



REGULAR COMMITTEE OF THE WHOLE MEETING AGENDA

I. Roll Call

II. Consideration of Previous Minutes

1. Regular Council Meeting 11/05/2024
2. Committee of the Whole 11/05/2024

III. Unfinished Business

Miscellaneous

Resolutions

Ordinances

IV. New Business

Miscellaneous

Resolutions

1. Resolution authorizing the City to host community events for the benefit of citizens and visitors of the City of Orange Beach during 2025. (MA)
2. Resolution authorizing execution of a professional services agreement with Lauren McCaghren for dance instruction for "Shrek the Musical". (JL)
3. Resolution authorizing execution of an amendment to the professional services agreement with EnCompass360, Inc., for grant writing. (NW)
4. Resolution awarding the Request for Proposals for program administration services for the First Responders Safe Room project to EnCompass360, Inc. (NW)
5. Resolution authorizing the purchase of a Farm Tractor for the Coastal Resources Department through Sourcewell from Parish Tractor Company, LLC, in the amount of \$108,812.10. (TT)

6. Resolution authorizing execution of a right-of-way franchise agreement with MCImetro Access Transmission Services, LLC. (JL)
7. Resolution authorizing the renewal of a right-of-way franchise agreement with Mediacom Southeast, LLC. (JL)

Public Hearings

1. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1104-PUD-24, Roscoe Road Townhouses PUD. (GP)
2. Reminder: Public hearing and first reading for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1005-PUD-24, Saltwater Cottages II PUD on December 3, 2024, at 3:00 P.M.

Ordinances

V. Public Comments

VI. Adjourn

**MINUTES OF
REGULAR COUNCIL MEETING
ORANGE BEACH CITY COUNCIL
NOVEMBER 5, 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** Associate Pastor Houston Britt, Oasis Church at the Wharf
- III. PLEDGE OF ALLEGIANCE** Orange Beach Middle and High School Girls Swim Team
- IV. ROLL CALL**

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

Absent: Councilmember Jeff Boyd

V. CONSIDERATION OF AGENDA

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

VI. CONSIDERATION OF PREVIOUS MINUTES

Regular Council Meeting 10/01/2024
Committee of the Whole 10/01/2024

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> | |

Marc Anderson, Special Projects Coordinator, listed upcoming holiday events.

Councilmember Annette Mitchell invited the public to attend the Community Potluck held on the first Monday of every month from September to May beginning at 6 P.M.

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

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

IX. PRESENTATIONS

X. RECOGNITIONS

1. Recognition of Ali Grigsby, Orange Beach High School student, for academic and extracurricular achievements. Mayor Kennon read the Certificate of Recognition aloud and presented the award.

XI. UNFINISHED BUSINESS

Ordinances

1. Second Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0901-PUDA-24, Fish Camp Landing PUD, Updated Marina Plan. **Motion made (Mitchell/Silvers) to postpone consideration until the next meeting on November 19, 2024.** Roll call vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Blalock, aye; Kennon, aye. **Motion passed. (5-0).**
2. Second Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0902-PUDA-24, Columbia Southern University PUD, Sign Amendment. Request withdrawn by the applicant.

XII. NEW BUSINESS

Miscellaneous

1. Approval of a Retail Beer (Off Premises Only) Liquor License Application by Coster Outfitters, LLC, for J and M Tackle Inc, 25125 Canal Road. **Motion made (Johnson/Silvers) to approve the liquor license.** Vote unanimous in favor. **Motion passed.**
2. Approval of a Special Events Retail Liquor License Application by Wharf Restaurant Group L.L.C. for the "Collins Aerospace Group" event to be held December 14, 2024, at 4985 Wharf Parkway. **Motion made (Silvers/Mitchell) to approve the liquor license.** Vote unanimous in favor. **Motion passed.**

Resolutions

1. Resolution awarding the bid for Christmas Decorations to Winterland, Inc., in an amount not to exceed \$52,725. **Motion made (Mitchell/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
2. 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. **Motion made (Silvers/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

3. 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. **Motion made (Blalock/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
4. 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. **Motion made (Blalock/Johnson) 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 recreation program member management. **Motion made (Silvers/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
6. Resolution establishing fees for the Orange Beach Shooting Range. **Motion made (Silvers/Johnson) to postpone consideration indefinitely.** Vote unanimous in favor. **Motion passed.**
7. Resolution authorizing the execution of a professional services agreement with Allen Engineering and Science, Inc., for engineering, planning, environmental consulting, and construction assistance services. **Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
8. Resolution authorizing the execution of GOMESA Grant Agreement Amendment No. 1 to extend the term of the original agreement. **Motion made (Blalock/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
9. Resolution accepting a proposal from Safe Span, L.L.C., for bridge safety inspections in an amount not to exceed \$2,800. **Motion made (Mitchell/Silvers) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
10. Resolution authorizing execution of a lease agreement with the Alabama Law Enforcement Agency for office space and boat slips for the Police Department. **Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
11. Resolution amending Chapter 3 of the Personnel Manual for the City of Orange Beach entitled "Benefits". **Motion made (Mitchell/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
12. Resolution authorizing the execution of a performance contract with Anne Gajda for golf instruction services. **Motion made (Silvers/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

Public Hearings

1. Public hearing for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1101-PUDA-24, Saltwater Cottages PUD, POA Sidewalk.

Griffin Powell, Planner II, presented the case overview for approval of a minor 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 for the development located at 23518, 23524, and 23530 Perdido Beach Boulevard.

Adam Roberson, Community Development Director, gave a brief history of sidewalk requirements per the City's Zoning Ordinance. Mayor Kennon discussed his concerns regarding sidewalk continuity in front of residential homes. Chris Pappas, City Engineer,

explained the Alabama Department of Transportation's requirements for logical sidewalk terminations and suggested reserving right-of-way for future sidewalks.

There being no further comments, the public hearing adjourned.

2. Public hearing 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.

Griffin Powell, Planner II, presented the staff request to amend the zoning text definition of "grade plane".

Adam Roberson, Community Development Director, explained the purpose of the amendment is to clarify requirements for property that is steeply sloped.

There being no further comments, the public hearing adjourned.

Ordinances

1. First Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1101-PUDA-24, Saltwater Cottages PUD, POA Sidewalk. No action taken. Ordinance will move to a second reading.
2. First Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1007-ZT-24, Section 2.02, Words & Terms Defined, Definition of Grade Plane. **Motion made (Blalock/Mitchell) 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; Kennon, aye. **Motion passed. (5-0).** **Motion made (Blalock/Silvers) to adopt the ordinance.** Roll call vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Blalock, aye; Kennon, aye. **Motion passed. (5-0).**
3. First Reading – Ordinance approving the petition for annexation of property into the City of Orange Beach, Alabama, by Intracoastal Investments, LLC. **Motion made (Silvers/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; Kennon, aye. **Motion passed. (5-0).** **Motion made (Silvers/Johnson) to adopt the ordinance.** Roll call vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Blalock, aye; Kennon, aye. **Motion passed. (5-0).**

XIII. PUBLIC COMMENTS

None

XIV. ADJOURN

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

Time: 5:42 P.M.

APPROVED this the 3rd day of December, 2024.

Renee Eberly
City Clerk

**MINUTES OF
COMMITTEE OF THE WHOLE MEETING
ORANGE BEACH CITY COUNCIL
NOVEMBER 5, 2024 – 5:43 P.M.
CITY HALL – COUNCIL CHAMBERS**

The Orange Beach City Council met to review potential items for the November 19, 2024, agenda.

The following members were present:

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

The following members were absent:

Councilmember Jeff Boyd

The following items were discussed:

1. Discuss petition to annex into the City of Orange Beach submitted by Holmes Family LLC.
2. Council and Committee of the Whole Meetings on December 3, 2024, rescheduled from 5:00 P.M. to 3:00 P.M. to allow for the Christmas Tree Lighting event.
3. Resolution providing for tax exemption on hearing instruments effective December 1, 2024, to September 30, 2029.
4. Resolution extending the entertainment district at SanRoc Cay Marina / Perdido Beach Resort.
5. Resolution extending the entertainment district at The Wharf.
6. Resolution approving the Fiscal Year 2025 Budget for the City of Orange Beach, including the transfer of special revenue funds to general fund for special revenue fund projects.
7. Resolution authorizing an additional one-time payment to city employees for future services.
8. Resolution authorizing execution of amendments to the enrollment agreement with Blue Cross Blue Shield of Alabama to renew the employee health plan.
9. Resolution declaring six in-car cameras owned by the City of Orange Beach as surplus and unneeded and authorizing the donation of said property to the Town of Elberta.
10. Resolution declaring a stationary bike owned by the City of Orange Beach surplus and unneeded and authorizing the donation of said property to the Orange Beach Board of Education.
11. Resolution authorizing execution of a task order with GeoCon Engineering & Materials Testing, Inc., to provide geotechnical testing and engineering services for Pickleball Courts in an amount not to exceed \$6,555.
12. Resolution authorizing execution of a task order with GeoCon Engineering & Materials Testing, Inc., to provide geotechnical testing and engineering services for a First Responder Safe Room in an amount not to exceed \$3,810.
13. Resolution authorizing execution of a task order with GeoCon Engineering & Materials Testing, Inc., to provide geotechnical testing and engineering services for Shooting Range Additions in an amount not to exceed \$3,810.

14. Resolution authorizing execution of a task order with GeoCon Engineering & Materials Testing, Inc., to provide geotechnical testing and engineering services for a Veterans Memorial in an amount not to exceed \$3,810.
15. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1005-PUD-24, Saltwater Cottages II PUD. Public hearing set for December 3, 2024, at 3:00 P.M.
16. 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. Public hearing set for January 7, 2025, at 5:00 P.M.

Public Comments:

1. Councilmember Silvers introduced Joseph Coster, new owner of J&M Tackle. Mr. Coster thanked Council for the welcome.

There being no further business, the meeting adjourned.

Time: 5:53 P.M.

APPROVED this 3rd day of December, 2024.

Renee Eberly
City Clerk



**REGULAR COMMITTEE OF THE WHOLE MEETING
NOVEMBER 19, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing the City to host community events for the benefit of citizens and visitors of the City of Orange Beach during 2025. (MA)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 12-03-24 24-xxx Authorize Community Events 2025

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING THE CITY TO HOST
COMMUNITY EVENTS FOR THE BENEFIT OF CITIZENS AND VISITORS OF THE
CITY OF ORANGE BEACH DURING 2025**

FINDINGS:

1. The City hosts certain annually held community events for the benefit of its citizens and visitors, specifically, the City Mardi Gras Parade, the Art Festival, Seafood Fest at the Wharf, Freedom Fest at the Wharf, the City Christmas Tree Lighting Event at the Wharf, and City School Community Events. These events are important to the local economy as well as to the general welfare and spirit of the community.
2. The City wishes to host the above stated events during the calendar year 2025.
3. The stated events will promote tourism and local businesses, stimulate economic growth in the community and provide benefit to the City's economy.
4. The stated events serve as a public purpose by promoting the health, safety, morals, security, prosperity, contentment, and general welfare of the community.
5. The stated events will provide quality-of-life benefits to the community by bringing the community together, celebrating and enhancing the spirit of community.
6. The City Council has determined that providing such events serves a public purpose and is in the best interest of the citizens and visitors 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 Orange Beach City Council, having determined that it serves a public purpose and is in the best interest of the City, hereby authorizes the use of certain public resources for the purpose of hosting annual community events in the City of Orange Beach, namely the City Mardi Gras Parade, the Art Festival, Seafood Fest at the Wharf, Freedom Fest at the Wharf, the City Christmas Tree Lighting Event at the Wharf, and City School Community Events;
2. That the Mayor be and hereby is authorized to sign such agreements as may be necessary for expending funds to host the events and/or for hosting the events generally; and
3. That this Resolution shall become effective immediately upon its adoption and remain effective until its expiration on December 31, 2025.

ADOPTED THIS 3rd DAY OF DECEMBER, 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 December 3, 2024.

City Clerk



**REGULAR COMMITTEE OF THE WHOLE MEETING
NOVEMBER 19, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing execution of a professional services agreement with Lauren McCaghren for dance instruction for "Shrek the Musical". (JL)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 12-03-24 24-xxx Authorize Professional Services Agreement Performing Arts
Lauren McCaghren Shrek The Musical
2. 2024.11.15 Professional Services Agreement Lauren McCaghren Performing Arts
Shrek

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT WITH
LAUREN MCCAGHREN
FOR DANCE INSTRUCTION FOR “SHREK THE MUSICAL”**

FINDINGS:

1. The City of Orange Beach has reached an agreement (attached Exhibit A) with Lauren McCaghren whereby Lauren McCaghren will provide theater performance direction for the City’s spring 2025 production of *Shrek The Musical* by the Performing Arts division of the City of Orange Beach Expect Excellence program.
2. After having reviewed the agreement, the City Council has determined that the provisions are in the best interest of the City of Orange Beach, Alabama.

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

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

ADOPTED THIS 3rd DAY OF DECEMBER, 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 December 3, 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 Lauren McCaghren, an individual (hereinafter the "Contractor"), as follows:

1. Recitals.

WHEREAS, the City desires to engage Contractor to provide theatrical performance dance instruction for the City's Expect Excellence Performing Arts program's spring 2025 theatre performance of "Shrek The Musical," or such other production as selected by the City;

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

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

2. Consulting Services to be Performed.

- a) Contractor will provide dance instruction for the City's spring 2025 theatre performance of "Shrek The Musical," or such other production as selected by the City.
- b) Contractor will perform such other services with regard to the City's theatre performance, including student coaching, dance instruction, choreography and music, and review 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 \$30 per hour up to a total not to exceed \$4,000, in accordance with City policies. Pay will be based on approximately 75 rehearsal hours, in addition to preparation hours for learning choreography, observing student abilities and techniques and adjusting choreography, as needed.
- b) Contractor agrees to abide by the City's established policies, and agrees that any travel and expenses must be approved in advance by the City.
- c) Contractor shall be paid in one (1) payment not to exceed \$4,000 upon the City's receipt of properly documented invoices for services performed as verified by the Performing Arts Center staff.

4. Term.

The term of this Agreement is two (2) months commencing December 4, 2024, and ending February 2, 2025.

5. Independent Contractor.

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

an independent Contractor. City does not, and will not, assume any responsibility for the means by which or the manner in which the services by Contractor provided for herein are performed but, on the contrary, Contractor shall be wholly responsible therefor.

6. Insurance.

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

7. Assignment.

Contractor acknowledges that its identity and peculiar capacity to provide the services described herein 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. Any amounts paid to Contractor but not earned *pro rata* shall be returned to the City prior to cancellation of the contract. 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.

10. Final Agreement.

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

11. Modifications.

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

12. Severability.

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

13. Law Governing.

This Agreement shall be governed by the laws of the State of Alabama, and the appropriate venue for any actions arising out of this Agreement 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), physical address, date of birth, social security number, driver's license state and number.

16. Indemnification.

Contractor agrees to indemnify and hold the City, its elected officials, officers, agents, and employees whole and harmless from all costs, liabilities and claims for damages of any kind arising in any way out of the acts, errors or omissions of the contractor in performance of this Agreement and/or the activities of the Contractor, its principals, directors, agents, servants and employees in the performance of this Agreement, for which the City is alleged to be liable. In the event the City, through no fault of its own, is made a party to any lawsuit or legal proceeding arising from Contractor's activities under this Agreement, Contractor agrees to indemnify and hold the City harmless from all costs, including attorneys' fees and expenses, associated with same. This indemnification extends only to third party claims and actions filed against the City as a result of any negligent actions by the Contractor under this Agreement. This duty shall survive the termination of this contract.

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

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

Contractor:
Lauren McCaghren
23956 Cotton Loop
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

Lauren McCaghren, Contractor

[ACKNOWLEDGEMENTS ON FOLLOWING PAGE]

STATE OF ALABAMA
COUNTY OF BALDWIN

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

Given under my hand and seal this the _____ day of _____, 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 Lauren McCaghren, an individual, 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
State of Alabama
My Commission Expires: _____



**REGULAR COMMITTEE OF THE WHOLE MEETING
NOVEMBER 19, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing execution of an amendment to the professional services agreement with EnCompass360, Inc., for grant writing. (NW)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 12-03-24 24-xxx Amend Professional Services Agreement FEMA HMGP Grant Application EnCompass360

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF AN
AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH
ENCOMPASS360, INC., FOR GRANT WRITING**

FINDINGS:

1. On March 16, 2021, Orange Beach City Council adopted Resolution No. 21-044 authorized submittal of a FEMA Hazard Mitigation Grant Program (HMGP) Application for a Hurricane Safe Room/Shelter, and authorized the execution of a professional services agreement for grant writing with EnCompass360, Inc., in an amount not to exceed \$60,000.
2. Additional costs for the grant application process were incurred due to the City moving the location of the Hurricane Safe Room/Shelter.
3. The Orange Beach City Council has reviewed the proposed amendment to the professional services agreement for grant writing (attached Exhibit A), and agrees that the amendment is in the best interest of the City of Orange Beach.

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 to the professional services agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach and the EnCompass360, Inc., as an act for and on behalf of the City of Orange Beach subject to final approval by the City Attorney;
2. That Orange Beach City Council authorizes payment to EnCompass360, Inc., in the amount of \$60,000, with \$30,000 payable prior to the submission of the application and the balance payable upon FEMA project approval of the Hazard Mitigation Grant Program Application;
3. That in the event the grant is awarded, the City of Orange Beach understands that it will sign assurances to comply with all applicable Federal and State laws, rules and regulation; and
4. That this Resolution shall become effective upon its adoption.

ADOPTED THIS 3rd DAY OF DECEMBER, 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 December 3, 2024.

City Clerk



**REGULAR COMMITTEE OF THE WHOLE MEETING
NOVEMBER 19, 2024**

Departments: City Clerk

Description of Topic: Resolution awarding the Request for Proposals for program administration services for the First Responders Safe Room project to EnCompass360, Inc. (NW)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 12-03-24 24-xxx Award Proposal FEMA HMGP Safe Room Grant Administrative Services

RESOLUTION NO. 24-xxx

**A RESOLUTION AWARDING THE REQUEST FOR PROPOSALS FOR
PROGRAM ADMINISTRATION SERVICES FOR THE
FIRST RESPONDERS SAFE ROOM PROJECT TO
ENCOMPASS360, INC.**

FINDINGS:

1. Proposals for program administration services for the First Responders Safe Room Project were received and opened on November 14, 2024.
2. The staff evaluation committee has recommended award to EnCompass360, Inc., who was determined to be the most qualified company for this project based on preset selection criteria.

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

1. That the Request for Proposals for program administration services for the First Responders Safe Room Project, as specified by the Request for Proposal documents, is awarded to EnCompass360, Inc.;
2. That the Council authorizes the Mayor and the City Clerk to execute and attest, respectively, all documents as may be required between the City of Orange Beach and EnCompass360, Inc., on behalf of the City of Orange Beach subject to final review by the City Attorney;
3. That in the event the grant is awarded, the City of Orange Beach understands that it will sign assurances to comply with all applicable Federal and State laws, rules and regulation; and
4. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 3rd DAY OF DECEMBER, 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 December 3, 2024.

City Clerk



**REGULAR COMMITTEE OF THE WHOLE MEETING
NOVEMBER 19, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing the purchase of a Farm Tractor for the Coastal Resources Department through Sourcewell from Parish Tractor Company, LLC, in the amount of \$108,812.10. (TT)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 12-03-24 24-xxx Authorize Purchase Farm Tractor Coastal Resources Sourcewell
2. 2024.10.30 Quote - Coastal Resources - Parish Tractor Kubota Farm Tractor

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING THE PURCHASE OF A
FARM TRACTOR FOR THE COASTAL RESOURCES DEPARTMENT
THROUGH SOURCEWELL FROM PARISH TRACTOR COMPANY, LLC
IN THE AMOUNT OF \$108,812.10**

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 a Farm Tractor for the Coastal Resources Department through Sourcewell, approved by the State of Alabama and the Public Examiners Office, in the amount of \$108,812.10;
2. That the Mayor is hereby authorized to approve payment to Parish Tractor Company, LLC, in the amount of \$108,812.10 for One (1) New Kubota M6-131DTC-F-1 4WD Farm Tractor;
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 3rd DAY OF DECEMBER, 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 December 3, 2024.

City Clerk

Tabb, Tim
83360
City of Orange Beach
ttabb@orangebeachal.gov
2519816096

Quote Provided By
PARISH TRACTOR COMPANY, LLC
Charles Jones
22463 AL-59
Robertsdale, AL 39567
email: charles@parishtractor.com
phone: 2519474171

-- Standard Features --

-- Custom Options --



M Series

M6-131DTC-F-1

4WD FARM TRACTOR, ELECTRO-HYDRAULIC SHUTTLE
TRANSMISSION & CAB

*** EQUIPMENT IN STANDARD MACHINE & SPECIFICATIONS ***

DIESEL ENGINE

Kubota V6108 Direct Injection
6.1L (374 cu. In.) 4 Cyl
EPA Tier 4 Final Compliant
Common Rail Electronic Fuel Injection
Electronic Engine Management
Turbocharged
w/Wastegate and Intercooled
Fuel Tank Capacity: 50.2 Gal
130 Amp Alternator Cab
12V 1090 CCA Battery
SAE Gross HP: 131.6
Engine Net HP: 123.2
Max . PTO HP: 104.0
@ 2200 Engine RPM

EXHAUST EMISSION CONTROL TYPE

DPF System (Diesel Particulate Filter)
SCR System
DEF Tank Capacity: 4.2 Gal

HYDRAULICS / HITCH / DRAWBAR

Open Center Gear Pump
Max. Flow @ Rated Engine Speed:
Power Steering: 14.6
Impl. Flow: 20.4 gpm
Total Flow: 35.0 gpm

REMOTE VALVES

(1) SCD (Self Canceling Detent)
(1) FD (Float Detent)
In-Cab Flow Control Adjustment

3 POINT HITCH & DRAWBAR

Cat II 3-point Hitch
@ Lift Points: 8598 lbs
@ 24" Behind: 6834 lbs
2 External Lift Cylinders
Electronic Position and Draft Control
Telescoping Lower Links
Stabilizers
Swinging Drawbar - 4.5" Drop

POWER TAKE OFF (540)

Live-Independent Hyd. PTO
SAE 1 3/8" Six Spline
540 rpm @ 1994 Eng. rpm
SAE 1 3/8" Twenty-One Spline
1000 rpm @ 2050 Eng. rpm

LIGHTING

2 Headlights - Tail lights
4 Hazard Flasher Lights w/ Turn Signals
2 Grille Mounted Worklights
2 Front Cab Halogen Worklights
2 Rear Halogen Worklights

TRANSMISSION

24F/24R Intelli-Shift
Three Range, 8-Speed Semi-
Powershift
Auto Shift Mode - Field & Road
Auto 4WD Function
Electro-Hydraulic Shuttle Shift
Electro-Hydraulic Front & Rear Diff.
Lock
Clutch - Multi Plate Wet
Planetary Final Drives
Hydraulic Wet Disc Brakes

FRONT AXLE

Hydrostatic Power Steering
4WD: Cast Iron, Bevel Gear Type
Bi-Speed Turn Feature
Planetary Final Drives
Adj. (Rim) Tread Spacing

FLUID CAPACITY

Cooling System: 15.4 qts
Crankcase: 14.6 qts
Hydraulics/Trans: 17.2 gal

INSTRUMENTS

LCD readout for MPH and PTO rpm
26 Mode LCD Readout
Tachometer/Hour meter
Oil Pressure
Fuel Gauge
Coolant Temperature
Gear Speed Digital Light Indicator
Digital Light Indicator F/R Direction
(2) USB Ports

GRAND-X CAB

4-post, ROPS Certified
RH & LH Doors
Tinted Glass Doors and Windows
In-roof window/vent
Tilt and Telescoping Steering Wheel
Deluxe Air Ride Seat
Dual Level Air Conditioning & Heater
Front and Rear Wiper/Washer
Front Sun Visor
Rear View Mirror
LH & RH Telescoping Side Mirrors
Radio Ready Cab
Steps, Left and Right Side
Interior Dome Light
12V - 30-Amp 2 Wire Coupler
12V - 3 Pin 30-Amp Coupler
12V - Outlet
Cup Holder
Instructor Seat Ready
Horn

SAFETY EQUIPMENT

Flip-Up PTO Shield
Safety Start Switches
Electric Key Shut Off

M6-131DTC-F-1 Base Price: \$118,204.00

(1) FRONT LOADER /M6-131/M6-141 TRA PNF LA2255-FRONT LOADER /M6-131/M6-141 TRA PNF	\$10,034.00
(1) STD LDR VALVE W/MULTI FUNCT LEVER M6938-STD LDR VALVE W/MULTI FUNCT LEVER	\$1,936.00
(1) 96" QUICK ATTCH BKT M1886-96" QUICK ATTCH BKT	\$1,230.00
(1) 3RD FUNCT VALVE - STD LDR VALVE M6921A-3RD FUNCT VALVE - STD LDR VALVE	\$1,685.00
(1) 3RD POSITION LEVER KIT M7629-3RD POSITION LEVER KIT	\$279.00
(1) 4TH POSITION LEVER KIT M7686-4TH POSITION LEVER KIT	\$279.00
(1) SELF CANCELLING DETENT (SCD) VALVE PNF M7683A-SELF CANCELLING DETENT (SCD) VALVE PNF	\$1,038.00
(1) FLOAT DETENT (FD) AUXILIARY VALVE PNF M7684A-FLOAT DETENT (FD) AUXILIARY VALVE PNF	\$1,049.00

Configured Price: \$135,734.00

Sourcewell Discount: (\$29,861.48)

SUBTOTAL: \$105,872.52

Factory Assembly: \$325.00

Dealer Assembly: \$1,008.33

Freight Cost: \$1,206.25

PDI: \$400.00

Total Unit Price: \$108,812.10

Quantity Ordered: 1

Final Sales Price: \$108,812.10

Purchase Order Must Reflect Final Sales Price.

To order, place your Purchase Order directly with the quoting dealer

Parking Brake
Turn Signals
SMV Sign
7-Pin Electrical Trailer Connector

SELECTED TIRES

sub138
FRONT - 420/70R24 R1W GOODYEAR OPTITRAC DT812
REAR - 520/70R38 R1W GOODYEAR OPTITRAC DT812 CASTRC

***Some series of products are sold out for 2022. All equipment specifications are as complete as possible as of the date on the quote. Additional attachments, options, or accessories may be added (or deleted) at the discounted price.** All specifications and prices are subject to change. Taxes are not included. The PDI fees and freight for attachments and accessories quoted may have additional charges added by the delivering dealer. These charges will be billed separately. Prices for product quoted are good for 60 days from the date shown on the quote. All equipment as quoted is subject to availability.

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198.143.32.2



**REGULAR COMMITTEE OF THE WHOLE MEETING
NOVEMBER 19, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing execution of a right-of-way franchise agreement with MCImetro Access Transmission Services, LLC. (JL)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 12-03-24 24-xxx Authorize Franchise Agreement MCImetro Verizon
2. 2024.11.15 Franchise Agreement MCImetro Verizon

RESOLUTION NO. 24-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
RIGHT-OF-WAY FRANCHISE AGREEMENT WITH
MCIMETRO ACCESS TRANSMISSION SERVICES, LLC**

FINDINGS:

1. MCImetro Access Transmission Services, LLC, (hereinafter “MCImetro”) has made application for a non-exclusive franchise for the use of city right-of-ways to provide telecommunications services to customers within the corporate limits of the City of Orange Beach.
2. The City of Orange Beach is willing to grant a non-exclusive franchise on the terms and conditions set out in the Right-of-Way Franchise Agreement (attached Exhibit A).

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

1. That the Council authorizes the Mayor and City Clerk to execute and attest, respectively, the attached Right-of-Way Use Agreement by and between the City of Orange Beach and MCImetro, subject to final review by the City Attorney; and
2. MCImetro, within 30 days, shall file its acceptance of the terms of the agreement on the form attached.

ADOPTED THIS 3rd DAY OF DECEMBER, 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 December 3, 2024.

City Clerk

FRANCHISE AGREEMENT BETWEEN THE CITY OF ORANGE BEACH, ALABAMA
AND MCIMETRO ACCESS TRANSMISSION SERVICES LLC, PURSUANT TO
CHAPTER 66, ARTICLE IV OF THE CODE OF ORDINANCES OF
THE CITY OF ORANGE BEACH, ALABAMA

Section 1. *Incorporation of Article IV.* The provisions of Chapter 66, Article IV of the Code of Ordinances, City of Orange Beach, Alabama, as such may be amended from time to time (hereinafter referred to as “Article IV”) are incorporated herein by reference as if fully set out herein, including, but not limited to, the definitions set forth therein.

Section 2. *Grantee.* MCImetro Access Transmission Services LLC, as a provider of services, who, along with its lawful successor(s), transferee(s), or assignee(s), shall hereinafter be referred to as “Grantee”, has made application for a franchise pursuant to and in accordance with Article IV.

Section 3. *Grant.* The City of Orange Beach, Alabama (hereinafter “City”), where the City has the right and authority to do so, hereby grants to the Grantee a non-exclusive franchise to construction, maintain, and operate communication facilities in the rights-of-way in accordance with and subject to the provisions of Article IV, applicable law, and any mutually acceptable additional terms, as may be set forth in this Franchise Agreement or any attachments thereto. Approval of installation of facilities at specific locations or on specific support structures will be administered through the permitting process set forth in Division 3 of Article IV.

Section 4. *Certifications.* Grantee hereby certifies as follows:

(a) Grantee is a Foreign Limited Liability Company, duly organized, validly existing, and in good standing under the laws of the State of Alabama, is qualified to do business under the laws of the State of Alabama, and has the power and authority to own its properties, to carry on its business as now being conducted and as proposed in its franchise application, to execute and deliver the acceptance of this Franchise, to carry out the transactions contemplated hereby, and to perform and carry out all obligations on its part to be performed under and pursuant to this Franchise.

(b) Grantee, as of the date of the grant of this Franchise, has adequate financial resources to install its utility facilities in accordance with the provisions of Chapter 66, Article IV, of the City Code, and knows of no technical or legal impediment which would prevent it from performing as contemplated in said Article.

(c) Grantee is not prohibited by any agreement or applicable law from executing and accepting this Franchise.

(d) The person executing the written Acceptance of this Franchise has full authority to act on behalf of Grantee and to accept and agree to this Franchise.

(e) All corporate actions and consents required on Grantee’s part to execute and deliver the acceptance of this Franchise have been completed.

The foregoing certifications are material to the grant of this Franchise. A breach of any of the certifications in subsections (a) through (d) above shall constitute a non-curable default under this Franchise and shall entitle the City to immediately revoke the Franchise for cause. A breach of

the certification contained in subsection (e) shall constitute a curable default under this Franchise, wherein following written notice, Grantee will have reasonable time to cure such default.

Section 5. *Nonexclusive.* Grantee's use of the rights-of-way pursuant to Article IV and this Franchise shall be nonexclusive. The City specifically reserves the right to grant, at any time and from time to time, such additional franchises, licenses, use agreements or other rights to use the rights-of-way for any purpose as determined by the City, and to any other person, including itself, as it deems appropriate, subject to applicable law.

Section 6. *No title.* The grant of this Franchise shall not convey title, equitable or legal, in the rights-of-way, and the rights granted by this Franchise do not excuse the Grantee from obtaining appropriate access or attachment agreements before locating its facilities on another person's poles or support structures in the rights-of-way.

Section 7. *Term of Franchise.* Subject to termination or revocation, this Franchise shall be valid for a period of five (5) years commencing on the date of adoption of this resolution (hereinafter referred to as "Effective Date"). Upon Grantee's written certification to the public works director within 30 days of the expiration of the Franchise that Grantee remains in compliance with the provisions of Article IV, including this Franchise and each outstanding permit, then the Franchise will be automatically extended for an additional five (5) year term without further action required by the City.

Section 8. *Franchise Fees.*

(a) *Fees.* Beginning one year from the effective date of this agreement, Grantee must pay to the City a quarterly franchise fee in an amount equal to three percent (3%) of its gross revenues derived from providing service in the City for the preceding three (3) months. Fees shall be payable for each quarter ending on March 31, June 30, September 31 and December 31 of each year during the term of this agreement.

(b) *Payment.* Each payment shall be accompanied by a statement showing the gross revenues by category and the manner in which the fee was calculated. Grantee shall specifically describe what revenues were included and excluded in calculating the franchise fee, and any adjustment made to gross revenues. The statement and fee payments shall be personally delivered or mailed to the City on or before the 15th of the month following the close of the preceding quarter to City of Orange Beach Finance Department, PO Box 1159, Orange Beach, AL, 36561.

(c) *Penalties and Interest.* All franchise fees not paid within 30 days from the date they fall due shall be increased by five percent (5%) for the first 30 days they shall be delinquent, or fraction thereof, and shall be increased by an additional five percent (5%) for a delinquency of 60 or more days, but this provision shall not be deemed to authorize the delay of 30 days in the payment of the fees due, which may be enforced at once. If the Grantee fails to timely pay any amounts due and owing according to the terms of this Section 8, then Grantee shall pay interest on the unpaid balance from the date of the due date to the City.

(d) *No Accord and Satisfaction.* No acceptance by the City of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any fee payment be construed as a release of any claim of the City.

Section 9. *Enforcement; Attorneys' Fees.* The City shall be entitled to enforce this agreement through all remedies lawfully available, and Grantee shall pay the City its costs of enforcement, including reasonable attorneys' fees in the event that Grantee is determined judicially to have violated the provisions of this agreement.

Section 10. *Insurance, security and indemnification.* The Grantee understands, and, by its written Acceptance of this Franchise, hereby agrees to be bound by and comply with the provisions of Article IV applicable to insurance, security, and indemnification.

Section 11. *Inducements not offered.* The Grantee, by its written Acceptance of this Franchise, acknowledges that it has not been induced to accept this Franchise by an understanding or promise or other statement, whether verbal or written, by or on behalf of the City concerning any term or condition of said Franchise that is not included in this Franchise or in Article IV.

Section 12. *Grantee accepts terms of Franchise.* The Grantee, by its written Acceptance of this Franchise, acknowledges that it has thoroughly examined and is familiar with the terms and conditions of this Franchise and Article IV, and agrees to be bound by them.

Section 13. *Administration and enforcement.* Administration and enforcement of this Franchise shall be in accordance with Article IV.

Section 14. *Notice.* All notices or demands pursuant to this Franchise or Article IV shall be in writing and be deemed given if personally delivered or mailed, certified mail, return receipt requested to the following addresses:

If to the City, to:	Public Works Director City of Orange Beach 7394 Roscoe Road Orange Beach, Alabama 36561
With copy to:	City Attorney Post Office Box 458 Orange Beach, Alabama 36561
If to Grantee to:	Associate Director – Network Regulatory/Real Estate 600 Hidden Ridge Irving, TX 75038
With copy to (no invoices):	Verizon Legal Department Attn: Network Legal Team 1300 I Street, NW 5th Floor Washington, DC 20005

All notices or demands shall be deemed effective, if personally delivered, upon delivery, and if mailed, certified mail, return receipt requested, three (3) days after mailing. The City or Grantee may from time to time designate in writing any other address for this purpose to the other party; provided, however, in no event will either the City or the Grantee be required at any time to send any notices or demands to more than two (2) designated addresses, even in the event that this

Franchise is transferred or assigned in whole or part. Nothing herein shall prevent the parties from effecting personal deliver via e-mail.

Section 15. *Captions.* The captions to sections and subsections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

Section 16. *Severability.* The severability provisions of Ch. 1 of the City Code are rules of construction specifically included herein by reference as if fully set forth.

Section 17. *Governing law.* This Franchise granted and every question arising hereunder shall be construed or determined according to the laws of the State of Alabama and applicable federal law.

Section 18. *When ordinance effective.* This Franchise shall become effective upon its adoption.

ACCEPTED AND AGREED TO BY the undersigned Grantee on this the ____ day of _____, 2024.

GRANTEE:
MCImetro Access Transmission Services LLC

By: Dina Dye
Its: Associate Director- Network Regulatory/Real
Estate



**REGULAR COMMITTEE OF THE WHOLE MEETING
NOVEMBER 19, 2024**

Departments: City Clerk

Description of Topic: Resolution authorizing the renewal of a right-of-way franchise agreement with Mediacom Southeast, LLC. (JL)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 12-03-24 24-xxx Authorize Franchise Agreement Mediacom
2. 2024.11.15 Franchise Agreement Mediacom

RESOLUTION NO. 24-xxxx

**A RESOLUTION AUTHORIZING THE RENEWAL OF A
RIGHT-OF-WAY FRANCHISE AGREEMENT WITH
MEDIACOM SOUTHEAST, LLC**

FINDINGS:

1. The City Council of the City of Orange Beach, Alabama adopted Ordinance No. 2009-1101 on December 1, 2009, which granted Mediacom Southeast, LLC, (hereinafter “Mediacom”) a non-exclusive five-year franchise to construct, operate and maintain a cable system network within the City of Orange Beach.
2. The City Council then passed Ordinance No. 2012-1147 to renew the franchise agreement for an additional 10-year term which began on December 2, 2014, and expired on December 2, 2024.
3. Mediacom has submitted a written request for the City to renew their Right-of-Way Franchise Agreement so they may continue to provide the citizens and visitors of Orange Beach with internet and television services.
4. The City of Orange Beach is willing to renew the non-exclusive franchise on the terms and conditions set out in the Right-of-Way Franchise Agreement (attached Exhibit A).

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

1. That the Council authorizes the Mayor and City Clerk to execute and attest, respectively, the attached Right-of-Way Use Agreement by and between the City of Orange Beach and Mediacom, subject to final review by the City Attorney; and
2. Mediacom, within 30 days, shall file its acceptance of the terms of the agreement on the form attached.

ADOPTED THIS 3rd DAY OF DECEMBER, 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. xxx, which was duly and legally adopted at a regular meeting of the City Council on December 3, 2024.

City Clerk

FRANCHISE AGREEMENT BETWEEN THE CITY OF ORANGE BEACH, ALABAMA
AND MEDIACOM SOUTHEAST, LLC, PURSUANT TO
CHAPTER 66, ARTICLE IV OF THE CODE OF ORDINANCES OF
THE CITY OF ORANGE BEACH, ALABAMA

Section 1. *Incorporation of Article IV.* The provisions of Chapter 66, Article IV of the Code of Ordinances, City of Orange Beach, Alabama, as such may be amended from time to time (hereinafter referred to as “Article IV”) are incorporated herein by reference as if fully set out herein, including, but not limited to, the definitions set forth therein.

Section 2. *Grantee.* Mediacom Southeast, LLC, as a provider of services, who, along with its lawful successor(s), transferee(s), or assignee(s), shall hereinafter be referred to as “Grantee”, has made application for a franchise pursuant to and in accordance with Article IV.

Section 3. *Grant.* The City of Orange Beach, Alabama (hereinafter “City”), where the City has the right and authority to do so, hereby grants to the Grantee a non-exclusive franchise to construction, maintain, and operate communication facilities in the rights-of-way in accordance with and subject to the provisions of Article IV, applicable law, and any mutually acceptable additional terms, as may be set forth in this Franchise Agreement or any attachments thereto. Approval of installation of facilities at specific locations or on specific support structures will be administered through the permitting process set forth in Division 3 of Article IV.

Section 4. *Certifications.* Grantee hereby certifies as follows:

- (a) Grantee is a Delaware Limited Liability Company, duly organized, validly existing, and in good standing under the laws of the State of Alabama, is qualified to do business under the laws of the State of Alabama, and has the power and authority to own its properties, to carry on its business as now being conducted and as proposed in its franchise application, to execute and deliver the acceptance of this Franchise, to carry out the transactions contemplated hereby, and to perform and carry out all obligations on its part to be performed under and pursuant to this Franchise.
- (b) Grantee, as of the date of the grant of this Franchise, has adequate financial resources to install its utility facilities in accordance with the provisions of Chapter 66, Article IV, of the City Code, and knows of no technical or legal impediment which would prevent it from performing as contemplated in said Article.
- (c) Grantee is not prohibited by any agreement or applicable law from executing and accepting this Franchise.
- (d) The person executing the written Acceptance of this Franchise has full authority to act on behalf of Grantee and to accept and agree to this Franchise.
- (e) All corporate actions and consents required on Grantee’s part to execute and deliver the acceptance of this Franchise have been completed.

The foregoing certifications are material to the grant of this Franchise. A breach of any of the certifications in subsections (a) through (d) above shall constitute a non-curable default under this Franchise and shall entitle the City to immediately revoke the Franchise for cause. A breach of

the certification contained in subsection (e) shall constitute a curable default under this Franchise, wherein following written notice, Grantee will have reasonable time to cure such default.

Section 5. *Nonexclusive.* Grantee's use of the rights-of-way pursuant to Article IV and this Franchise shall be nonexclusive. The City specifically reserves the right to grant, at any time and from time to time, such additional franchises, licenses, use agreements or other rights to use the rights-of-way for any purpose as determined by the City, and to any other person, including itself, as it deems appropriate, subject to applicable law.

Section 6. *No title.* The grant of this Franchise shall not convey title, equitable or legal, in the rights-of-way, and the rights granted by this Franchise do not excuse the Grantee from obtaining appropriate access or attachment agreements before locating its facilities on another person's poles or support structures in the rights-of-way.

Section 7. *Term of Franchise.* Subject to termination or revocation, this Franchise shall be valid for a period of five (5) years commencing on the date of adoption of this resolution (hereinafter referred to as "Effective Date"). Upon Grantee's written certification to the public works director within 30 days of the expiration of the Franchise that Grantee remains in compliance with the provisions of Article IV, including this Franchise and each outstanding permit, then the Franchise will be automatically extended for an additional five (5) year term without further action required by the City.

Section 8. *Cable Service to Public Buildings.*

- (a) Grantee shall provide to Grantor, at no cost, a minimum of one Standard Installation and one outlet of Limited Basic Cable Service to each building owned and operated by Grantor or its Agents, including but not limited to administrative buildings, fire stations, police stations, and library, as well as the Orange Beach City Schools. A comprehensive list of all included facilities, and the number of outlets which Mediacom shall provide to each is attached hereto as Exhibit A.
- (b) Certain buildings which require three or more outlets of Limited Basic Cable Service shall receive installation and services free of cost to the first three outlets, and a discounted rate of fifty percent (50%) for additional outlets. A comprehensive list of all applicable facilities is attached hereto as Exhibit B. Any courtesy account holder electing to continue receiving Expanded or Variety TV will be eligible for a \$15 discount off the monthly residential rate plus the applicable Regional Sports Surcharge.
- (c) Additional facilities or outlets may be added at the request of Grantor and with the consent of Grantee, which consent shall not be unreasonably withheld. Grantor shall take reasonable precautions to prevent unauthorized use of cable system or any loss or damage to same.

Section 9. *Franchise Fees.*

- (a) *Fees.* Beginning one year from the effective date of this agreement, Grantee must pay to the City a quarterly franchise fee in an amount equal to five percent (5%) of its gross revenues derived from providing service in the City for the preceding three (3) months. Fees shall be payable for each quarter ending on March 31, June 30, September 31 and December 31 of each year during the term of this agreement.

- (b) *Payment.* Each payment shall be accompanied by a statement showing the gross revenues by category and the manner in which the fee was calculated. Grantee shall specifically describe what revenues were included and excluded in calculating the franchise fee, and any adjustment made to gross revenues. The statement and fee payments shall be personally delivered or mailed to the City on or before the 15th of the month following the close of the preceding quarter to City of Orange Beach Finance Department, PO Box 1159, Orange Beach, AL, 36561.
- (c) *Penalties and Interest.* All franchise fees not paid within 30 days from the date they fall due shall be increased by five percent (5%) for the first 30 days they shall be delinquent, or fraction thereof, and shall be increased by an additional five percent (5%) for a delinquency of 60 or more days, but this provision shall not be deemed to authorize the delay of 30 days in the payment of the fees due, which may be enforced at once. If the Grantee fails to timely pay any amounts due and owing according to the terms of this Section 8, then Grantee shall pay interest on the unpaid balance from the date of the due date to the City.
- (d) *No Accord and Satisfaction.* No acceptance by the City of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any fee payment be construed as a release of any claim of the City.

Section 10. *Enforcement; Attorneys' Fees.* The City shall be entitled to enforce this agreement through all remedies lawfully available, and Grantee shall pay the City its costs of enforcement, including reasonable attorneys' fees in the event that Grantee is determined judicially to have violated the provisions of this agreement.

Section 11. *Insurance, security and indemnification.* The Grantee understands, and, by its written Acceptance of this Franchise, hereby agrees to be bound by and comply with the provisions of Article IV applicable to insurance, security, and indemnification.

Section 12. *Inducements not offered.* The Grantee, by its written Acceptance of this Franchise, acknowledges that it has not been induced to accept this Franchise by an understanding or promise or other statement, whether verbal or written, by or on behalf of the City concerning any term or condition of said Franchise that is not included in this Franchise or in Article IV.

Section 13. *Grantee accepts terms of Franchise.* The Grantee, by its written Acceptance of this Franchise, acknowledges that it has thoroughly examined and is familiar with the terms and conditions of this Franchise and Article IV, and agrees to be bound by them.

Section 14. *Administration and enforcement.* Administration and enforcement of this Franchise shall be in accordance with Article IV.

Section 15. *Notice.* All notices or demands pursuant to this Franchise or Article IV shall be in writing and be deemed given if personally delivered or mailed, certified mail, return receipt requested to the following addresses:

If to the City, to:	Public Works Director City of Orange Beach 7394 Roscoe Road Orange Beach, Alabama 36561
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With copy to: City Attorney
Post Office Box 458
Orange Beach, Alabama 36561

If to Grantee to: Mediacom Southeast LLC
Attn: Legal Department
One Mediacom Way
Mediacom Park, New York 10918

With a copy to: Government Relations Manager-
Coastal Region
1613 Nantahala Beach Road
Gulf Breeze, Florida 32563

All notices or demands shall be deemed effective, if personally delivered, upon delivery, and if mailed, certified mail, return receipt requested, three (3) days after mailing. The City or Grantee may from time to time designate in writing any other address for this purpose to the other party; provided, however, in no event will either the City or the Grantee be required at any time to send any notices or demands to more than two (2) designated addresses, even in the event that this Franchise is transferred or assigned in whole or part. Nothing herein shall prevent the parties from effecting personal delivery via e-mail.

Section 16. Captions. The captions to sections and subsections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

Section 17. Severability. The severability provisions of Ch. 1 of the City Code are rules of construction specifically included herein by reference as if fully set forth.

Section 18. Governing law. This Franchise granted and every question arising hereunder shall be construed or determined according to the laws of the State of Alabama and applicable federal law.

Section 19. When ordinance effective. This Franchise shall become effective upon its adoption.

ACCEPTED AND AGREED TO BY the undersigned Grantee on this the ____ day of _____, 2024.

The City of Orange Beach, AL

Mediacom Southeast LLC

Printed Name_____

Printed Name_____

Title _____

Title _____

Date_____

Date_____



**REGULAR COMMITTEE OF THE WHOLE MEETING
NOVEMBER 19, 2024**

Departments: Community Development

Description of Topic: Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1104-PUD-24, Roscoe Road Townhouses PUD. (GP)

Background/Description: Lieb Engineering Company LLC, on behalf of IHTW LLC, requests Preliminary and Final PUD Approval to rezone 39+ acres from Multi-Family Residential Low Density (RM-1) to Planned Unit Development (PUD) for the purpose of converting a multi-family residential development with 60 units into a townhouse subdivision. The property is located on the west side of Roscoe Road, 700+ feet north of the intersection of Roscoe Road and the Foley Beach Express.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
NOVEMBER 19, 2024**

Departments: Community Development

Description of Topic: Reminder: Public hearing and first reading for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1005-PUD-24, Saltwater Cottages II PUD on December 3, 2024, at 3:00 P.M.

Background/Description: WAS Design, on behalf of Compass Construction, requests **Preliminary and Final PUD Approval** to rezone 4 acres from Single-Family Residential (RS-1) to Planned Unit Development (PUD) for a residential development containing five single-family houses. The property is located at 23592 and 23608 Perdido Beach Boulevard.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None