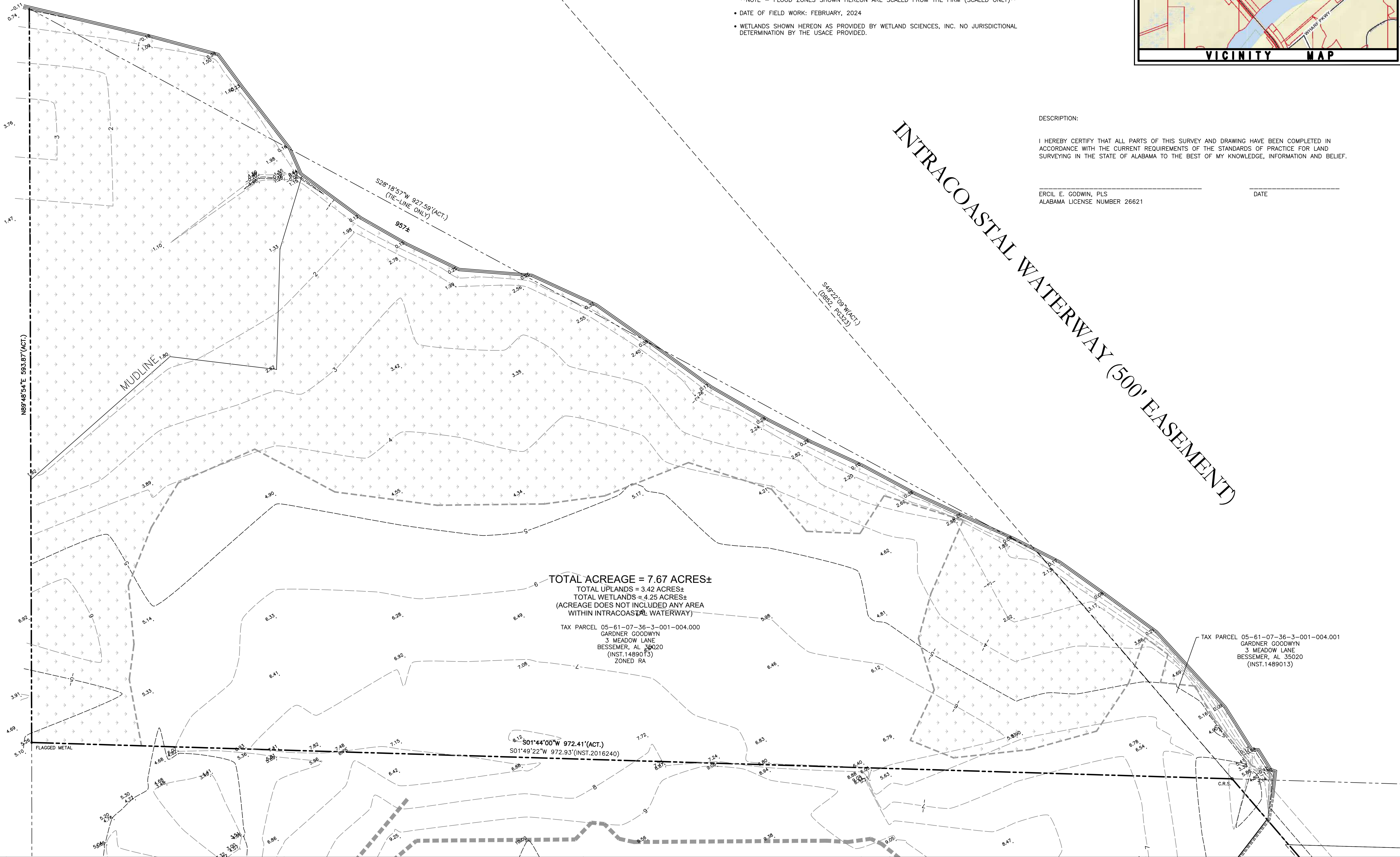
GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

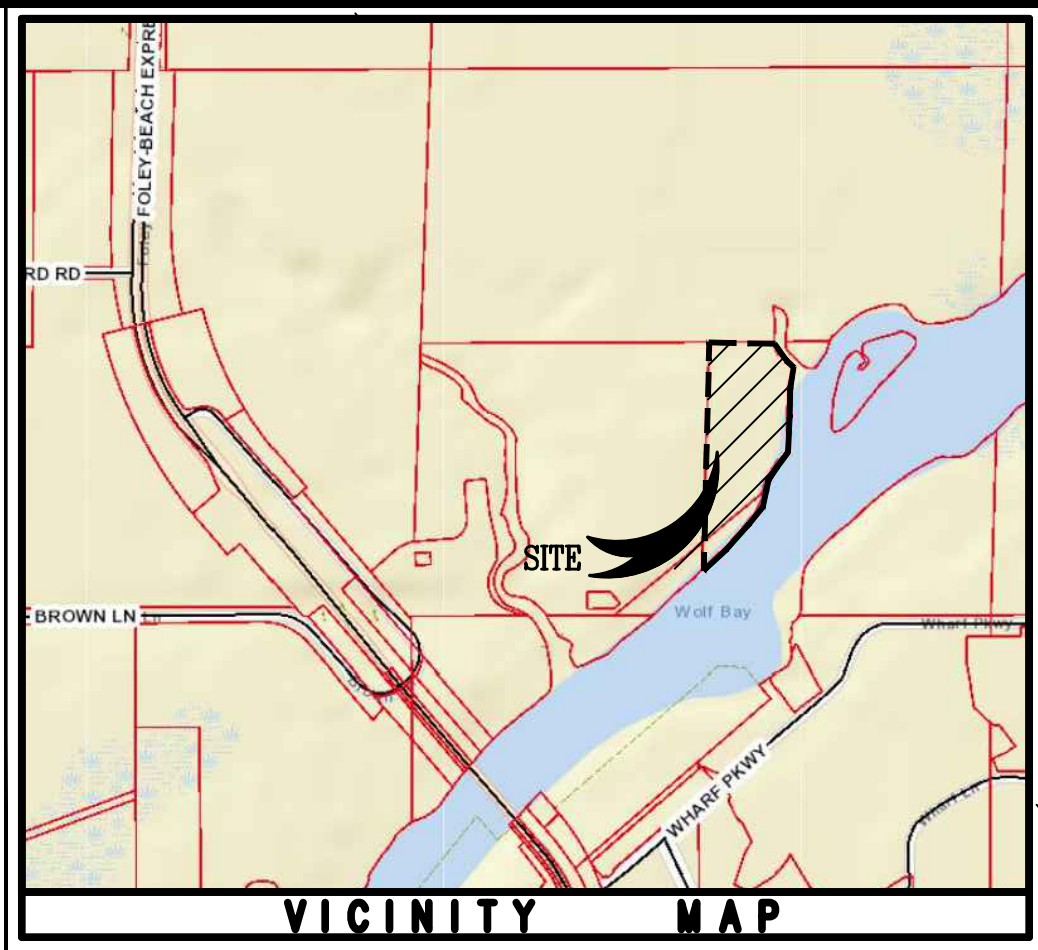
LEGEND

- C.R.F. CAPPED REBAR FOUND
- C.T.I.F. CRIMPED TOP IRON FOUND
- I.P.F. IRON PIPE FOUND
- O.T.I.F. OPEN TOP IRON FOUND
- P.K.N.F. "PK" NAIL FOUND
- P.T.I.F. PIG TAIL IRON FOUND
- R.B.F. REBAR FOUND
- R.R.S.F. RAILROAD SPIKE FOUND
- R.B.F. REBAR IRON FOUND
- C.R.S. 1/2" CAPPED REBAR SET "CA 1007-LS"
- P.K.N.S. "PK" NAIL SET
- R.R.S.S. RAILROAD SPIKE SET
- C.M.F. CONCRETE MONUMENT FOUND
- C.M.S. CONCRETE MONUMENT SET "CA 1007-LS"
- ⊙ POWER POLE
- ⊞ ELECTRIC METER
- ⊞ TRANSFORMER
- ⊞ LIGHT POLE
- ⊞ GUY WIRE
- ⊞ AIR CONDITIONER
- ⊞ SSV SANITARY SEWER VALVE
- ⊞ SSCO SANITARY SEWER CLEAN OUT
- ⊞ MH SANITARY SEWER MANHOLE
- ⊞ GRINDER PUMP
- ⊞ TP TELEPHONE PEDESTAL
- ⊞ MH TELEPHONE MANHOLE
- ⊞ FH CATV PEDESTAL
- ⊞ FH FIRE HYDRANT
- ⊞ WM WATER METER
- ⊞ WV WATER VALVE
- ⊞ GV GAS VALVE



SURVEYORS NOTES:

- INFORMATION USED TO PERFORM AND PRODUCE THIS SURVEY ARE PREVIOUS SURVEYS, BY THIS FIRM OR OTHERS, DEEDS OF RECORDS AND/OR OTHER INFORMATION AS PROVIDED BY THE CLIENT. NO TITLE SEARCH, OPINION OR ABSTRACT WAS PERFORMED BY THIS FIRM OR BY OTHERS UNDER THE DIRECTION OF THIS FIRM. IN ADDITION, THERE MAY BE OTHER INSTRUMENTS OF RECORD WITHIN THE OFFICE OF THE JUDGE OF PROBATE, AS WELL AS OTHER UNRECORDED INSTRUMENTS COULD ENCUMBER AND/OR AFFECT THE BOUNDARIES OF THIS PROPERTY THAT WERE NOT FURNISHED AT THE TIME OF SURVEY.
- BASIS OF BEARING: GRID NORTH AS DETERMINED BY RTK GPS AND REFERENCED TO NAD83, ALABAMA WEST ZONE STATE PLANE COORDINATES
- FEDERAL INSURANCE ADMINISTRATION MAP, COMMUNITY PANEL NO.: 01003C0942M
REVISION DATE: APRIL 19, 2019
FLOOD ZONE(S): ZONE "X"(UNSHADED), AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN; ZONE "X"(SHADED), AREAS OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGED DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS LESS THAN 1 SQUARE MILE AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD; ZONE "AE", BASE FLOOD ELEVATIONS DETERMINED TO BE 9 AND 10.
NOTE - FLOOD ZONES SHOWN HEREON ARE SCALED FROM THE FIRM (SCALED ONLY)
- DATE OF FIELD WORK: FEBRUARY, 2024
- WETLANDS SHOWN HEREON AS PROVIDED BY WETLAND SCIENCES, INC. NO JURISDICTIONAL DETERMINATION BY THE USACE PROVIDED.



DESCRIPTION:

I HEREBY CERTIFY THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

ERIC E. GODWIN, PLS
ALABAMA LICENSE NUMBER 26621

DATE

NUMBER:	REVISION:	DATE:



ENGINEERING - SURVEYING - CONSTRUCTION MANAGEMENT

30673 Sgt. E. I. "Boots" Thomas Drive, Spanish Fort, AL 36527 Phone: (251) 544-7900

BOUNDARY & TOPOGRAPHIC SURVEY

GOODWYN PARCEL

THE WHARF LANDING, LLC

SCALE:	1"=40'
DATE:	FEBRUARY, 2024
DRAWN BY:	
CHECKED BY:	
SHEET:	1 OF 1

PETITION TO ANNEX INTO THE CITY OF ORANGE BEACH BY UNANIMOUS CONSENT

TO THE CITY OF ORANGE BEACH, ALABAMA:

We, the undersigned, constituting all of the owners of all of the hereinafter described real property, do hereby execute and file with the City Clerk this written petition requesting that the property described be annexed into the City of Orange Beach, AL pursuant to the authority of *Alabama Code* sections 11-42-20 through 11-42-24 (1975), as amended. A map of said property is attached hereto.

Legal Description:

PARCEL "A"

BEGINNING AT THE NORTHEAST CORNER OF LOT 2, THE WHARF LANDING, PHASE 1, AS RECORDED AS SLIDE 2949-D IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA; THENCE RUN N89°47'41"E, 584.15 FEET TO A POINT ON THE NORTH MARGIN OF WOLF BAY; THENCE RUN SOUTHWESTERLY ALONG SAID NORTH MARGIN OF WOLF BAY, 1152 FEET MORE OR LESS TO THE POINT OF INTERSECTION OF SAID NORTH MARGIN AND THE NORTH LINE OF THE INTRACOASTAL WATERWAYS EASEMENT, SAID POINT BEING S28°00'26"W, 923.83 FEET FROM THE LAST POINT OF CALL; THENCE RUN S49°22'08"W, ALONG THE NORTH LINE OF SAID INTRACOASTAL WATERWAY EASEMENT, 236.79 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2, THE WHARF LANDING, PHASE 1; THENCE RUN N01°44'00"W, ALONG THE EAST LINE OF SAID LOT 2, 972.41 FEET TO THE POINT OF BEGINNING, CONTAINING 7.43 ACRES MORE OR LESS AND LYING IN SECTION 36, TOWNSHIP 8 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA.

PARCEL "B"

COMMENCING AT THE NORTHEAST CORNER OF LOT 2, THE WHARF LANDING, PHASE 1, AS RECORDED AS SLIDE 2949-D IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA; THENCE RUN S01°44'00"W, ALONG THE EAST LINE OF SAID LOT 2, 972.41 FEET TO THE SOUTHEAST CORNER OF LOT 2, SAID POINT ALSO BEING ON THE NORTH LINE OF THE INTRACOASTAL WATERWAY EASEMENT AND THE POINT OF BEGINNING; THENCE RUN N49°22'08"E, ALONG SAID NORTH LINE OF THE INTRACOASTAL WATERWAY EASEMENT, 1486.55 FEET TO A POINT; THENCE RUN N89°47'41"E, LEAVING SAID NORTH LINE, 312.93 FEET TO A POINT; THENCE RUN S01°05'21"W, 395.74 FEET TO A POINT ON THE SOUTH LINE OF SAID INTRACOASTAL WATERWAY EASEMENT; THENCE RUN S49°22'08"W, ALONG SAID SOUTH LINE, 1381.40 FEET TO A POINT; THENCE RUN S89°52'37"W, LEAVING SAID SOUTH LINE, 445.69 FEET TO A POINT; THENCE RUN N01°38'52"E, 284.53 FEET TO A POINT ON THE NORTH LINE OF SAID INTRACOASTAL WATERWAY EASEMENT; THENCE RUN N49°22'08"E, ALONG SAID NORTH LINE 68.90 FEET TO THE POINT OF BEGINNING, CONTAINING 19.73 ACRES MORE OR LESS AND LYING IN SECTION 36, TOWNSHIP 8 SOUTH, RANGE 4 EAST, BALDWIN COUNTY, ALABAMA.

We, the undersigned, further certify that the herein described property is contiguous to the corporate limits of the City of Orange Beach and that such property does not lie within the corporate limits of any other municipality, and either does not lie within the police jurisdiction of any other municipality or if any portion of the property lies within the police jurisdiction of another municipality, that portion also lies within the police jurisdiction of the City of Orange Beach and is located equidistant or closer to the corporate limits of the City of Orange Beach than the other city as required by Section 11-42-21, Code of Alabama 1975.

We do hereby request that the City Council and the City Clerk give such notice, hold such hearings and adopt such ordinances and do all such things or acts as is required by law so that the corporate limits of the City of Orange Beach shall be rearranged so as to include such territory.

IN WITNESS WHEREOF, we have hereunto subscribed our names this the 3 day of

October, 2024

Arthur E. Farve III
Property Owner Signature

Property Owner Signature

Intracoastal Investments LLC.- Arthur Emmette Farve III
Property Owner Printed Name

Property Owner Printed Name

Marital Status: (Circle one) Single / Married

Mailing Address:

Mailing Address:

Intracoastal Investments LLC.

610 Highland Crossing St.

Baton Rouge, LA 70810

Email: jim@alwharf.com

Email: _____

Telephone: 251-504-4253

Telephone: _____



**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing the execution of a software service and hardware purchase agreement with Flock Group, Inc., for license plate recognition cameras for the Police Department. (SB)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 11-05-24 24-xxx Authorize Service Agreement Flock Safety LPR Cameras Police
2. 2024.10.10 Software Service Agreement Flock Safety LPR Cameras

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING THE EXECUTION OF A
SOFTWARE SERVICE AND HARDWARE PURCHASE AGREEMENT WITH
FLOCK GROUP, INC.
FOR LICENSE PLATE RECOGNITION CAMERAS FOR THE POLICE DEPARTMENT**

FINDINGS:

1. The Police Chief has recommended accepting a software service and hardware purchase agreement (attached Exhibit A) with Flock Group, Inc., for license plate recognition (LPR) cameras for the Police Department.
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 is hereby authorized to execute the software service agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach and Flock Group, 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 5th DAY OF NOVEMBER, 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 November 5, 2024.

City Clerk

Flock Safety + AL - Orange Beach PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Mark Schmitz
mark.schmitz@flocksafety.com
+12564574533



ORDER FORM

This order form (“**Order Form**”) hereby incorporates and includes the terms of the previously executed agreement (the “**Terms**”) which describe and set forth the general legal terms governing the relationship (collectively, the "**Agreement**"). The Terms contain, among other things, warranty disclaimers, liability limitations and use limitations.

This additional services Agreement will be effective when this Order Form is executed by both Parties (the “**Effective Date**”)

Customer:	AL - Orange Beach PD	Initial Term:	24 Months
Legal Entity Name:	AL - Orange Beach PD	Renewal Term:	24 Months
Accounts Payable Email:		Payment Terms:	Net 30
Address:	Po Box 458 Orange Beach, Alabama 36561	Billing Frequency:	Annual Plan - First Year Invoiced at Signing.
		Retention Period:	30 Days

Hardware and Software Products
Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$6,000.00
Flock Safety LPR Products			
Flock Safety Falcon ®	Included	2	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Standard Implementation Fee	\$650.00	2	\$1,300.00

Subtotal Year 1:	\$7,300.00
Annual Recurring Subtotal:	\$6,000.00
Estimated Tax:	\$0.00
Contract Total:	\$13,300.00

*Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

Billing Schedule

Billing Schedule	Amount (USD)
------------------	--------------

Year 1	
At Contract Signing	\$7,300.00
Annual Recurring after Year 1	\$6,000.00
Contract Total	\$13,300.00

*Tax not included

Product and Services Description

Flock Safety Platform Items	Product Description
Flock Safety Falcon ®	Law enforcement grade infrastructure-free (solar power + LTE) license plate recognition camera with Vehicle Fingerprint ™ technology (proprietary machine learning software) and real-time alerts for unlimited users.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.

By executing this Order Form, Customer represents and warrants that it has read and agrees to all of the terms and conditions contained in the previously executed agreement.
The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Customer: AL - Orange Beach PD

By: _____
Name: Mark Smith
Title: _____
Date: _____

By: _____
Name: Renee Eberly
Title: _____
Date: _____
PO Number: _____

flock safety

GOVERNMENT AGENCY CUSTOMER AGREEMENT

This Government Agency Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Rd NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the police department or government agency identified in the signature block below (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

RECITALS

WHEREAS, Flock offers a software and hardware solution for automatic license plate detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Service creates images and recordings of suspect vehicles (“**Footage**”) and can provide notifications to Agency upon the instructions of Non-Agency End User (“**Notifications**”);

WHEREAS, Agency desires to purchase, use and/or have installed access to the Flock Service in order to create, view, search and archive Footage and receive Notifications, including those from non-Agency users of the Flock System (where there is an investigative purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

WHEREAS, because Footage is stored for no longer than (thirty) 30 days in compliance with Flock’s records retention policy, Agency is responsible for extracting, downloading and archiving Footage from the Flock System on its own storage devices for auditing for prosecutorial/administrative purposes; and

WHEREAS, Flock desires to provide Agency the Flock Service and any access thereto, subject to the terms and conditions of this Agreement, solely for the purpose of crime awareness and prevention by police departments and archiving for evidence gathering (“**Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Agency agree as follows and further agree to incorporate the Recitals into this Agreement.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Authorized End User**” shall mean any individual employees, agents, or contractors of Agency accessing or using the Flock Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

1.2 “**Agency Data**” will mean the data, media and content provided by Agency through the Flock Services. For the avoidance of doubt, the Agency Data will include the Footage and geolocation information and environmental data collected by sensors built into the Units.

1.3 “**Documentation**” will mean text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Flock Services which are provided by Flock to Agency in accordance with the terms of this Agreement.

1.4 “**Embedded Software**” will mean the software and/or firmware embedded or preinstalled on the Hardware.

1.5 “**Flock IP**” will mean the Flock Services, the Documentation, the Hardware, the Embedded Software, the Installation Services, and any and all intellectual property therein or otherwise provided to Agency and/or its Authorized End Users in connection with the foregoing.

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1.6 “**Footage**” means still images and/or video captured by the Hardware in the course of and provided via the Flock Services.

1.7 “**Hardware**” shall mean the Flock cameras and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services. The term “**Hardware**” excludes the Embedded Software.

1.8 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined in Section 1.9 below.

1.9 “**Installation Services**” means the services provided by Flock regarding the installation, placements and configuration of the Hardware, pursuant to the Statement of Work attached hereto.

1.10 “**Flock Services or Services**” means the provision, via the Web Interface, of Flock’s software application for automatic license plate detection, searching image records, and sharing Footage.

1.11 “**Non-Agency End User**” means a Flock’s non-Agency customer that has elected to give Agency access to its data in the Flock system.

1.12 “**Non-Agency End User Data**” means the Footage, geolocation data, environmental data and/or notifications of a Non-Agency End User.

1.13 “**Unit(s)**” shall mean the Hardware together with the Embedded Software.

1.14 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Flock Services and Hardware.

1.15 “**Support Services**” shall mean On-site Services and Monitoring Services, as defined in Section 2.9 below.

1.16 “**Web Interface**” means the website(s) or application(s) through which Agency and its Authorized End Users can access the Flock Services in accordance with the terms of this Agreement.

2. FLOCK SERVICES AND SUPPORT

2.1 Provision of Access. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Service Term (as defined in Section 6.1) and No-Fee Term, solely for the Authorized End Users. The Footage will be available for Agency’s designated administrator, listed on the Order Form, and any Authorized End Users to access via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account, and select a password and username (“**User ID**”). Flock will also provide Agency the Documentation to be used in accessing and using the Flock Services. Agency shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Agency, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Agency. Agency shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User’s use of the Flock Services and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, including without limitation using a third party to host the Web Interface which the Flock Services makes available to Agency and Authorized End Users. **WARRANTIES PROVIDED BY SUCH THIRD PARTIES, ARE THE AGENCY’S SOLE AND EXCLUSIVE REMEDY AND FLOCK’S SOLE AND EXCLUSIVE LIABILITY WITH REGARD TO SUCH THIRD-PARTY SERVICES, INCLUDING WITHOUT LIMITATION HOSTING THE WEB INTERFACE.** To the extent practicable, Agency agrees to comply with any acceptable use policies and other terms of any third-party service provider that are provided or otherwise made available to Agency from time to time.

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2.2 Embedded Software License. Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as installed on the Hardware by Flock; in each case, solely as necessary for Agency to use the Flock Services.

2.3 Documentation License. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right and license to use the Documentation during the Service Term in connection with its use of the Flock Services as contemplated herein, and under Section 2.4, below.

2.4 Usage Restrictions. The purpose for usage of the Hardware, Documentation, Services, support, and the Flock IP is solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency and not for tracking activities that the system is not designed to capture (“**Permitted Purpose**”). Agency will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP, or attempt to do any of the foregoing, and Agency acknowledges that nothing in this Agreement will be construed to grant Agency any right to obtain or use such source code; (iii) modify, alter, tamper with or repair any of the Flock IP, or create any derivative product from any of the foregoing, or attempt to do any of the foregoing, except with the prior written consent of Flock; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Flock Services or Flock IP; (vi) use the Services, support, Hardware, Documentation or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Agency’s rights under Sections 2.1, 2.2, or 2.3.

2.5 Retained Rights; Ownership. As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Agency further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock’s sole discretion. There are no implied rights.

2.6 Suspension. Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency’s and any Authorized End User’s access to any portion or all of the Flock IP if (i) Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP; (b) Agency’s or any Authorized End User’s use of the Flock Service disrupts or poses a security risk to the Flock Service or any other customer or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Flock’s provision of the Flock Services to Agency or any Authorized End User is prohibited by applicable law; (e) any vendor of Flock has suspended or terminated Flock’s access to or use of any third party services or products required to enable Agency to access the Flock IP; or (f) Agency has violated any term of this provision, including, but not limited to, utilizing the Flock Services for anything other than the Permitted Purpose (each such suspension, in accordance with this Section 2.6, a “**Service Suspension**”). Flock will make commercially reasonable efforts, circumstances permitting, to provide written notice of any Service Suspension to Agency (including notices sent to Flock’s registered email address) and to provide updates regarding resumption of access to the Flock IP following any Service Suspension. Flock will use commercially reasonable efforts to resume providing access to the Flock Service as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits) or any other consequences that Agency or any Authorized End User may incur as a result of a Service Suspension. To the extent that the Service Suspension is not caused by Agency’s direct actions or by the actions of parties associated with the Agency, the expiration of the Term will be tolled by the duration of any suspension (for any continuous suspension lasting at least one full day).

2.7 Installation Services.

2.7.1 Designated Locations. Prior to performing the physical installation of the Units, Flock shall advise Agency on the location and positioning of the Units for optimal license plate image capture, as conditions and location

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allow. Flock and Agency must mutually agree on the location (mounting site or pole), position and angle of the Units (each Unit location so designated by Agency, a “**Designated Location**”). Flock shall have no liability to Agency resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Agency’s delay in identifying the choices for the Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready. Designated Locations that are suggested by Flock and accepted by Agency without alteration will be known as Flock Designated Locations. After a deployment plan with Designated Locations and equipment has been agreed upon by both Flock and the Agency, any subsequent changes to the deployment plan (“**Reinstalls**”) driven by Agency’s request will incur a charge for Flock’s then-current list price for Reinstalls, as listed in the then-current Reinstall Policy (available at <https://www.flocksafety.com/reinstall-fee-schedule>) and any equipment charges. These changes include but are not limited to camera re-positioning, adjusting of camera mounting, re-angling, removing foliage, camera replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like.

2.7.2 Agency’s Installation Obligations. Agency agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work. The “**Agency Installation Obligations**” include, to the extent required by the deployment plan, but are not limited to electrical work to provide a reliable source of 120V AC power that follow Flock guidelines and comply with local regulations if adequate solar exposure is not available. Agency is solely responsible for (i) any permits or associated costs, and managing the permitting process; (ii) any federal, state or local taxes including property, license, privilege, sales, use, excise, gross receipts or other similar taxes which may now or hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Hardware, its use, or (iii) any other services performed in connection with installation of the Hardware. Flock will provide options to supply power at each Designated Location. If Agency refuses alternative power supply options, Agency agrees and understands that Agency will not be subject to any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar. Flock will make all reasonable efforts within their control to minimize suspension of Flock Services. Any fees payable to Flock exclude the foregoing. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Agency if Agency did not address them prior to the execution of this Agreement or a third party requires Flock to pay. Agency represents and warrants that it has all necessary right title and authority and hereby authorizes Flock to install the Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation.

2.7.3 Flock’s Installation Obligations. The Hardware shall be installed in a workmanlike manner in accordance with Flock’s standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are selected by Agency. Following the initial installation of the Hardware and any subsequent Reinstalls or maintenance operations, Flock’s obligation to perform installation work shall cease; however, Flock will continue to monitor the performance of the Units for the length of the Term and will receive access to the Footage for a period of three (3) business days after the initial installation in order to monitor performance and provide any necessary maintenance solely as a measure of quality control. Agency can opt out of Flock’s access to Footage after the initial installation which would waive Flock’s responsibility to ensure such action was successful. Agency understands and agrees that the Flock Services will not function without the Hardware. Labor may be provided by Flock or a third party.

2.7.4 Security Interest. The Hardware shall remain the personal property of Flock and will be removed upon the termination or expiration of this Agreement. Agency agrees to perform all acts which may be necessary to assure the retention of title of the Hardware by Flock. Should Agency default in any payment for the Flock Services or any part thereof or offer to sell or auction the Hardware, then Agency authorizes and empowers Flock to remove the Hardware or any part thereof. Such removal, if made by Flock, shall not be deemed a waiver of Flock’s rights to any damages Flock may sustain as a result of Agency’s default and Flock shall have the right to enforce any other legal remedy or right.

2.8 Hazardous Conditions. Unless otherwise stated in the Agreement, Flock’s price for its services under this Agreement does not contemplate work in any areas that contain hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately in the area affected until such materials are removed or rendered harmless.

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Any additional expenses incurred by Flock as a result of the discovery or presence of hazardous material or hazardous conditions shall be the responsibility of Agency and shall be paid promptly upon billing.

2.9 Support Services. Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency on changes to the Flock Services, Installation Services, or the Designated Locations which may improve the performance or functionality of the Services or may improve the quality of the Footage. The work, its timing, and the fees payable relating to such work shall be agreed by the Parties prior to any alterations to or changes of the Services or the Designated Locations (“**Monitoring Services**”). Subject to the terms hereof, Flock will provide Agency with reasonable technical and on-site support and maintenance services (“**On-Site Services**”) in-person or by email at hello@flocksafety.com. Flock will use commercially reasonable efforts to respond to requests for support.

2.10 Special Terms. From time to time, Flock may offer certain “Special Terms” related to guarantees, service and support which are indicated in the proposal and on the order form and will become part of this Agreement. To the extent that any terms of this agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

2.11 Changes to Platform. Flock Safety may, in its sole discretion, make any changes to any system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock Safety’s products or services to its customers, (b) the competitive strength of, or market for, Flock Safety’s products or services, (c) such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law.

3. AGENCY RESTRICTIONS AND RESPONSIBILITIES

3.1 Agency Obligations. Upon creation of a User ID, Agency agrees to provide Flock with accurate, complete, and updated registration information. Agency may not select as its User ID a name that Agency does not have the right to use, or another person’s name with the intent to impersonate that person. Agency may not transfer its account to anyone else without prior written permission of Flock. Agency will not share its account or password with anyone, and must protect the security of its account and password. Agency is responsible for any activity associated with its account. Agency shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services. Agency will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Agency facilities, as well as by means of assistance from Agency personnel, to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

3.2 Agency Representations and Warranties. Agency represents, covenants, and warrants that Agency will use the Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of video, photo, or audio content and retention thereof. To the extent allowed by the governing law of the state mentioned in Section 10.6, or if no state is mentioned in Section 10.6, by the law of the State of Georgia, Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses, including without limitation costs and attorneys’ fees, in connection with any claim or action that arises from an alleged violation of the foregoing, Agency’s Installation Obligations, or otherwise from Agency’s use of the Services, Hardware and any Embedded Software, including any claim that such actions violate any applicable law or third party right. Although Flock has no obligation to monitor Agency’s use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

4. CONFIDENTIALITY; AGENCY DATA; NON-AGENCY DATA

4.1 Confidentiality. Each Party (the “**Receiving Party**”) understands that the other Party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business

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(hereinafter referred to as “**Proprietary Information**” of the Disclosing Party). Proprietary Information of Flock is non-public information including but not limited to features, functionality, designs, user interfaces, trade secrets, intellectual property, business plans, marketing plans, works of authorship, hardware, customer lists and requirements, and performance of the Flock Services. Proprietary Information of Agency includes non-public Agency Data, Non-Agency End User Data, and data provided by Agency or a Non-Agency End User to Flock or collected by Flock via the Unit, including the Footage, to enable the provision of the Services. The Receiving Party shall not disclose, use, transmit, inform or make available to any entity, person or body any of the Proprietary Information, except as a necessary part of performing its obligations hereunder, and shall take all such actions as are reasonably necessary and appropriate to preserve and protect the Proprietary Information and the parties’ respective rights therein, at all times exercising at least a reasonable level of care. Each party agrees to restrict access to the Proprietary Information of the other party to those employees or agents who require access in order to perform hereunder. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the party takes with its own proprietary information, but in no event will a party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock’s use of the Proprietary Information may include processing the Proprietary Information to send Agency Notifications or alerts, such as when a car exits Agency’s neighborhood, or to analyze the data collected to identify motion or other events.

The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by Receiving Party prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to Receiving Party without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party.

Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any subpoena, summons, judicial order or other judicial or governmental process, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to obtain a protective order or otherwise oppose the disclosure. For clarity, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third party, or the public as required or permitted by law, including respond to an emergency situation. Having received notice prior to data being deleted, Flock may store Footage in order to comply with a valid court order but such retained Footage will not be retrievable without a valid court order.

4.2 Agency and Non-Agency End User Data. As between Flock and Agency, all right, title and interest in the Agency Data and Non-Agency End User Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to use the Agency Data and Non-Agency End User Data and perform all acts with respect to the Agency Data and Non-Agency End User Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.9 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify and distribute the Agency Data and Non-Agency End User Data as a part of the Aggregated Data (as defined in Section 4.4 below). As between Flock and Agency, Agency is solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Agency Data and Non-Agency End User Data. As between Agency and Non-Agency End Users that have prescribed access of Footage to Agency, each of Agency and Non-Agency End Users will share all right, title and interest in the Non-Agency End User Data. This Agreement does not by itself make any Non-Agency End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion.

4.3 Feedback. If Agency provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency hereby assigns (and will cause its agents and representatives to assign) to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

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4.4 Aggregated Data. Notwithstanding anything in this Agreement to the contrary, Flock shall have the right to collect and analyze data that does not refer to or identify Agency or any individuals or de-identifies such data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Agency Data and data derived therefrom). For the sake of clarity, Aggregated Data is compiled anonymous data which has been stripped of any personal identifying information. Agency acknowledges that Flock will be compiling anonymized and/or aggregated data based on Agency Data and Non-Agency End User Data input into the Services (the “**Aggregated Data**”). Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right and license (during and after the Service Term hereof) to (i) use and distribute such Aggregated Data to improve and enhance the Services and for other marketing, development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts, and (ii) disclose the Agency Data and Non-Agency End User Data (both inclusive of any Footage) to enable law enforcement monitoring against law enforcement hotlists as well as provide Footage search access to law enforcement for investigative purposes only. No rights or licenses are granted except as expressly set forth herein.

5. PAYMENT OF FEES

5.1 Fees. Agency will pay Flock the first Usage Fee, the Implementation Fee and any fee for Hardware (as described on the Order Form, together the “**Initial Fees**”) as set forth on the Order Form on or before the 7th day following the Effective Date of this Agreement. Flock is not obligated to commence the Installation Services unless and until the Initial Fees have been made and shall have no liability resulting from any delay related thereto. Agency shall pay the ongoing Usage Fees set forth on the Order Form with such Usage Fees due and payable thirty (30) days in advance of each payment period. All payments will be made by either ACH, check, or credit card. The first month of Flock Services corresponding to the first Usage Fee payment will begin upon the first installation of Hardware. For Agencies who purchase ten (10) or more Units, in the event that only a portion of the Units are installed at the first installation with additional Units to be installed at a later date, Usage Fees shall be calculated on a pro rata basis corresponding to the then-installed Units. Agencies will be invoiced for the additional Units immediately upon installation of the remaining Units.

5.2 Changes to Fees. Flock reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Term or any Renewal Term, upon sixty (60) days’ notice prior to the end of such Initial Term or Renewal Term (as applicable) to Agency (which may be sent by email). Agency believes that Flock has billed Agency incorrectly, Agency must contact Flock no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Flock’s customer support department. Agency acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Agency may have had as a result of such billing error.

5.3 Invoicing, Late Fees; Taxes. Flock may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Flock thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection, and may result in immediate termination of Service. To the extent allowable by law or Agency regulations pertaining to tax-exempt entities, Agency shall be responsible for all taxes associated with Services other than U.S. taxes based on Flock’s net income.

5.4 No-Fee Term Access. Subject to Flock’s record retention policy, Flock offers complimentary access to the Flock System for thirty (30) days (“**No Fee Term**”) to Agency when Non-Agency End Users intentionally prescribe access or judicial orders mandate access to Non-Agency End User Data. Agency agrees to pay the Initial Fees and Usage Fees according to Section 5.1 and will receive Flock’s complimentary access to the Flock Service and Footage for no additional cost. Should such access cause Flock to incur internal or out-of-pocket costs that are solely the result of the access, Flock reserves the right to invoice these costs to Agency under Section 5.3 and Agency agrees to pay them. The complimentary No-Fee Term access to Flock Services shall survive the expiration or

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termination of this Agreement for five (5) years unless Agency provides written notice of the intent to cancel access to Flock Services.

6. TERM AND TERMINATION

6.1 Term. Subject to earlier termination as provided below, the initial term of this Agreement shall be for the period of time set forth on the Order Form (the “**Initial Term**”). *Following the Initial Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms for the greater of one year and the length set forth on the Order Form* (each, a “**Renewal Term**”, and together with the Initial Term, the “**Service Term**”) *unless either party gives the other party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

6.2 Agency Satisfaction Guarantee. At any time during the agreed upon term, an Agency not fully satisfied with the service or solution may self-elect to terminate their contract. Self-elected termination will result in a one-time fee of actual cost of removal and labor, said cost not to exceed \$500 per camera. Upon self-elected termination, a refund will be provided, prorated for any fees paid for the remaining Term length set forth previously. Self-termination of the contract by the Agency will be effective immediately. Flock will remove all equipment at Flock’s own convenience, within a commercially reasonable period upon termination. Advance notice will be provided.

6.3 Termination. In the event of any material breach of this Agreement, the non-breaching party may terminate this Agreement prior to the end of the Service Term by giving thirty (30) days prior written notice to the breaching party; provided, however, that this Agreement will not terminate if the breaching party has cured the breach prior to the expiration of such thirty-day period. Either party may terminate this Agreement, without notice, (i) upon the institution by or against the other party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other party's making an assignment for the benefit of creditors, or (iii) upon the other party's dissolution or ceasing to do business. Upon termination for Flock’s material breach, Flock will refund to Agency a pro-rata portion of the pre-paid Fees for Services not received due to such termination.

6.4 Effect of Termination. Upon any termination of the Service Term, Flock will collect all Units, delete all Agency Data, terminate Agency’s right to access or use any Services, and all licenses granted by Flock hereunder will immediately cease. Agency shall ensure that Flock is granted access to collect all Units and shall ensure that Flock personnel does not encounter Hazardous Conditions in the collection of such units. Upon termination of this Agreement, Agency will immediately cease all use of Flock Services.

6.5 No-Fee Term. The initial No-Fee Term will extend, after entering into this Agreement, for thirty (30) days from the date a Non-Agency End User grants access to their Footage and/or Notifications. In expectation of repeated non-continuous No-Fee Terms, Flock may in its sole discretion leave access open for Agency’s Authorized End Users despite there not being any current Non-Agency End User authorizations. Such access and successive No-Fee Terms are deemed to be part of the No-Fee Term. Flock, in its sole discretion, can determine not to provide additional No-Fee Terms or can impose a price per No-Fee Term upon thirty (30) days’ notice. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon 30 days’ notice.

6.6 Survival. The following Sections will survive termination: 2.4, 2.5, 3, 4, 5 (with respect to any accrued rights to payment), 5.4, 6.5, 7.4, 8.1, 8.2, 8.3, 8.4, 9.1 and 10.5.

7. REMEDY; WARRANTY AND DISCLAIMER

7.1 Remedy. Upon a malfunction or failure of Hardware or Embedded Software (a “**Defect**”), Agency must first make commercially reasonable efforts to address the problem by contacting Flock’s technical support as described in Section 2.9 above. If such efforts do not correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Hardware or Embedded Software suffering from the Defect. Flock reserves the right in their sole discretion to refuse or delay replacement or its choice of remedy for a Defect until after it has inspected and tested the affected Unit provided that such inspection and test shall occur within seventy-two (72) hours after Agency notifies the Flock of a Defect. In the event of a Defect, Flock will repair or replace the defective Unit at no

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additional cost. In the event that a Unit is lost, stolen, or damaged, Flock agrees to replace the Unit at a fee according to the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Units, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen units and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted.

7.2 Exclusions. Flock will not provide the remedy described in Section 7.1 above if any of the following exclusions apply: (a) misuse of the Hardware or Embedded Software in any manner, including operation of the Hardware or Embedded Software in any way that does not strictly comply with any applicable specifications, documentation, or other restrictions on use provided by Flock; (b) damage, alteration, or modification of the Hardware or Embedded Software in any way; or (c) combination of the Hardware or Embedded Software with software, hardware or other technology that was not expressly authorized by Flock.

7.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Upon completion of any installation or repair, Flock shall clean and leave the area in good condition. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

7.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE HARDWARE AND/OR EMBEDDED SOFTWARE. THE FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND INSTALLATION SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6, OR IF NO STATE IS MENTIONED IN SECTION 10.6, BY THE LAW OF THE STATE OF GEORGIA.

7.5 Insurance. Flock and Agency will each maintain commercial general liability policies with policy limits reasonably commensurate with the magnitude of their business risk. Certificates of Insurance will be provided upon request.

7.6 Force Majeure. Flock Safety is not responsible nor liable for any delays or failures in performance from any cause beyond its control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, weather conditions or acts of hackers, internet service providers or any other third party or acts or omissions of Agency or any Authorized End User.

8. LIMITATION OF LIABILITY AND INDEMNITY

8.1 Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL HARDWARE AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DATA OR FOOTAGE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF

flock safety

BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY AGENCY TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT OF AN EMERGENCY, AGENCY SHOULD CONTACT 911 AND SHOULD NOT RELY ON THE SERVICES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6, OR IF NO STATE IS MENTIONED IN SECTION 10.6, BY THE LAW OF THE STATE OF GEORGIA.

8.2 Additional No-Fee Term Requirements. IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.5 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Except for Flock's willful acts, Agency agrees to pay for Flock's attorneys' fees to defend Flock for any alleged or actual claims arising out of or in any way related to the No-Fee Term.

8.3 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees that occur within the scope of their official duties. Agency will not pursue any claims or actions against Flock's suppliers.

8.4 Indemnity. Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of Section 3.2, a breach of this Agreement, Agency's Installation Obligations, Agency's sharing of any data in connection with the Flock system, Flock employees or agent or Non-Agency End Users, or otherwise from Agency's use of the Services, Hardware and any Software, including any claim that such actions violate any applicable law or third party right. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of Section 3.2 or this Agreement.

9. RECORD RETENTION

9.1 Data Preservation. The Agency agrees to store Agency Data and Non-Agency End User Data in compliance with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules. As part of Agency's consideration for paid access and no-fee access to the Flock System, to the extent that Flock is required by local, state or federal law to store the Agency Data or the Non-Agency End User Data, Agency agrees to preserve and securely store this data on Flock's behalf so that Flock can delete the data from its servers and, should Flock be legally compelled by judicial or government order, Flock may retrieve the data from Agency upon demand.

10. MISCELLANEOUS

10.1 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

flock safety

10.2 Assignment. This Agreement is not assignable, transferable or sublicensable by Agency except with Flock's prior written consent. Flock may transfer and assign any of its rights and obligations, in whole or in part, under this Agreement without consent.

10.3 Entire Agreement. This Agreement, together with the Order Form(s), the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>), and Deployment Plan(s), are the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. None of Agency's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected.

10.4 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Agency does not have any authority of any kind to bind Flock in any respect whatsoever.

10.5 Costs and Attorneys' Fees. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

10.6 Governing Law; Venue. This Agreement shall be governed by the laws of the State of Georgia without regard to its conflict of laws provisions. To the extent that the arbitration language below does not apply, the federal and state courts sitting in the State of Georgia will have proper and exclusive jurisdiction and venue with respect to any disputes arising from or related to the subject matter of this Agreement. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement. Any dispute arising out of, in connection with, or in relation to this agreement or the making of validity thereof or its interpretation or any breach thereof shall be determined and settled by arbitration in Atlanta, Georgia by a sole arbitrator pursuant to the rules and regulations then obtaining of the American Arbitration Association and any award rendered therein shall be final and conclusive upon the parties, and a judgment thereon may be entered in the highest court of the forum, state or federal, having jurisdiction. The service of any notice, process, motion or other document in connection with an arbitration award under this agreement or for the enforcement of an arbitration award hereunder may be effectuated by either personal service or by certified or registered mail to the respective addresses provided herein.

10.7 Publicity. Unless otherwise indicated on the Order Form, Flock has the right to reference and use Agency's name and trademarks and disclose the nature of the Services provided hereunder in each case in business and development and marketing efforts, including without limitation on Flock's website.

10.8 Export. Agency may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Services, the Hardware, the Embedded Software and Documentation are "commercial items" and according to DFAR section 252.2277014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

10.9 Headings. The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated Sections.

10.10 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.11 Authority. Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the organizations and individuals they are representing.

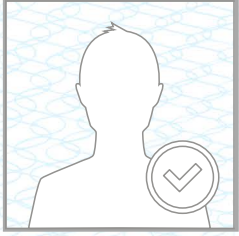
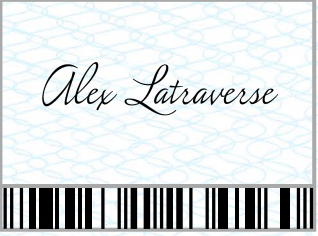
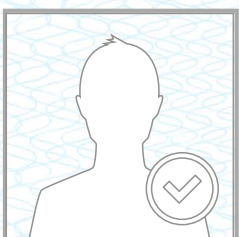
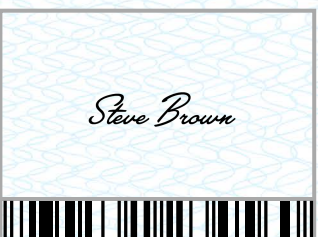
flock safety

10.12 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

Signature Certificate

Document Ref.: GWQVY-EUQVW-HVCCN-EKTQG

Document signed by:

	Alex Latraverse Verified E-mail: alex@flocksafety.com IP: 76.97.107.29 Date: 18 May 2021 15:57:11 UTC	
	Bruce Thrift Verified E-mail: bthrift@orangebeachal.gov IP: 69.57.51.244 Date: 19 May 2021 19:12:48 UTC	

Document completed by all parties on:
19 May 2021 19:12:48 UTC

Page 1 of 1



Signed with PandaDoc.com

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**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing the purchase of Portable Radios for the Fire Department through State Bid from Motorola Solutions, Inc., in the amount of \$882,125.64. (JS)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable): 95% funded through FY2023 Assistance to Firefighters Grant Award with the U.S. Department of Homeland Security

ATTACHMENTS:

1. 11-05-24 24-xxx Authorize Purchase Radios Fire State Bid
2. 2024.09.05 Quote - Fire - Motorola Solutions Radios

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING THE PURCHASE OF
PORTABLE RADIOS FOR THE FIRE DEPARTMENT
THROUGH STATE BID FROM MOTOROLA SOLUTIONS, INC.
IN THE AMOUNT OF \$882,125.64**

FINDINGS:

1. On September 3, 2024, City Council adopted Resolution No. 24-176 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.
2. This resolution is to authorize the purchase of said portable radios through State Bid from Motorola Solutions, Inc.

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

1. That the City Council for the City of Orange Beach, Alabama, hereby authorizes the purchase of Portable Radios for the Fire Department through Alabama State Bid from Motorola Solutions, Inc., in an amount not to exceed \$882,125.64;
2. That the Mayor is hereby authorized to approve payment to Motorola Solution, Inc., in the amount of \$882,125.64 for Portable Radios, per Quote No. 2779245 dated September 5, 2024;
3. That the equipment as described in this Resolution is to be used only for official business of the City of Orange Beach; and
4. That this Resolution shall become effective upon its adoption.

ADOPTED THIS 5th DAY OF NOVEMBER, 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 November 5, 2024.

City Clerk

Billing Address:
ORANGE BEACH, CITY OF
4099 ORANGE BEACH BLVD
ORANGE BEACH, AL 36561
US

Quote Date:09/05/2024
Expiration Date:10/01/2024
Quote Created By:
Stephenie Shirley
Area Sales Manager
stephenieshirley@
cesteamone.com
251.421.7271

End Customer:
ORANGE BEACH, CITY OF
DC BRUCE NELSON
BNELSON@ORANGEBEACHAL.GOV
2519811608

Contract: AL CONTRACT -
MA230000003341-1

Summary:

Any sales transaction resulting from Motorola's quote is based on and subject to the applicable Motorola Standard Terms and Conditions, notwithstanding terms and conditions on purchase orders or other Customer ordering documents. Motorola Standard Terms and Conditions are found at www.motorolasolutions.com/product-terms.

Line #	Item Number	Description	Qty	Term	List Price	Sale Price	Ext. Sale Price
	APX™ NEXT	APX NEXT XE MULTI					
1	H55TGT9PW8AN	APX NEXT; ALL-BAND MODEL 4.5 PORTABLE	90				\$795,445.20
2	NNTN9217A	BATTERY PACK,BATTERY PACK, IMPRESS GEN2, 4400T, UL2054 DIV 2	180				\$32,923.80
3	NNTN9199A	IMPRES 2 SUC, 3.0A, 120VAC, TYPE A PLUG, NA	36				\$4,362.84
4	NNTN9115A	CHARGER, MULTI-UNIT, IMPRES G2, 6-DISP, US/NA/CA/LA PLUG, ACC-CHARGER	6				\$6,090.30
5	PMMN4154A	XVE500 DIV 1 REMOTE SPEAKER MIC, HIGH IMPACT GREEN WITH KNOB, UL	90				\$43,303.50



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products. Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800

Line #	Item Number	Description	Qty	Term	List Price	Sale Price	Ext. Sale Price
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Grand Total					\$882,125.64(USD)		
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**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing the purchase of Exercise Equipment for the Adult Fitness Center through the Sourcewell Purchasing Cooperative from Life Fitness in the amount of \$99,606.01. (NA)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 11-05-24 24-xxx Authorize Purchase Exercise Equipment Adult Fitness Center Sourcewell
2. 2024.10.14 Quote - Parks Adult Fitness Center - Life Fitness Equipment

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING THE PURCHASE OF
EXERCISE EQUIPMENT FOR THE ADULT FITNESS CENTER
THROUGH THE SOURCEWELL PURCHASING COOPERATIVE
FROM LIFE FITNESS
IN THE AMOUNT OF \$99,606.01**

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

1. That the City Council for the City of Orange Beach, Alabama, hereby authorizes the purchase of Exercise Equipment for the Adult Fitness Center through Sourcewell, a purchasing cooperative approved for municipal use by the State of Alabama and the Public Examiners Office, from Life Fitness in the amount of \$99,606.01;
2. That the Mayor is hereby authorized to approve payment to Life Fitness, a division of Brunswick Corporation, in the amount of \$99,606.01 for Exercise Equipment, per Quote No. 3759648-2R dated October 14, 2024;
3. That the equipment as described in this Resolution is to be used only for official business of the City of Orange Beach; and
4. That this Resolution shall become effective upon its adoption.

ADOPTED THIS 5th DAY OF NOVEMBER, 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 November 5, 2024.

City Clerk

Quote# 3759648 - 2R

Date 14-OCT-2024

Bill To

CITY OF ORANGE BEACH
PO BOX 458
ORANGE BEACH,BALDWIN
AL 36561-0458
USContact:
Cell:
Office:
Email:

Ship To

CITY OF ORANGE BEACH
4849 WILSON BLVD
ORANGE BEACH, BALDWIN
AL 36561-3974
United StatesContact:
Cell:
Office:
Email:

LifeFitness

HAMMER
STRENGTH

Page 1/4

SALES REPRESENTATIVE

JOHN TREVOR HAYES
Cell: 334-663-4751
Office: 334-663-4751
Email: Trevor.Hayes@lifefitness.com

Life Fitness

Corporate Address:

10601 Belmont Avenue
Franklin Park, IL 60131 USA
Phone: Main (847) 288-3300
Toll Free (800) 735-3867

Remittance Address:

2716 Network Place,
Chicago,IL
60673, USA

ONSITE CONTACT

Cell: TBD
Email: TBD
Facility ID:

Line	Model #	Qty	Unit Price	Unit Discount	Unit Selling Price	TOTAL PRICE
1	HS-DB HAMMER DUMBBELL SET 7.5- 27.5LB,URETHANE,ROUND	1	2,499.00	-624.75	1,874.25	1,874.25
2	ACC-WB ESCAPE ENDURA WALL BALL, 8LB, 14IN DIA	1	176.00	-44.00	132.00	132.00
3	ACC-WB ESCAPE ENDURA WALL BALL, 10LB, 14IN DIA	1	183.00	-45.75	137.25	137.25
4	ACC-WB ESCAPE ENDURA WALL BALL, 14LB, 14IN DIA	1	193.00	-48.25	144.75	144.75
5	ASPC-SL ASPIRE UPRIGHT BIKE SL MODEL - Aspire Upright Bike SL Arctic Silver Base/SL BIKE/CT LED CONSOLE ENGLISH IMPERIAL	4	3,999.00	-1,599.60	2,399.40	9,597.60
6	ATTACHTV Total 11,227.95	1	0.00	0.00	0.00	0.00
	15.6 In ATTACHABLE TV- NTSC/ATSC/QAM	11	1,229.00	-430.15	798.85	8,787.35
	ASPIRE TV BRACKET	11	320.00	-112.00	208.00	2,288.00
	Non-Life Fitness TV Remote Control	1	23.00	-6.90	16.10	16.10
	INTEGRITY NON-TREAD TV BRACKET	1	210.00	-73.50	136.50	136.50
7	IC5 Life Fitness ICG IC5 Indoor Cycle	11	2,699.00	-931.16	1,767.84	19,446.24

This is a draft quote and not a contract - Subject to management approval

Quote#

3759648 - 2R

Page 2/4

Date 14-OCT-2024

Line	Model #	Qty	Unit Price	Unit Discount	Unit Selling Price	TOTAL PRICE
	EXTENDED WARRANTY EXT WARR-PARTS & LABOR- 3 YEAR, INDOORCYCLE	11	361.00	-361.00	0.00	0.00
8	INA-LSL LIFE FITNESS LOWER BODY ARC TRAINER w/SL - LF LB Arc Trainer SL Arctic Silver Base/SL ARC TRAINER LED CONSOLE ENGLISH IMPERIAL	1	10,199.00	-3,569.65	6,629.35	6,629.35
9	ASPR-SL ASPIRE RECUMBENT BIKE SL MODEL - Aspire Recumbent SL Arctic Silver Base/SL BIKE/CT LED CONSOLE ENGLISH IMPERIAL	4	4,599.00	-1,839.60	2,759.40	11,037.60
10	ASPT-SL ASPIRE TREADMILL SL MODEL - Aspire Tread SL Arctic Silver Low VT Base/SL TREAD LED CONSOLE ENGLISH IMPERIAL/	2	8,999.00	-3,689.59	5,309.41	10,618.82
11	FW-D2 HAMMER STRENGTH DUMBBELL RACK TWO TIER - Frame Platinum/Dumbbell Tray	1	1,592.00	-477.60	1,114.40	1,114.40
12	SS-GLD INSIGNIA SERIES GLUTE BRIDGE - Platinum Clear Frame/Black Upholstery/English/C-LB Weight Stack/Full Shroud - Translucent/S Trim <i>Total 4,947.38</i>	1	7,043.00	-2,394.62	4,648.38	4,648.38
	C-LB Weight Stack	1	199.00	-69.65	129.35	129.35
	Full Shroud - Translucent	1	261.00	-91.35	169.65	169.65
13	SS-LR INSIGNIA SERIES LATERAL RAISE - Platinum Clear Frame/Black Uph/English/C-LB Weight Stack/Full Shroud - Translucent/S Trim <i>Total 4,533.56</i>	1	6,416.00	-2,181.44	4,234.56	4,234.56
	C-LB Weight Stack	1	199.00	-69.65	129.35	129.35
	Full Shroud - Translucent	1	261.00	-91.35	169.65	169.65
14	SS-SLC INSIGNIA SERIES SEATED LEG CURL - Platinum Clear Frame/Black Uph/English/C-LB Weight Stack/Full Shroud - Translucent/S Trim <i>Total 4,983.68</i>	1	7,098.00	-2,413.32	4,684.68	4,684.68
	C-LB Weight Stack	1	199.00	-69.65	129.35	129.35
	Full Shroud - Translucent	1	261.00	-91.35	169.65	169.65

This is a draft quote and not a contract - Subject to management approval

Quote#

3759648 - 2R

Date 14-OCT-2024

PO Number		Subtotal	
Payment Type		List Price	140,101.00
Payment Terms		Adjustment and Surcharge	-53,676.17
Freight Terms		Selling Price	86,424.83
FOB			
		Freight/Fuel/Installation	13,181.18
		Tax	TAXES AS APPLICABLE
		Total(USD)	99,606.01

Notes:
SOURCEWELL CONTRACT # 081120-LFF

This is a draft quote and not a contract - Subject to management approval

Quote#

3759648 - 2R

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Date 14-OCT-2024

Shipment Priority: STANDARD
Requested Delivery Date: 20-DEC-2024

This order quote is valid for 30 days. Buyer may accept by either (1) returning this quote with Buyer's signature or (2) by Buyer issuing a Purchase Order against this quote to Life Fitness. In all cases, this order quote and its acceptance are subject to the Life Fitness Commercial Terms & Conditions of Sale posted online at <https://www.lifefitness.com/en-us/legal/terms-conditions>, which supersede any terms in Buyer's purchase orders, policies, vendor guidelines and any other documents that pre-date or post-date this purchase. Any inconsistent terms in Buyer's documents are deemed to have been rejected. Upon acceptance by Buyer and then Life Fitness, this Agreement shall become legally binding and constitutes the sole and complete agreement of the parties.

For avoidance of doubt, if Buyer and Life Fitness executed an active Master Agreement, the applicable Master Agreement will govern this Agreement and the Life Fitness Standard Terms and Conditions will supplement.

This is a draft quote and not a contract - Subject to management approval



**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing the execution of a software service agreement with Peak Software Systems, Inc., dba Sportsman Software, for recreation program member management. (NA)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 11-05-24 24-xxx Authorize Software Service Agreement Peak Software Systems Sportsman Recreation Memberships
2. 2024.10.04 Quote - Parks Adult Fitness Center - Sportsman Recreation Membership

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING THE EXECUTION OF A
SOFTWARE SERVICE AGREEMENT WITH
PEAK SOFTWARE SYSTEMS, INC. (DBA SPORTSMAN SOFTWARE)
FOR RECREATION PROGRAM MEMBER MANAGEMENT**

FINDINGS:

1. The existing agreement with Peak Software Systems, Inc., for Sportsman Software used for Adult Fitness and Aquatics member management is expiring December 24, 2024.
2. The Parks and Recreation Director has recommended accepting the software service agreement (attached Exhibit A) for renewal.
3. 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 is hereby authorized to execute the software service agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach and Peak Software Systems, Inc., doing business as Sportsman Software, 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 5th DAY OF NOVEMBER, 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 November 5, 2024.

City Clerk

Peak Software Systems, Inc.

Solution Proposal and Agreement for

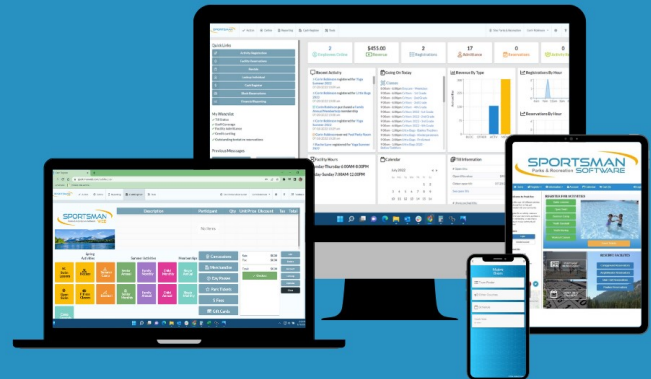
Orange Beach Recreation Center

October 2024



(801) 572-3570
sportsmancloud.com

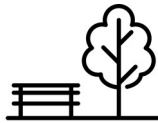
INTEGRATED PARKS AND
RECREATION SOFTWARE
**TO HELP YOU SERVE
YOUR COMMUNITY**



Serving Parks and Rec Since 1993



Cloud Based
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Facility Reservations



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Reporting



Admittance Control



Attendance Tracking



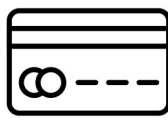
Point of Sale



Inventory Control



Patron Communication



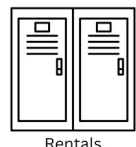
Payment Processing



Event Ticketing



Golf Management



Rentals



Peak Software Systems, Inc.
45 West 9000 South, Suite 2
Sandy, UT 84070

Email: sales@peakinfo.com
Web: www.sportsmancloud.com
Voice: (801) 572-3570

Sportsman Software Pricing for Orange Beach Recreation Center

Thank you for your interest in Sportsman. We are providing the following proposal for your consideration.

We are happy to schedule a conference call to review features and pricing described below and answer any additional questions you have about Sportsman. You can review features at www.SportsmanCloud.com

<u>Annual Renewal Existing License:</u>	<u>License and Service Contract Period:</u>	<u>Current Sportsman Licensed Modules:</u>	<u>Existing Sportsman License Renewal Cost:</u>
License Includes: <u>7</u> concurrent users Unlimited computer installations, unlimited online and phone technical support and training , as well as all Sportsman Cloud enhancements and updates.	12/25/2024 - 12/24/2025	Sportsman SQL Core Cloud Hosting Membership Point of Sale	\$1,005 \$1,225 \$655 \$655
License Renewal Cost Total—Existing License			\$ 3,540.00

Proposed Implementation and Licensing Cost for Additional Module and Equipment

Patron Login and Online Registration	Customize your ActivityReg patron website for convenient registrations, reservations and payments over pc, tablet or phone. Community members will be able to see what's happening and quickly sign up to participate. Patrons can also log in and can keep track of their activ-	Implementation Cost:	\$600.00
		Prorated License Cost:	\$221.00
		12 Month License Cost:	\$945.00

Implementation Cost for additional Module(s) / Cloud Hosting (one-time)	\$600.00
Prorated License Cost for Additional Module(s) / Cloud Hosting	\$221.00
Grand Total—Additional Modules/Cloud Hosting:	\$ 821.00
Total license cost at renewal (12/25/2024)	\$4,485.00



Peak Software Systems, Inc.
45 West 9000 South, Suite 2
Sandy, UT 84070

Email: sales@peakinfo.com
Web: www.sportsmancloud.com
Voice: (801) 572-3570

Agreement for Services & Equipment Purchases

This Agreement, when properly executed, becomes a binding contract between **Peak Software Systems, Inc. (Peak)** and **Orange Beach Recreation Center (Client)**. *Peak* agrees to provide the services as defined herein to *Client*. *Peak* will maintain the confidentiality of *Client*'s intellectual property.

Sportsman SQL is the sole property of *Peak*. The software license for Sportsman SQL is valid upon signature of this agreement and payment of the annual or semi-annual Sportsman SQL Customer Care Fee. Services included in the Agreement are updates, technical support, help desk support, and database consultation. The *Client* agrees to remain current with renewal of the Sportsman SQL Customer Care Plan while continuing use of the Sportsman SQL software. *Peak* will provide a mechanism to notify the *Client* of the Sportsman SQL Customer Care Plan renewal 30 days prior to expiration. License fees and related charges are subject to increase upon renewal.

Upon signature of this agreement *Peak* can begin installation and implementation with *Client*.

EXCEPT FOR THE EXPRESS WARRANTY SET FORTH ABOVE, PEAK SOFTWARE SYSTEMS, INC. GRANTS NO OTHER WARRANTIES, EXPRESS OR IMPLIED, BY STATUTE OR OTHERWISE, REGARDING THE SOFTWARE, OR THEIR FITNESS FOR ANY PURPOSE. IN NO EVENT SHALL PEAK SOFTWARE SYSTEMS, INC. BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, OR OTHER DAMAGES FOR BREACH OF WARRANTY.

Peak Software Systems Inc.

By: BriAnne Bauman

Title: Business Manager

Date: 10/04/2024

Signature: _____

Orange Beach Recreation Center

By: _____

Title: _____

Date: _____

Signature: _____



**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: City Clerk

Description of Topic: Resolution establishing fees for the Orange Beach Shooting Range.
(PW)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 11-05-24 24-xxx Establish Fees Shooting Range

RESOLUTION NO. 24-xxx

**A RESOLUTION ESTABLISHING FEES
FOR THE ORANGE BEACH SHOOTING RANGE**

FINDINGS:

1. The Coastal Resources Director is submitting fees for the Orange Beach Shooting Range for approval.
2. The Orange Beach City Council finds it to be in the best interest of the City of Orange Beach to adopt by resolution this schedule of fees for the Orange Beach Shooting Range.

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

1. That the following fees are hereby established and shall be required to be paid to the City of Orange Beach for usage of the Orange Beach Shooting Range:

Trap & Skeet, General Public	\$12.00 per round
Trap & Skeet, Orange Beach School Team Practice	\$5.00 per round

2. That this resolution shall become effective upon its adoption.

ADOPTED THIS 5th DAY OF NOVEMBER, 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 November 5, 2024.

City Clerk



**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing the execution of a professional services agreement with Allen Engineering and Science, Inc., for engineering, planning, environmental consulting, and construction assistance services. (PW)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 11-05-24 24-xxx Authorize Professional Services Agreement Allen Engineering and Science
2. 2024.10.11 Professional Services Agreement Allen Engineering and Science

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING THE EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT WITH
ALLEN ENGINEERING AND SCIENCE, INC.,
FOR ENGINEERING, PLANNING, ENVIRONMENTAL CONSULTING, AND
CONSTRUCTION ASSISTANCE SERVICES**

FINDINGS:

1. The Coastal Resources Department wishes to engage a contractor who can provide engineering, planning, environmental consulting, and construction assistance services for upcoming and future projects.
2. Allen Engineering and Science, Inc., is a domestic company skilled in and available to provide the above-referenced services.
3. Both parties have reached an Agreement (attached Exhibit A) wherein Allen Engineering and Science, Inc., will provide engineering, planning, environmental consulting, and construction assistance services and the City will compensate them monthly based upon the work completed.
4. 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 Allen Engineering and Science, Inc., and the City of Orange Beach 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 5th DAY OF NOVEMBER, 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 November 5, 2024.

City Clerk

PROFESSIONAL SERVICES CONTRACT

This Agreement is made and entered into by and between the City of Orange Beach, a Class 8 Alabama municipal corporation (hereinafter the "City") and Allen Engineering and Science, Inc., a Domestic Company, (hereinafter the "Contractor"), as follows:

1. Recitals

WHEREAS, the City desires to engage Contractor to provide Professional Services for the purpose of providing engineering, planning, environmental consulting, and construction assistance to City personnel;

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

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

2. Services to be Performed

- a) Contractor will provide Professional Services for the purpose of providing engineering, planning, environmental consulting, and construction assistance to City personnel
- b) Contractor will perform such other services with regard to the City's Engineering and Science needs as are mutually agreed to between the Contractor and the City.

3. Compensation

- a) As full and total compensation for the services to be provided pursuant to this Agreement, Contractor shall be paid time and materials, plus pre-approved expenses incurred as part of Contractor's performance of this contract, in accordance with City policies.
- b) Contractor agrees to abide by the City's established policies and agrees that any travel and expenses must be approved in writing in advance by the City.
- c) Contractor shall be paid monthly, based on work completed, upon the City's receipt of a properly documented invoice for services performed.

4. Term.

The term of this Agreement is 36 months commencing October 15, 2024, and ending October 14, 2027

5. Independent Contractor.

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

6. Insurance.

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

7. Assignment.

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

8. Compliance with Law.

Contractor hereby agrees to comply strictly with all the laws of the State of Alabama and of the United States, and the laws and ordinances of any other jurisdiction in which contractor may perform any work pursuant to this Agreement. Contractor further agrees to comply with all rules, regulations, policies, and City ordinances of the City of Orange Beach.

9. Termination.

This Agreement may be terminated by either party for any reason upon thirty (30) days notice of the intent to terminate. Upon termination, Contractor shall be paid *pro rata* for all services actually rendered up to the effective date of termination. This Agreement may be terminated immediately by the City upon failure of the required background check or drug testing, as set out in paragraph 15, below or upon breach of any term hereof by Contractor. Failure to terminate this contract upon discovery of breach shall not constitute consent thereto nor waive the City's right to terminate this contract therefore.

10. Final Agreement.

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

11. Modifications.

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

12. Severability.

The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid or unenforceable, by a Court decision, statute or rule, such rendering shall not affect the remainder of this Agreement. This section shall survive termination of the agreement.

13. Law Governing.

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

14. Permits, etc.

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

15. Background Check and Drug Testing.

Contractor consents to the City of Orange Beach and/or its agents to conduct a background check and drug testing in order for Contractor to provide services as set out herein. Contractor shall provide all required information to the City in order to conduct the background check and drug testing including, but not limited to, full name (maiden name), any alias, physical address, date of birth, social security number, driver's license state and number. Contractor specifically consents to drug test at the request of City at any time and understands that illegal drug use is specifically prohibited.

16. Indemnification.

Contractor agrees to indemnify and hold the City, its elected officials, officers, agents, and employees (hereinafter collectively referred to and included in the use of the word "City") whole and harmless from all costs, liabilities and claims for damages of any kind arising in any way out of the 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 actions by the Contractor under this Agreement. This duty shall survive the termination of this contract.

17. Confidentiality.

Contractor (including its employees, agents, subcontractors) acknowledges that all confidential or protected business and/or 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
Post Office Box 458
Orange Beach, AL 36561

And to Contractor:
Allen Engineering and Science, Inc.
110 C Dauphin Street
Mobile, AL 36604

Copy to:

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

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

CITY OF ORANGE BEACH

By: _____
Tony Kennon
Mayor

ATTEST:

Renee Eberly, City Clerk

Allen Engineering and Science, Inc.
Jay C. Estes, AICP
Senior Principal Planner

STATE OF ALABAMA
COUNTY OF BALDWIN

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

Given under my hand and seal this the _____ day of _____, 2024.

(SEAL)

Notary Public
State of Alabama
My Commission Expires: _____

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public, in and for said County in said State, hereby certify that Jay C Estes, AICP, Senior Principal Planner, whose name is signed to the foregoing agreement, and who is known to me, acknowledged before me this day that, being informed of the contents of the above and foregoing agreement, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this the _____ day of _____, 2024.

(SEAL)

Notary Public
My Commission Expires: _____



**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing the execution of GOMESA Grant Agreement Amendment No. 1 to extend the term of the original agreement. (NW)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 11-05-24 24-xxx Authorize Grant Agreement Amendment GOMESA ADCNR Mitigate Marine Debris
2. 2024.10.11 Grant Agreement Amendment GOMESA ADCNR Mitigate Marine Debris
3. 2024.10.11 Grant Agreement Amendment GOMESA ADCNR Mitigate Marine Debris - Exhibit 2
4. 2024.10.11 Grant Agreement Amendment GOMESA ADCNR Mitigate Marine Debris - Exhibit 1

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING THE EXECUTION OF
GOMESA GRANT AGREEMENT AMENDMENT NO. 1
TO EXTEND THE TERM OF THE ORIGINAL AGREEMENT**

FINDINGS:

1. On September 3, 2019, the Orange Beach City Council passed Resolution No. 19-171 authorizing the execution of a GOMESA Grant Agreement with the Alabama Department of Conservation and Natural Resources (ADCNR) to mitigate marine debris and waterborne trash in the amount of \$1,314,500.
2. The subject agreement of the above-referenced Resolution was executed by both parties and made effective as of September 19, 2019. The current termination date for the agreement is December 29, 2024.
3. Both parties to the agreement, the City and ADCNR, wish to continue enhancing the mitigation efforts to keep the City of Orange Beach's shoreline free of marine debris and waterborne trash.
4. The GOMESA Grant Agreement Amendment No. 1 (attached Exhibit A) will allow the parties extend the term of the original agreement.
5. After having reviewed the Amendment, 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 amendment in substantially the form and of substantially the content now before the Council between the State of Alabama Department of Conservation and Natural Resources and the City of Orange Beach 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 15th DAY OF OCTOBER, 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 October 15, 2024.

City Clerk

STATE OF ALABAMA)
BALDWIN COUNTY)

Grant: G-OBWSE/19/OB
Amendment No. 1

GOMESA GRANT AGREEMENT
AMENDMENT No. 1

This GOMESA Grant Agreement Amendment No. 1 (hereinafter "Amendment") is made by and entered into between the State of Alabama Department of Conservation and Natural Resources (hereinafter "ADCNR") and the City of Orange Beach (hereinafter "Grantee") (ADCNR and Grantee collectively hereafter as "Parties").

WHEREAS, ADCNR and Grantee entered into an Agreement effective September 19, 2019, the "Original Agreement" (attached hereto as "Exhibit No. 1"); and

WHEREAS, by this Amendment No. 1, ADCNR and Grantee now desire to extend the project period and amend certain terms and conditions of the Original Agreement;

Pursuant to this Amendment, ADCNR and Grantee agree as follows:

1. Paragraph 3 of the Original Agreement shall be deleted and replaced with the following:

PROJECT PERIOD: The Project Period shall begin as of September 19, 2019 ("Project Commencement Date"), and end March 31, 2025.

2. Paragraph 28 of the Original Agreement shall be deleted and replaced with the following:

BOYCOTT: In compliance with Act 2016-312, Coalition hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which the State can enjoy open trade.

In compliance with Ala. Act No. 2023-409, by signing this Agreement, Coalition provides written verification that Coalition, without violating controlling law or regulation, does not and will not, during the term of the Agreement engage in economic boycotts as the term "economic boycott" is defined in Section 1 of the Act.

3. Exhibit A shall be deleted and replaced with the Amended and Restated Exhibit A, attached hereto as Exhibit No. 2.
4. All other terms and conditions of the Original Agreement remain in full force and effect.

IN WITNESS WHEREOF, ADCNR and the Grantee have executed this Amendment No. 1 as of the date of the ADCNR Commissioner's signature below:

RECOMMENDED:

STATE OF ALABAMA
Department of Conservation
and Natural Resources

Patricia Powell McCurdy
Director
State Lands Division

Christopher M. Blankenship
Commissioner

Date: _____

City of Orange Beach

Tony Kennon, Mayor

Amended and Restated EXHIBIT A

State of Alabama Gulf of Mexico Energy Security Act of 2006 Disbursement Justification

Background:

The Gulf of Mexico Energy Security Act (GOMESA) was enacted by Congress in 2006 and significantly enhances outer Continental Shelf (OCS) oil and gas leasing activities and revenue sharing in the Gulf of Mexico. Among other things, GOMESA provides for enhanced sharing of leasing revenues with Gulf producing states and the Land & Water Conservation Fund for Coastal Restoration projects. The GOMESA authorizes uses of the proceeds for the following purposes:

- a. Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses;
- b. Mitigation of damage to fish, wildlife, or natural resources;
- c. Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan;
- d. Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects;
- e. Planning assistance and the administrative costs of complying with GOMESA.

Project Description:

Waterways and Shoreline Enhancement Program

The City of Orange Beach, Alabama is a coastal community on the northern shore of the Gulf of Mexico known for its beach tourism, recreational fishing industry, and is host to over 3 million visitors annually. In Orange Beach, Perdido Pass is a popular, dynamic inlet to the Gulf that lies at the lower end of the Perdido Bay watershed, draining approximately 1,140 square miles of land area across Alabama and Florida. In the last eleven years, Orange Beach has been impacted by eight named tropical storm events, one unnamed Presidentially-declared flood disaster and the Deepwater Horizon Spill in 2010. These elements along with the ever-growing number of pollutants in the Gulf foster an environment favorable to the accumulation of marine debris, waterborne trash, and shoreline pollution.

The City of Orange Beach began a pilot program in 2014 to address marine debris and waterborne trash titled the "Waterways and Shoreline Enhancement Program" (WSEP). The program was designed to mitigate marine debris and waterborne trash on a daily basis among the over 46 miles of shoreline. The WSEP has been deemed a small success in the first three years of the program and has even received minor funding from the Guy Harvey Ocean Futures Foundation. In 2018 alone, nearly 70,000 pounds of debris and water-borne trash were removed from local waters as well as 759 bags of trash collected from remote shorelines and islands. Additionally, the City of Orange Beach implemented the Leave Only Footprints (LOF) Program in 2015 which consisted of increased regulation of rental vendor equipment on the beach and a requirement to remove all personal property overnight, so beaches can be cleaned.

This has created a much safer and hospitable nesting environment for our threatened and endangered marine turtle species. Beach Ambassadors patrol daily educating beachgoers about the program and its benefits while removing the trash and marine debris from the shoreline. Operation Clean Sweep, a component of LOF, involves the removal of abandoned items each night that might otherwise end up in the Gulf and/or local waters. In 2018 the LOF program resulted in 7.4 tons of trash, 22.4 tons of metal, and 3.8 tons of recyclables removed by staff from our beaches. The LOF Program has received three noteworthy awards: The Alabama Tourism Department Partnership Award, the Alabama PALS Governor's Award, and the Dauphin Island Sea Lab Foundation Gulf Coast Marine Environmental Manager Leadership Award.

Despite its success, budget constraints have limited the WSEP program from reaching its full potential. With additional funding to supplement the nearly one-million-dollar annual investment already committed by the City of Orange Beach, we will expand and enhance the program. This will allow the seasonal waterways component to operate year-round and increase its capacity as well as provide for more efficient handling of material collected from all sources to ensure we keep it out of local landfills once collected.

The City's project is essentially three-fold, the expansion and enhancement of the waterway's cleanup; the implementation of new recycling components to keep collected items out of landfills; and launching a large educational campaign to educate the nearly 6.5 million visitors we see annually.

The waterway expansion consists of the purchase of an additional vessel with personnel to double the coverage and capacity day-to-day. This project will provide funding for 2 full-time employees and 1 part-time employee. The City also plans to equip the larger vessel with the ability to remove larger marine debris via an on-board davit (small crane) lift. The city will also purchase a tractor and aluminum dump trailer to facilitate loading and unloading of marine debris washing ashore. The tractor will provide more capabilities to move heavy items and the aluminum trailer will better endure the harsh conditions.

For the recycling portion we intend to purchase the equipment needed to convert the collected items into marketable form and quantities. An example of this would be sorting/baling the polyethylene terephthalate (PET) and high-density polyethylene (HDPE) plastics and storing them until truckload quantities are reached at which time vendors would be willing to accept and transport the items for recycling into finished products. Recycling equipment will also be purchased to convert certain collected items into a usable product on site such as crushed glass or shredded textiles. Currently, collected materials are stored in bulk on an open yard. This project will fund the construction of a small storage building which will accommodate storage of reduced materials and house the proposed recycling equipment. This building will be located at the Beach Barn and Leave Only Footprints yard and pole barn site, as there is room to expand but it will require additional site prep and improved surfaces.

The final element consists of a regional media campaign that will include billboard advertisements in order to educate our target audience about the reality of many discarded items and how to prevent them from ending up on our beaches or waterways. In the future we hope to expand to include physical barriers such as storm drain filters and trash capture devices.

Project Duration:

This project is expected to last 66 months.

Start Date: October 1, 2019

End Date: March 30, 2025

Project Costs:

The disbursements will be made as two (2) installments. The first (1) installment will be disbursed upon execution of the Agreement and upon receipt of an invoice for Allowable Costs. The second (2) installment will be disbursed following receipt of satisfactory verification that all previously disbursed funds were used for Allowable Costs.

Category	Estimated Cost
First Installment	\$657,250
Second Installment	\$657,250
TOTAL	\$1,314,500

Nexus to Authorized Use:

This project meets the criteria set forth in authorized use (a) Projects and activities for the purpose of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses and (b) Mitigation of damage to fish, wildlife, or natural resources.

Submitted and Approved By: _____
Tony Kennon, Mayor
City of Orange Beach

STATE OF ALABAMA

ADCNR GRANT#: G-OBWSE/19/OB

BALDWIN COUNTY

GOMESA GRANT AGREEMENT

THIS GOMESA GRANT AGREEMENT, ("Agreement") is made and entered by and between the State of Alabama Department of Conservation and Natural Resources hereinafter, referred to as "ADCNR", and the City of Orange Beach, hereinafter referred to as "Grantee" (ADCNR and Grantee collectively hereinafter "Parties").

In consideration of the mutual covenants herein contained, Grantee hereby agrees to perform, in proper sequence and in the time specified, all tasks necessary for successful completion of the project as hereinafter set forth.

1. **PROJECT PURPOSE AND IDENTITY:** The purpose of the Agreement is to provide funding under the Gulf of Mexico Security Act of 2006 (GOMESA) to Grantee to mitigate marine debris and waterborne trash on a daily basis on over 46 miles of coastal Alabama shoreline as described in the Disbursement Justification attached as Exhibit A ("Project").
2. **PROJECT SERVICES:** Grantee shall provide, in accordance with all applicable laws, executive orders, codes, regulations, etc., all the necessary labor, materials, services and facilities to successfully complete the Project and fulfill all requirements of this Agreement including, but not limited to, requirements as set forth in Paragraphs 9 and 16.
3. **PROJECT PERIOD:** The Project Period shall begin as of the Effective Date as defined hereinbelow and end September 30, 2024.
4. **AGREEMENT TERM:** The Agreement Term for the fulfillment of all Project Services shall begin on the Project Commencement Date and end ninety (90) days after the end of the Project Period, unless extended in writing by ADCNR by amendment pursuant to Paragraph 12.
5. **NOTICE TO PROCEED:** Grantee shall proceed with performing Project Services upon receipt of a fully executed Agreement which has been approved by the appropriate State of Alabama officials.
6. **FUNDING AMOUNT/PAYMENT:** Disbursement of funds by ADCNR to Grantee for Allowable Costs shall be pursuant to two (2) equal installments of Six Hundred and Fifty-Seven Thousand and Two Hundred and Fifty Dollars (\$657,250) as set forth in Exhibit A for a total disbursement not to exceed ONE MILLION AND THREE HUNDRED AND FOURTEEN THOUSAND AND FIVE HUNDRED DOLLARS (\$1,314,500.00) to allow

G-OBWSE/19/OB
Page 1 of 9

satisfactory completion of all Project Services. The first installment will be disbursed following execution of the Agreement and upon receipt of an invoice for an installment payment submitted by Grantee to ADCNR's State Lands Division (64 N. Union St., Suite 468, Montgomery, AL, 36130) which shall include a reference to the Grant Number identified above. Grantee agrees that the second installment will not be disbursed by ADCNR until receipt of satisfactory verification that all previously disbursed funds were used for Allowable Costs and that funds from the first installment have been fully utilized. Such verification shall be submitted with the Grantee's invoice requesting disbursement of the second installment. In the event any funds are not fully expended before the end of the Project Period, the Grantee shall return the remaining funds to the ADCNR prior to the end of the Agreement Term in such manner as specified by ADCNR.

7. **CONTINGENCY/ FUNDING AVAILABILITY:** Grantee acknowledges and agrees that the commencement and continuation of funding pursuant to this Agreement shall be specifically contingent upon the receipt and availability of GOMESA funding for this Project.
8. **ALLOWABLE COSTS:** Allowable Costs allowed under this Agreement shall be determined in accordance with Exhibit A; all requirements of GOMESA; local, state and federal laws; and other applicable requirements including the following:
 - a. Grantee agrees that any expenditure related to any type of lower tier contract or subaward support prior to execution of a written agreement for such purpose shall not qualify as an Allowable Cost.
 - b. Grantee shall immediately notify ADCNR in writing in the event, subsequent to execution of this Agreement, it receives other financial assistance to support or fund any activity related to Project Services. Grantee further agrees that no costs funded by such other sources constitute Allowable Costs.
 - c. Grantee acknowledges that no pre-award costs or other costs incurred prior to the Effective Date of this Agreement shall constitute Allowable Costs.
 - d. Grantee agrees that all disbursed funds shall be expended solely for Allowable Cost and that the amount of any expenditure determined by ADCNR not to constitute an Allowable Cost shall be immediately returned to ADCNR in such manner as specified by ADCNR.
9. **REPORTS:** Grantee agrees to submit semi-annual financial and performance reports no later than April 30 and October 30 each year with the last semi-annual report being due April 30, 2024. The semi-annual reports shall provide supporting documentation detailing Allowable Cost expenditures and Project activities during the reporting period. The

Grantee further agrees to submit a Completion Report no later than sixty (60) days after the end of the Project Period. The Completion Report must include a summary financial report detailing Project expenditures and a certification confirming both that Grantee has completed all Project Services and that all expenditures by Grantee of funds received pursuant to this Agreement constituted Allowable Costs. The Completion Report shall include supporting documentation establishing the Allowable Costs as to all expenditures, documents necessary to evidence successful Project completion, and any other documents to be maintained by ADCNR for purposes of recordkeeping and audit compliance. Additionally, if requested by ADCNR, data and reports generated or compiled within the scope of this Agreement shall be provided in digital format as may be specified by ADCNR. Grantee agrees failure to submit such reports in a timely manner may result in the termination of this Agreement. All reports and correspondence submitted to ADCNR in connection with this Agreement shall be identified by the Grant Number identified above and shall be sent to the following:

Alabama Department of Conservation and Natural Resources
Attn: GOMESA Coordinator
31115 Five Rivers Blvd.
Spanish Fort, AL 36527

10. INDEMNIFICATION AND HOLD HARMLESS:

- a. Grantee agrees to protect, defend, indemnify, save and hold harmless the State of Alabama and ADCNR, and any and all of their officers, agents, and employees, from and against any and all claims, demands, expense and liability arising out of injury or death to any person, or the damage, loss or destruction of any property, which may occur or in any way grow out of, any act or omission of ADCNR, its officers, agents, and employees, the Grantee, and the Grantee's agents, servants, employees, and subcontractors. Grantee's obligation and duty to protect, defend, indemnify, save and hold harmless ADCNR and its agents and employees shall include and extend to any and all costs, expenses, attorney fees, judgements, awards, and settlements incurred by the parties or their agents or employees as a result of any claims, demands, and/or causes of action arising out of the performance of the obligations or objectives set forth herein. Grantee agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto, even if the claims are groundless, false or fraudulent.
- b. Grantee further agrees it releases from liability and waives its right to sue the State of Alabama and ADCNR, and their officers, agents, and employees, regarding any and all claims resulting in any physical injury, economic loss, or other damage or loss as a result of or related in any way to the Agreement.

- c. The provisions of this Paragraph 10 shall survive the Agreement Term and remain a continuing obligation of Grantee.
11. **CLAIMS FOR LIENS:** Grantee shall be solely liable for and shall hold the State of Alabama, all State Agencies, Boards and Commissions, along with the respective officers, agents, servants, employees, and volunteers of each, harmless from any and all claims or liens for labor, services or material furnished to Grantee in connection with the performance of its obligations under this Agreement.
12. **ASSIGNMENT/AMENDMENT:** Grantee shall not assign or otherwise transfer any interest in this Agreement without the prior written consent of ADCNR. ADCNR may from time to time, request amendments to various provisions of this Agreement. Such amendments, which are mutually agreed upon between ADCNR and Grantee, must be in writing and approved by all signatory/authorities prior to becoming effective.
13. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon the successors and assigns of the respective Parties hereto.
14. **COMPLIANCE WITH LAWS:** The Grantee shall comply with all applicable laws, ordinances, regulations, and codes of the federal, state and local governments in the performance of this Agreement. Grantee shall procure all applicable federal, state and local permits and pay all said fees. Grantee further agrees and acknowledges that the ADCNR is relying upon the Grantee to maintain compliance with all provisions of GOMESA in connection with Project Services and related activities and expenditures.
15. **TAX RESPONSIBILITY:** Grantee hereby agrees that the responsibility for payment of any taxes from the funds received under this Agreement shall be the Grantee's obligation and shall be identified under the appropriate Tax Identification Number.
16. **RECORDS:** The State of Alabama, through ADCNR auditors and/or Alabama Examiners of Public Accounts, and the Federal Government, through any of their duly authorized representatives, shall be entitled to audit the books, documents, papers and records of the Grantee and any lower tier recipients which are reasonably related to this Agreement. Grantee agrees to assist with any such audit as requested by ADCNR and further agrees to the following:
- a. Grantee shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and shall make such materials available at their respective offices at all reasonable times during the Agreement period and for six (6) years after date of final payment under this Agreement or as otherwise required pursuant the Department of Conservation and Natural Resources Records

Disposition Authority (requirements current as of date of this Agreement available at http://www.archives.alabama.gov/officials/rdas/Conservation_RDA_2016.pdf), whichever period expires later, for inspection by any of the above entities, and copies thereof shall be furnished, if requested.

- b. Pursuant to Act 94-414, Grantee must forward a copy of every audit report issued in connection with funding provided under this Agreement where public funds are received and/or disbursed to: Department of Examiners of Public Accounts, P. O. Box 302251, Montgomery, Alabama 36130-2251, ATTN: Audit Report Repository. Grantee shall also simultaneously therewith forward a copy of same to ADCNR
 - c. The provisions of this Paragraph 16 shall survive the Agreement Term and remain a continuing obligation of Grantee.
17. **INSURANCE:** In addition, Grantee shall maintain in force, at its sole expense, liability insurance for injury or death or damage to property, in the amount of ONE MILLION DOLLARS (\$1,000,000), and shall include ADCNR, its employees and agents, as additional insureds in said insurance policy. Grantee shall provide to ADCNR a current certificate of insurance and said insurance carrier or carriers shall be required to provide unto ADCNR at least thirty (30) days' written notice of any cancellation or modification of coverage under any such policies. Any notices required to be provided by ADCNR hereunder shall be made to General Counsel, State of Alabama Department of Conservation and Natural Resources, 64 North Union Street, Suite 474, Montgomery, Alabama, 36130.
18. **TERMINATION:** In addition to terms of Paragraphs 7 and 22, this Agreement may be terminated as follows:
- a. If, in the determination of ADCNR, Grantee fails to fulfill in timely and proper manner its obligations under this Agreement or violates any of the covenants, agreements, or stipulations of this Agreement, ADCNR, in addition to all other available remedies, shall thereupon have the right to terminate this Agreement by giving written notice, sent certified mail (return receipt requested) or overnight courier (signature required), to Grantee of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date. In that event, at the option of ADCNR, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by Grantee under this Agreement shall become the property of ADCNR.
 - b. ADCNR may terminate this Agreement at any time without cause by giving written notice to Grantee by certified mail (return receipt requested) or overnight courier

(signature required) of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date. In that event, at the option of ADCNR, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by Grantee under this Agreement shall become the property of ADCNR.

- c. If the Agreement is terminated by ADCNR, as provided herein, Grantee shall promptly submit a statement detailing the actual services performed and associated Allowable Costs to date of termination. The Grantee shall immediately return any remaining funds to ADCNR in such manner as specified by ADCNR.
19. **PRESS/EVENTS:** Grantee shall notify the ADCNR of the location, date, and time of any press conferences, press releases, etc. related to this Project at least five (5) working days prior to the scheduled event or release.
20. **CONFLICT OF INTEREST CERTIFICATION:** The Grantee by his/her/its signature, certifies to the best of his/her/its knowledge and belief, no conflicts of interest existed or now exist which have, may have or have had any effect on this Agreement or any expenditure of funds associated with this Agreement. In addition, in the event Grantee cannot maintain this certification at any point during the Agreement Term, Grantee shall immediately notify ADCNR in writing and suspend performance of services under this Agreement as well as any expenditure of funds under this Agreement until the potential conflict of interest is resolved to ADCNR's satisfaction.
21. **DISCRIMINATION:** Grantee agrees to comply with all Federal and State laws which prohibit discrimination on the basis of race, color, religion, age, sex, pregnancy, national origin, genetic information, veteran status or disability.
22. **PRORATION:** In the event of the proration of the fund from which payment under this Agreement is to be made, the Agreement will be subject to termination.
23. **NOT A DEBT OF THE STATE:** It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this Agreement shall contravene any statute or constitutional provision or amendment, either now in effect or which may, during the course of this Agreement, be enacted, then that conflicting provision in the Agreement shall be deemed null and void.
24. **DISPUTE RESOLUTION:** In the event of any dispute between the Parties, senior officials of both Parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama. For any and all

other disputes arising under the terms of this Agreement which are not resolved by negotiation, the Parties agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center For Dispute Resolution of the Alabama State Bar.

25. IMMIGRATION: By signing this Agreement, the Grantee affirms, for the duration of the Agreement, that it will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, if found to be in violation of this provision, Grantee shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.
26. NO AGENCY: By entering into this Agreement, Grantee understands and agrees it is not an agent of the State, its officers, employees, agents or assigns. The Grantee is an independent entity from the State and nothing in this Agreement creates an agency relationship between the Parties.
27. NOT ENTITLED TO MERIT SYSTEM: Grantee understands and agrees that nothing in this Agreement entitles Grantee to any benefits of the Alabama State Merit System.
28. BOYCOTT: In compliance with Act 2016-312, Grantee hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which the State can enjoy open trade.
29. NOTICE: Contact information of Parties for purposes of providing notice pursuant to the terms of this Agreement will be as set forth below, unless and until updated information is provided:

To ADCNR:

Alabama Department of Conservation and Natural Resources
Attn: Christopher M. Blankenship, Commissioner
64 N. Union St., Suite 468
Montgomery, AL 36130

To Grantee:

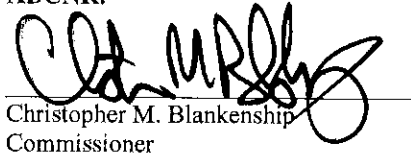
City of Orange Beach
Attn: Tony Kennon, Mayor
P.O. Box 2432
Orange Beach, AL 36561

30. SEVERABILITY: In the event any terms or provisions of this Agreement are deemed to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms or provisions hereof.
31. REVIEW AND EXECUTION: Grantee acknowledges and agrees that it has had the opportunity to seek legal counsel in connection with reviewing and executing this Agreement. Accordingly, any rule of law or legal decision potentially requiring interpretation of any claimed ambiguity in this Agreement against the drafting party shall have no application and is expressly waived by Grantee.
32. ADCNR AND GRANTEE REPRESENT THAT THIS AGREEMENT SUPERSEDES ALL PROPOSALS, ORAL AND WRITTEN, ALL PREVIOUS CONTRACTS, AGREEMENTS, NEGOTIATIONS AND ALL OTHER COMMUNICATIONS BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF.
33. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective officers thereunto duly authorized as of the date entered below (herein referred to as "Effective Date").

ADCNR:

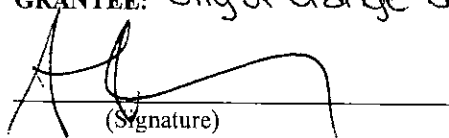

Christopher M. Blankenship
Commissioner

Date: 9-19, 2019

APPROVED LEGAL

nc

GRANTEE: City of Orange Beach


(Signature)

By: Tony Kennon
(Print Name)

Its: Mayor
(Print Title)

FUNDS AVAILABLE
FUND

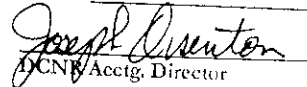

ADCNR Acctg. Director

EXHIBIT A

State of Alabama

Gulf of Mexico Energy Security Act of 2006

Disbursement Justification

Background:

The Gulf of Mexico Energy Security Act (GOMESA) was enacted by Congress in 2006 and significantly enhances outer Continental Shelf (OCS) oil and gas leasing activities and revenue sharing in the Gulf of Mexico. Among other things, GOMESA provides for enhanced sharing of leasing revenues with Gulf producing states and the Land & Water Conservation Fund for Coastal Restoration projects. The GOMESA authorizes uses of the proceeds for the following purposes:

- a. **Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses;**
- b. **Mitigation of damage to fish, wildlife, or natural resources;**
- c. Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan;
- d. Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects;
- e. Planning assistance and the administrative costs.

Project Description:

Waterways and Shoreline Enhancement Program

The City of Orange Beach, Alabama is a coastal community on the northern shore of the Gulf of Mexico known for its beach tourism, recreational fishing industry, and is host to over 3 million visitors annually. In Orange Beach, Perdido Pass is a popular, dynamic inlet to the Gulf that lies at the lower end of the Perdido Bay watershed, draining approximately 1,140 square miles of land area across Alabama and Florida. In the last eleven years, Orange Beach has been impacted by eight named tropical storm events, one unnamed Presidentially-declared flood disaster and the Deepwater Horizon Spill in 2010. These elements along with the ever-growing number of pollutants in the Gulf foster an environment favorable to the accumulation of marine debris, waterborne trash, and shoreline pollution.

The City of Orange Beach began a pilot program in 2014 to address marine debris and waterborne trash titled the "Waterways and Shoreline Enhancement Program" (WSEP). The program was designed to mitigate marine debris and waterborne trash on a daily basis among the over 46 miles of shoreline. The WSEP has been deemed a small success in the first three years of the program and has even received minor funding from the Guy Harvey Ocean Futures Foundation. In 2018 alone, nearly 70,000 pounds of debris and water-borne trash were removed from local waters as well as 759 bags of trash collected from

EXHIBIT A

remote shorelines and islands. Additionally, the City of Orange Beach implemented the Leave Only Footprints (LOF) Program in 2015 which consisted of increased regulation of rental vendor equipment on the beach and a requirement to remove all personal property overnight, so beaches can be cleaned. This has created a much safer and hospitable nesting environment for our threatened and endangered marine turtle species. Beach Ambassadors patrol daily educating beachgoers about the program and its benefits while removing the trash and marine debris from the shoreline. Operation Clean Sweep, a component of LOF, involves the removal of abandoned items each night that might otherwise end up in the Gulf and/or local waters. In 2018 the LOF program resulted in 7.4 tons of trash, 22.4 tons of metal, and 3.8 tons of recyclables removed by staff from our beaches. The LOF Program has received three noteworthy awards: The Alabama Tourism Department Partnership Award, the Alabama PALS Governor's Award, and the Dauphin Island Sea Lab Foundation Gulf Coast Marine Environmental Manager Leadership Award.

Despite its success, budget constraints have limited the WSEP program from reaching its full potential. With additional funding to supplement the nearly one-million-dollar annual investment already committed by the City of Orange Beach, we will expand and enhance the program. This will allow the seasonal waterways component to operate year-round and increase its capacity as well as provide for more efficient handling of material collected from all sources to ensure we keep it out of local landfills once collected.

The City's project is essentially three-fold, the expansion and enhancement of the waterway's cleanup; the implementation of new recycling components to keep collected items out of landfills; and launching a large educational campaign to educate the nearly 6.5 million visitors we see annually. The waterway expansion consists of the purchase of an additional vessel with personnel to double the coverage and capacity day-to-day. This project will provide funding for 2 full-time employees and 1 part-time employee. The City also plans to equip the larger vessel with the ability to remove larger marine debris via an on-board davit (small crane) lift. For the recycling portion we intend to purchase the equipment needed to convert the collected items into marketable form and quantities. An example of this would be sorting/baling the polyethylene terephthalate (PET) and high-density polyethylene (HDPE) plastics and storing them until truckload quantities are reached at which time vendors would be willing to accept and transport the items for recycling into finished products. Recycling equipment will also be purchased to convert certain collected items into a usable product on site such as crushed glass or shredded textiles. Currently, collected materials are stored in bulk on an open yard. This project will fund the construction of a small storage building which will accommodate storage of reduced materials and house the proposed recycling equipment. This building will be located at the Beach Barn and Leave Only Footprints yard and pole barn site, as there is room to expand but it will require additional site prep and improved surfaces. The final element consists of a regional media campaign that will include billboard advertisements in order to educate our target audience about the reality of many discarded items and how to prevent them from ending up on our beaches or waterways. In the future we hope to expand to include physical barriers such as storm drain filters and trash capture devices.

EXHIBIT A

Project Duration:

This project is expected to last 60 months.

Start Date: October 1, 2019

End Date: September 30, 2024

Project Costs: The disbursements will be made as two (2) installments. The first (1) installment will be disbursed upon execution of the Agreement and upon receipt of an invoice for Allowable Costs. The second (2) installment will be disbursed following receipt of satisfactory verification that all previously disbursed funds were used for Allowable Costs.

Category	Estimated Cost
First Installment	\$657,250
Second Installment	\$657,250
TOTAL	\$1,314,500

Nexus to Authorized Use:

This project meets the criteria set forth in authorized use (a) Projects and activities for the purpose of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses and (b) Mitigation of damage to fish, wildlife, or natural resources.

Submitted and Approved By: Nicole Woerner
Coastal Resources Planner
City of Orange Beach



**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: City Clerk

Description of Topic: Resolution accepting a proposal from Safe Span, L.L.C., for bridge safety inspections in an amount not to exceed \$2,800. (CP)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 11-05-24 24-xxx Accept Proposal Safe Span Bridge Inspections
2. 2024.09.10 Quote - Community Development - Safe Span Bridge Inspections

RESOLUTION NO. 24-xxx

**A RESOLUTION ACCEPTING A PROPOSAL FROM
SAFE SPAN, L.L.C., FOR
BRIDGE SAFETY INSPECTIONS
IN AN AMOUNT NOT TO EXCEED \$2,800**

FINDINGS:

1. The City's Community Development Department has solicited professional service proposals for bridge safety inspections.
2. The City Engineer has recommended acceptance of a proposal submitted by Safe Span, L.L.C., based on lowest cost and best value.
3. After having reviewed the proposal, the City Council has determined that the provisions are in the best interest of the City of Orange Beach, Alabama, and furthers public health, safety, and welfare.

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

1. That the Mayor is hereby authorized to execute the proposal dated September 10, 2024, in substantially the form and of substantially the content now before the Council between the City of Orange Beach and Safe Span, L.L.C., 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 \$2,800 to Safe Span, L.L.C., to complete the scope of work as presented; and
3. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 5th DAY OF NOVEMBER, 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 November 5, 2024.

City Clerk



SAFE SPAN, L.L.C.

BRIDGE INSPECTION SERVICES

P.O. Box 95

SILVERHILL, ALABAMA 36576

TELEPHONE: (251) 945-6228

OR (850) 418-0457

SAFESPANLLC.COM

Michael W. Sharp, C.B.I.

Pete Peterson, C.B.I.

September 10, 2024

City of Orange Beach
P.O. Box 2432
Orange Beach, Al. 36561

Attention: Mr. Tim Tucker

Subject: **Proposal for Routine Bridge Safety Inspection(s)
(2) Structures on Gulf Bay Road
Orange Beach, Alabama**

Safe Span, L.L.C. appreciates the opportunity to submit this proposal for the post Hurricane Sally scour and safety inspection of (2) bridge(s) in your City. This proposal will address the services to be provided by Safe Span, L.L.C. and the proposed fee to accomplish the required task(s). **These inspections are due in October 2024 to stay in compliance with NBIS standards.**

Scope of Work

The scope of work to be performed by Safe Span, L.L.C. is complete start to finish safety inspection(s) of all/part of the bridges in the inventory of City of Orange Beach, Alabama.

1. Complete "hands-on" AASHTO Element Level and NBI Inspection performed by NBI and ALDOT certified personnel
2. AASHTO Element Level inspection, Quantification forms and data entry (new FHWA and ALDOT requirement)
3. Scour Inspection
4. Complete photographic file of each structure
5. Executive Summary of each structure

Client Responsibilities

1. Authorize Safe Span, L.L.C. to proceed by issuance of a Purchase Order for the project
2. Review submittals from Safe Span, L.L.C. and offer comments in a timely fashion
3. Provide prior inspections reports or access to such as needed
4. Notify this office if the City of Orange Beach would like to change or revise the Scope of Services

Compensation

Safe Span, L.L.C. will provide the inspection services for the LUMP SUM fee of **\$2,800.00.**

***** This Quote is valid for 120 days *****

In addition to the Scope of Work above, this fee includes (during this (24) month cycle):

1. Completion of any ALDOT Compliance Review Questionnaire as needed.
2. Correction of any Edit Errors to the Bridge Management System (BrM) as needed.
3. Representation during any Compliance Review with ALDOT and FHWA officials.
4. Provision of Federally Required Structure Lists at the beginning of each year.
5. Provision of any proposals for future budget considerations.

Anything outside this Scope of Work would be billed as needed.

Work will begin when Safe Span, L.L.C. receives the written Authorization to Proceed from the City of Orange Beach. Completion will be in accordance with the schedule set forth in the Agreement for the Safety Inspection(s) of In-service Bridge(s). If we may be of service to provide clarification for this proposal, please contact us at 251.945.6228 or 850.418.0457.

Sincerely,

Michael W. Sharp, C.B.I.

cc: Pete Peterson, C.B.I.



**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing execution of a lease agreement with the Alabama Law Enforcement Agency for office space and boat slips for the Police Department. (SB)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 11-05-24 24-xxx Authorize Lease Agreement ALEA Marine Police Office Boat Slips
2. 2024.09.27 Lease Agreement ALEA Police Office Space Boat Slips

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
LEASE AGREEMENT WITH THE ALABAMA LAW ENFORCEMENT AGENCY
FOR OFFICE SPACE AND BOAT SLIPS FOR THE POLICE DEPARTMENT**

FINDINGS:

1. The City of Orange Beach and the Alabama Law Enforcement Agency (ALEA), have reached an agreement (attached Exhibit A) for the lease of office space and boat slips located at 27557 Larry C. Kelley Lane for use by the Orange Beach Marine Police.
2. The term of this agreement shall be from December 1, 2024, through November 30, 2027, with lease payments in the amount of \$3,000 per month.
3. 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 is hereby authorized to execute the Lease Agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach and the Alabama Law Enforcement Agency 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 5th DAY OF NOVEMBER, 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 November 5, 2024.

City Clerk

STATE OF ALABAMA)

BALDWIN COUNTY)

LEASE
BETWEEN THE
ALABAMA LAW ENFORCEMENT AGENCY
AND THE
CITY OF ORANGE BEACH

THIS LEASE is made and entered into by and between the **Alabama Law Enforcement Agency** (hereinafter the “**Lessor**”) and the **City of Orange Beach** (hereinafter the “**Lessee**”) and shall be effective on **December 1, 2024**. Lessor and Lessee mutually agree, and contract as follows:

- A. Certifications. Lessor hereby certifies that it is the owner of the leased premises described herein and that it has full right to make and enter this Lease agreement. Furthermore, the Lessor covenants to keep the Lessee in quiet possession of the premises during said term, provided the Lessee shall comply with all stipulations of this Lease.
- B. Leased Premises. Lessor does hereby let and lease to the Lessee the following described premises in the City of Orange Beach, Baldwin County, Alabama: approximately 450 square feet (SF) of office/storage space located at 27555 Larry C. Kelley Lane (Administration Building), Orange Beach, Alabama, containing three (3) boat lifts (which includes two (2) 30ft. covered lifts and one uncovered lift), six (6) parking spaces, and two (2) common share restrooms. The office space, storage rooms, and restrooms are located on the ground level of the Administration Building (see Exhibit B, “Floor Plan”).
- C. Lease Term. The term of this Lease shall be for the period from **December 1, 2024**, through **November 30, 2027**, subject to provisions a, b, and c below.
 - a. In the event this is a new building under construction, or is an existing building being renovated before occupancy by Lessee, and said construction or renovations are not completed to the satisfaction of Lessee as of the above-stated effective date of this Lease, then Lessee, at its sole option, may declare this entire Lease agreement null and void, or may agree to afford Lessor an additional period of time, not to exceed ninety (90) days, within which to complete said construction or renovations. Any request for an extension of time by Lessor under this paragraph must be in writing and must specify the reasons for such request. No such extension shall be granted by Lessee without a showing of substantial performance and good faith by Lessor. Should Lessee agree to afford Lessor an additional period of time within which to complete said construction or renovations, then the effective date of this Lease shall be deemed to be the day said construction or renovations are completed to the satisfaction of Lessee. Provided further, the term length of this Lease shall not be affected or shortened by said delays in construction or renovations and shall extend to that date which is equivalent to the duration of time as agreed above. In such event, Lessor and Lessee will execute a Memorandum of Acceptance of Lease setting forth the proper commencement date and expiration date of this Lease.

- b. In the event this is a lease of all, or of a portion of property which has been leased by Lessee for a period immediately prior to the beginning of this Lease, and if this Lease provides for a renovation or modification of part or all of the premises previously leased by Lessee, if such renovation or modification has not been completed to the satisfaction of the Lessee as of the above stated beginning date of this Lease, then Lessee, at its sole option, either may declare this entire Lease agreement null and void or may continue to occupy the premises under the rent and other terms and conditions of the lease for the said preceding period. Provided that, if Lessee continues to occupy the premises, as set forth in the preceding sentence, the beginning date of this Lease will not change and the period of this Lease will not be extended, but the rent and other terms and conditions of this Lease will begin to apply on the first day of the month immediately following the completion of the renovations or modifications to the satisfaction of Lessee, and the first payment of rent, in the amount set in this Lease, will be due to be made on the first day of the next succeeding month. Provided further that if Lessee elects to continue to occupy the premises as provided in the first sentence of this subsection b and if the said renovations or modifications have not been completed to the sole satisfaction of the Lessee within ninety (90) days after the beginning of the term of this Lease, then at any time after the said ninety (90) days and before Lessee accepts the said renovations or modifications, Lessee may, at its sole option, terminate this Lease by providing thirty (30) days' written notice of intent to terminate to Lessor.
- c. If the Lessee remains in possession of the premises after the end of the lease term stated above, or any extension or renewal thereof, then such holding over will be deemed a month- to-month tenancy at the same rent terms and under the same conditions as were in effect during the lease term. Such holding over period shall not exceed six (6) months from the expiration date of this Lease.
- D. Rent. Lessee agrees to pay Lessor the sum of three thousand dollars (\$3,000.00) per month, said payments to be made on the first day of each month, not in advance, however, but each payment shall be for the preceding month and rent under this Lease shall first become due January 1, 2025.

All rental payments shall be made by Lessee to the order of and delivered to the address below, or at such other place as may be designated from time to time by Lessor in writing at least ten (10) days prior to the next ensuing payment date.

LESSOR RENT ADDRESS:

Alabama Law Enforcement Agency
Accounts Receivables
P.O. Box 1511
Montgomery, AL 36102-1511
ALEA-AccountsReceivable@alea.gov
Phone: (334) 676-6239

- E. Notices. All notices to be given pursuant to this Lease shall be in writing and shall either be served personally or sent via prepaid certified or registered mail to the address of the parties below specified or at such other address as may be given by written notice in the manner prescribed in this paragraph. Any notices shall be sent to:

LESSOR NOTICE ADDRESS:

Alabama Law Enforcement Agency
General Services
P.O. Box 1511
Montgomery, AL 36102-1511
Phillip.upshaw@alea.gov
Phone: (334) 676-6261

LESSEE NOTICE ADDRESS:

City of Orange Beach
P.O. Office 458
Orange Beach, AL 36561

- F. Utilities and Repairs. Lessor agrees, throughout the term of this Lease, to provide electricity, water, trash container, and janitorial service; and to maintain a tight roof, and a safe and structurally sound watertight building with adequate drainage to prevent water seepage through building walls. Therefore, Lessor agrees to make all necessary repairs thereto, including repairs of gutters, downspouts, and skylights, and will be responsible for all breakage and leakage of water pipes, commode and lavatory fixtures, water heaters, and any other plumbing fixtures and stoppage of sewer pipes, except where damage is caused by the gross negligence of Lessee. Janitorial service at the expense of Lessor will be provided one (1) time per week during normal business hours. If Lessee requires janitorial service above and beyond services offered by Lessor, Lessee will be responsible for all associated additional costs. Lessor additionally agrees to be responsible for repairing or replacing damaged items such as doors in the building, ceiling tile, flooring, and light fixtures, as long as damage was not caused by the negligence of Lessee, and for repairing and re-stripping the parking lot as required by Lessee.

Where heating and air conditioning equipment is furnished by Lessor, Lessor agrees to keep and maintain the heating and air conditioning equipment in good working order, at Lessor's expense.

Lessor agrees to maintain adequate ingress and egress to designated loading and unloading areas for the duration of this Lease. Lessor additionally agrees to provide Lessee access and use of the bulk fuel storage tank system. The system consists of a 4000-gallon tank and fuel pump dispenser. Lessee will have access to half of the fuel storage tank (2000 gallons) and fuel pump dispenser.

Lessor agrees, in the event the leased premises are burglarized, to make adequate repairs to the building, at Lessor's expense, by replacing damaged doors and windows or repairing other damage to the building caused by the breaking and entering as soon as practicable.

In the event Lessor fails to make necessary repairs as set forth herein within a reasonable time as determined by the Lessee, and after due notice thereof by Lessee to Lessor, Lessee may, repair the same itself where the costs of the repairs do not require an expenditure greater than two months' rent and deduct the expenses of such repairs from the rent, or Lessee may, at Lessee's option, vacate the premises, in which case Lessee shall be discharged from further payment of rent or performance of other conditions under this Sublease. For the purposes of this paragraph, if Lessee makes repairs or vacates at least sixty (60) days following its giving notice to Lessor, its successors, heirs, or assigns, it will be presumed to have acted after a reasonable time.

Lessee agrees they are responsible for contracting with and payment of their own telephone and internet service providers. Lessee shall provide their own furniture, phones, computers, tv/monitors and IT equipment, and network cabling used on the premises during the term of this Lease.

Lessee further agrees that the Orange Beach Police Department will be responsible for maintenance, repair, and upkeep of the boat lifts (see paragraph B, "Leased Premises") which includes their two (2) boat lifts and one (1) personal watercraft lift.

- G. Condemnation. Lessor and Lessee agree that should the leased premises, or such portion thereof as will make the premises unusable for the purposes set forth herein, be taken or condemned by competent authority for public or quasi-public use, then this Lease shall terminate on the date the competent authority takes possession. If the lease continues after a partial taking or condemnation, the rent shall abate proportionately to the part taken. All compensation awarded for such taking of the building shall belong to and be the property of Lessor, provided, however, that Lessor shall not be entitled to any portion of the award made to Lessee for the value of Lessee's trade fixtures. Lessee shall not be entitled to any damage for the unexpired portion of the term of this Lease. Lessor agrees and so stipulates that, should a taking of any property by condemnation, as referred to above, cause the leased premises to become unsuitable for tenancy due to size, access, configuration, visibility, or reasons which are now unknown, Lessor will cancel the Lease effective on the business day so designated by the Lessee. Lessor will hold Lessee harmless should this occur.
- H. Fire or Other Casualty. If the premises are made untenable during the term of this Sublease by fire or other casualty, Lessee shall not thereafter be liable for the payment of rent, unless Lessor, within sixty (60) days thereafter, shall restore the property to substantially the same condition as that just previous to such fire or other casualty. At the end of the sixty (60) days, the Lessor will be presumed to be acting in good faith if restoration is in progress but is incomplete due to the extent of the casualty and damages the premises incurred. Provided, however, that to hold Lessee, Lessor must give Lessee written notice of its intention to restore the premises within five (5) days after the fire or other casualty. Rent shall not be due during the period when said premises remain untenable.
- I. Subordination. Lessee agrees that, at the option of Lessor, this Lease shall at all times be subject and subordinate to any and all deeds of trust, security interests, mortgages, master leases, ground leases, or other security documents and any and all modifications, renewals, extensions, consolidations, and replacements thereof (collectively, "Security Documents") which now or hereafter constitute a lien upon or affect the Property, the Building, or the Premises. Such subordination shall be effective without the necessity of the execution by Lessee of any additional document for the purpose of evidencing or effecting such subordination. In addition, Lessor shall have the right to subordinate or cause to be subordinated any such Security Documents to this Lease and in such case, in the event of the termination or transfer of Lessor's interest in the Property by reason of any termination or foreclosure of any such Security Documents, Lessee shall, notwithstanding such subordination, attorn to and become the Lessee of the successor in interest to Lessor; provided, however, as a condition of this subordination provision that Lessor shall obtain from any such successor in interest an agreement in writing, which shall be delivered to Lessee, providing in substance that, so long as Lessee shall faithfully discharge the obligations on its part to be kept and performed under the terms of this Lease, its tenancy shall be and remain undisturbed and this Lease shall not be affected by any default under such mortgage; and in the event of foreclosure or any enforcement of such mortgage, the rights of Lessee hereunder shall expressly survive and this Lease shall in all respects continue in full force and effect, provided, however, that Lessee fully performs all of its obligations under this Lease.

- J. No Encumbrances. Lessee agrees and so stipulates that nothing in this Lease authorizes Lessee to perform any act that would create a lien, mortgage, or any other encumbrance having reversion rights to Lessor or the leased premises.
- K. Surrender. Lessee agrees to commit no waste of property, but, on the contrary, agrees to take good care of same, and upon the termination of this Lease, surrender possession of the premises, without notice, in good condition, reasonable wear and tear excepted.

Lessee further agrees that Lessor shall have the right to attach a card stating "For Rent" on the premises and show the premises to any person desiring to rent at any time within three (3) months prior to the expiration of this Lease and show the premises to any person desiring to purchase at any reasonable time during the term of this lease; however, the provisions of this paragraph shall in no way be construed as waiving any of the terms of this Lease.

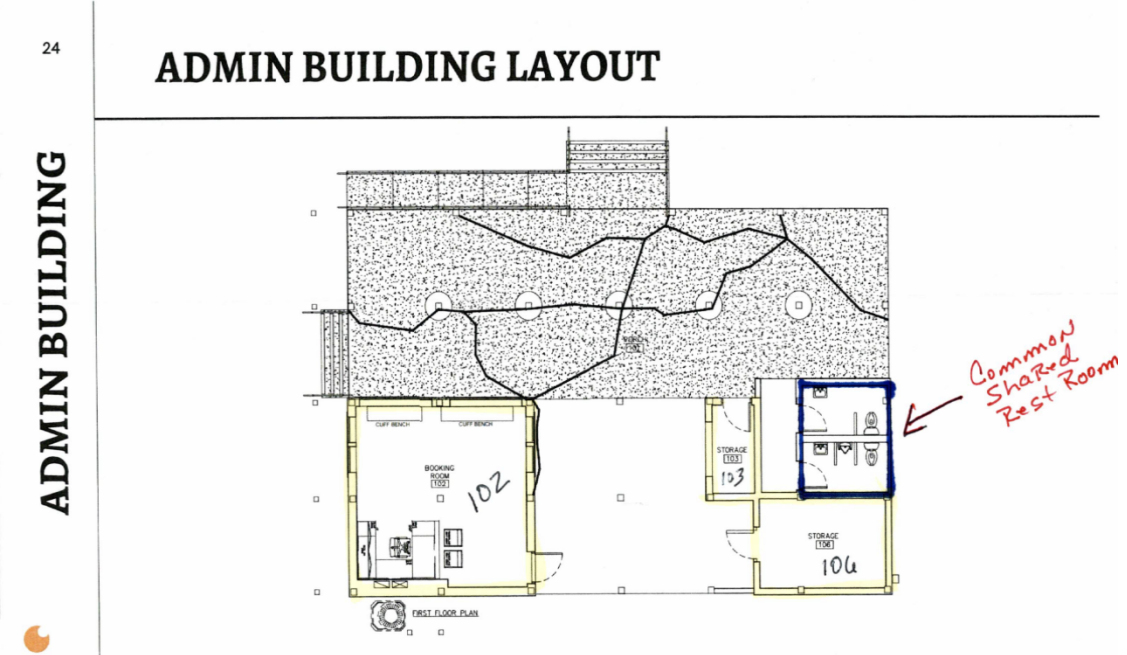
- L. Early Termination. This Lease may be terminated early by Lessor or Lessee in accordance with this clause, in whole, or from time to time in part, whenever either party determines that such termination is in their best interest. The terminating party shall provide a minimum of ninety (90) days' written notification to the other party of the decision to terminate and the effective date of termination. The Lessee will pay the portion of any unamortized tenant improvements associated with the remaining lease term. However, the Lessor shall not be reimbursed for any anticipatory rentals, expenses, or profits which have been earned up to the date of termination. The effective date of termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rent shall accrue after the effective date of termination.
- M. Not a Debt of the State. It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article XI, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this Lease shall contravene any statute or Constitutional provision or amendment, either now in effect or which may be enacted during the course of this Lease, then that conflicting provision in the Lease shall be deemed null and void.
- N. Immigration Laws. Pursuant to Alabama Code §31-13-9(k), by signing this Lease, the contracting parties affirm, for the duration of this Lease agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.
- O. Dispute Resolution. Should a dispute between the parties relate to the payment of money, the sole remedy of the Lessee shall be to file a claim with the State of Alabama Board of Adjustment. Any other dispute between the parties, senior officials of Lessor and Lessee who have the authority to bind their principals to any agreement they should reach, shall meet and engage in a good faith attempt to resolve the dispute. Should negotiations not produce a resolution, the parties agree that the dispute shall be submitted to non-binding mediation, to be conducted in a mutually agreed location utilizing mediators selected from the roster maintained by the Alabama Center for Dispute Resolution.

- P. Entire Agreement. This Lease and the exhibits attached hereto contains the entire and only agreement between the parties concerning the leased premises, and no prior oral or written statement or representation, if any, of any party hereto or any representative of a party hereto not contained in this instrument shall have any force or effect. This Lease shall not be modified in any way except by a writing executed by Lessor and Lessee.

EXHIBIT A
(Rent Table)

Three Year Rent Schedule				RSF	Base Rent	Taxes	Ins.	OE	TI's	Comm.	Esc.	RENT SF/YR	Monthly Rent	Annual Rent
1	12/1/2024	-	11/30/2025		\$	\$	\$	\$	\$	\$	0.00%	\$	\$3,000	\$36,000
2	12/1/2025	-	11/30/2026		\$	\$	\$	\$	\$	\$	%	\$	\$3,000	\$36,000
3	12/1/2026	-	11/30/2027		\$	\$	\$	\$	\$	\$	%	\$	\$3,000	\$36,000
Total Rent:													\$108,000	

EXHIBIT B
(Floor Plan)



SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Parties acknowledge this Lease agreement as evidenced by their signatures below.

LESSOR

Alabama Law Enforcement Agency

LESSEE

City of Orange Beach

Hal Taylor
Secretary of Law Enforcement

Tony Kennon
Mayor

Approved as to Form

ALEA Legal Counsel



**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: Community Development

Description of Topic: Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1101-PUDA-24, Saltwater Cottages PUD, POA Sidewalk. (Suggested date 11/5/2024) (GP)

Background/Description: The Bluff of Orange Beach LLC requests approval of a Minor PUD Modification to the Saltwater Cottages Planned Unit Development Master Plan to remove the proposed sidewalk from the pedestrian-oriented area along Perdido Beach Boulevard as requested by the U.S. Fish and Wildlife Services. The property is located at 23518, 23524 and 23530 Perdido Beach Boulevard.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
OCTOBER 15, 2024**

Departments: Community Development

Description of Topic: Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1007-ZT-24, Section 2.02, Words & Terms Defined, Definition of Grade Plane. (Suggested date 11/5/2024) (GP)

Background/Description: The Community Development Department requests approval of a Zoning Text Amendment to Section 2.02 of the Orange Beach Zoning Ordinance, Words and Terms Defined, to amend the definition of *grade plane*.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None