



REGULAR COMMITTEE OF THE WHOLE MEETING AGENDA

I. Roll Call

II. Consideration of Previous Minutes

1. Regular Council Meeting 01/07/2025
2. Committee of the Whole 01/07/2025

III. Unfinished Business

Miscellaneous

Resolutions

Ordinances

IV. New Business

Miscellaneous

1. Reschedule Council Meeting on March 4, 2025, to March 11, 2025, due to Fat Tuesday. (RE)
2. Discuss policies, procedures, and schedule of fees for the Orange Beach Shooting Facility. (JL/PW)

Resolutions

1. Resolution appropriating funds to the Pensacola and Perdido Bays Estuary Program in the amount of \$20,000. (WS)
2. Resolution awarding the bid for Two Vehicles for the Community Development Department. (TR)
3. Resolution awarding the proposal for Pouring and Vending Rights. (TR)
4. Resolution awarding the bid for Senior Center Renovations. (TR)
5. Resolution awarding the bid for Library Renovations. (TR)

6. Resolution awarding the bid for the Veterans Memorial. (TR)
7. Resolution authorizing execution of a professional services agreement with Sally Wyrick for water aerobics instruction at the Aquatics Center. (NA)
8. Resolution authorizing execution of a professional services agreement with Sharyon Miller for Ageless Grace Brain Fitness instruction at the Senior Center. (NA)
9. Resolution authorizing a franchise for Alabama Container Company, LLC, to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris. (TC)
10. Resolution authorizing a franchise for Bishop Enterprises, L.L.C., to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris. (TC)
11. Resolution authorizing a franchise for TBD Construction, LLC, dba Big Red, to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris. (TC)
12. Resolution authorizing a franchise for BFI Waste Services, LLC, dba Republic Services of Magnolia Springs, to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris. (TC)
13. Resolution authorizing the purchase of Three Vehicles for the Police Department through State Bid from McSweeney Auto Group Clanton, LLC, in the amount of \$143,551.77. (SB)
14. Resolution authorizing the execution of a task order with Thompson Engineering, Inc., for construction inspection and administration services for the TAPAA-TA21(912) Sidewalk Project along Commercial Avenue in an amount not to exceed \$54,542.21. (CP)

Public Hearings

1. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1204-PUD-21, Cactus Cantina PUD Reversion. (Suggested date 2/18/2025) (GP)
2. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0105-ZT-25, Section 10.0306, Beach Overlay District Pedestrian-Oriented Area Sidewalks. (Suggested date 2/18/2025) (GP)
3. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0104-PUD-25, Coastal Cottages PUD. (Suggested date 2/18/2025) (GP)

Ordinances

1. Ordinance amending Chapter 30 of the Code of Ordinances for the City of Orange Beach, Alabama, to add a new Article XII entitled, "Wildlife Friendly Lighting," to establish outdoor lighting standards for the protection of wildlife in the Beach Overlay District. (JL)

V. Public Comments

VI. Adjourn

**MINUTES OF
REGULAR COUNCIL MEETING
ORANGE BEACH CITY COUNCIL
JANUARY 7, 2025 – 5:00 P.M.
CITY HALL – COUNCIL CHAMBERS**

- I. CALL TO ORDER** Mayor Tony Kennon called the meeting to order at 5:00 P.M.
- II. INVOCATION** Pastor Jared Jones, Central Church Orange Beach
- III. PLEDGE OF ALLEGIANCE** Joe Johnson
- 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 (Silvers/Blalock) to approve the agenda as written. Vote unanimous in favor.

VI. CONSIDERATION OF PREVIOUS MINUTES

Regular Council Meeting 12/03/2024
Committee of the Whole 12/03/2024

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> | No report. |

VIII. AUDITING OF ACCOUNTS

Motion made (Mitchell/Johnson) to certify that cash requirements with no related interests are within budget and appropriate for payment. Vote revealed: 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

1. Proclamation declaring January 9, 2025, as Joe Johnson Day. Mayor Kennon read aloud the proclamation recognizing Mr. Joe Johnson, whose 100th birthday is on January 9, 2025. Mr. Johnson is a World War II veteran and one of the founding citizens of the City of Orange Beach. Councilmembers thanked Mr. Johnson for his service and being instrumental in the incorporation of Orange Beach.
2. Proclamation declaring January 2025 as Human Trafficking Awareness Month. Mayor Kennon presented the proclamation to Tim Harry, Children's Rescue Initiative member.

XI. UNFINISHED BUSINESS

Resolutions

1. Resolution awarding the Request for Proposals for program administration services for the First Responders Safe Room project to EnCompass360, Inc. **Motion made (Blalock/Silvers) to postpone consideration until the next council meeting on January 21, 2025.** Vote unanimous in favor. **Motion passed.**

XII. NEW BUSINESS

Resolutions

1. Resolution authorizing execution of a Right of Entry Permit and License Agreement with The Nature Conservancy for the restoration of Robinson and Walker Islands. **Motion made (Silvers/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
2. Resolution authorizing the execution of a professional services agreement with Coastal Wave Diagnostics, LLC, for cardiovascular screenings for city employees. **Motion made (Mitchell/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
3. Resolution authorizing execution of an intergovernmental agreement with Baldwin County for the use of county voting machines and the services of the county voting machine custodian and employees for municipal elections. **Motion made (Silvers/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
4. Resolution authorizing the purchase of a Mower for the Golf Center through Sourcewell from Deere & Company in the amount of \$49,949.52. **Motion made (Silvers/Boyd) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
5. Resolution authorizing the purchase of a Vehicle for the Public Works Street Department through State Bid from Stivers Ford Lincoln, Inc., in the amount of \$65,124. **Motion made (Boyd/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
6. Resolution authorizing the purchase of an Excavator for the Public Works Street Department through Sourcewell from Parish Tractor Company, LLC, in the amount of \$126,708.26.

- Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
7. Resolution authorizing the purchase of a Mower for the Public Works Street Department through Sourcewell from Parish Tractor Company, LLC, in the amount of \$110,254.60. **Motion made (Blalock/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
 8. Resolution authorizing the execution of a professional services agreement with GeoCon Engineering & Materials Testing, Inc., for geotechnical analysis and construction materials testing services. **Motion made (Mitchell/Silvers) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
 9. Resolution authorizing the execution of a task order with GeoCon Engineering & Materials Testing, Inc., to provide special inspections and construction materials testing for the Coastal Alabama Sea Turtle Center in an amount not to exceed \$7,500. **Motion made (Silvers/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
 10. Resolution authorizing the purchase of a Video Surveillance System for the Skeet and Trap Range through State Bid from Vision Security Technologies Inc. in the amount of \$23,546.14. **Motion made (Mitchell/Boyd) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
 11. Resolution authorizing the purchase of Four Vehicles for the Fire Department through State Bid from Stivers Ford Lincoln, Inc., in the amount of \$239,191. **Motion made (Silvers/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
 12. Resolution authorizing the execution of a contract for law enforcement services with Baldwin County. **Motion made (Blalock/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
 13. Resolution authorizing the execution of a task order with McCollough Architecture, Inc., to provide design services for a Lifeguard Building in an amount not to exceed \$52,800. **Motion made (Johnson/Silvers) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
 14. Resolution amending Resolution No. 24-150 to authorize the purchase of Four Vehicles for the Police Department through State Bid from Stivers Ford Lincoln, Inc., in the increased amount of \$204,168. **Motion made (Silvers/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
 15. Resolution authorizing the purchase of real property from Cayman Grill, LLC, and authorizing the Mayor to negotiate and execute a real estate purchase agreement and such other documents as may be required to close the transactions contemplated herein. **Motion made (Johnson/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. 1202-PUDA-24, Terry Cove Harbor PUD, Lot 231 Rear Setback Variance.

Griffin Powell, Planner II, presented the request for a minor modification to the Terry Cove Harbor Planned Unit Development (PUD) Master Plan for a waiver to the 5-foot rear setback requirement on Lot 231 of Terry Cove Harbor Phase Two Subdivision. The property is located at 26691 Terry Cove Drive.

Vince Burchfield, applicant, responded to a question from Council explaining why the house cannot be configured to fit within the existing setbacks.

Mayor and Council confirmed that the rear property line abuts unbuildable land owned by the Terry Cove Subdivision and that the request has been approved by the Terry Cove Subdivision Architectural Review Committee.

There being no further comments, the public hearing adjourned.

2. Public hearing for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1006-PUDA-24, Turquoise Place PUD Modification, Turquoise Place South Lot.

Griffin Powell, Planner II, presented the request for a major modification to the Turquoise Place Planned Unit Development (PUD) Master Plat for a six-unit condominium with a clubhouse and rooftop pool deck amenities on 1.17 acres between Turquoise Place and The Palms Condominium. The property is located at 26302 Perdido Beach Boulevard. The Planning Commission gave the request a favorable recommendation (5 in favor, 4 against).

George Irvine, attorney with Stone Crosby representing the Turquoise Place Condo Owners Association, spoke in opposition.

Kris Anderson, attorney representing the applicant, spoke in support.

Discussion covered the general topic of legal ownership of the property and whether the location of easements are fixed or flexible as long as the purpose of use was still provided.

Richard Nenstiel, 26550 Cotton Bayou Drive, spoke in opposition.

Forrest Daniell, architect for the applicant, addressed concerns regarding green space and continued provision of an emergency access corridor for the City of Orange Beach. Kris Anderson also spoke about landscaping requirements.

Brent Williams, Turquoise Place resident, spoke in opposition.

Madge Williams, Turquoise Place resident, spoke in opposition.

Karen Nenstiel, 26550 Cotton Bayou Drive, spoke in opposition.

John Hansen, 26266 Perdido Beach Boulevard (The Palms), spoke in opposition.

Carlton McMasters, 26268 Perdido Beach Boulevard (The Palms), asked for clarification on property ownership. David Walker, attorney with Galloway, Wettermark & Rutens representing the city, confirmed that the property is currently owned by the City of Orange Beach, but that a land swap contract has been signed and that the property will be owned by Larry Wireman.

Karen Nenstiel raised additional concerns.

Cynthia Dore, The Palms Condo Owners Association President, spoke in opposition.

Cathy Ridling, The Palms resident, spoke in opposition.

Ruth Niedrich, The Palms resident, spoke in opposition.

Larry Wireman, developer, spoke in defense of the request.

George Irvine, Brent Williams, and Madge Williams gave additional comments.

John "Tater" Harris, 27276 St. Lucia Drive, asked what could be built by-right without a PUD. Mayor Kennon responded that nothing could be built otherwise.

Ron Niedrich, The Palms resident, asked if The Palms could have legal representation at any upcoming attorney meetings. Mayor Kennon responded that he is not sure that attorneys will allow a party without legal interest into the negotiation.

There being no further comments, the public hearing adjourned.

3. Public hearing for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1104-PUD-24, Roscoe Road Townhouses PUD.

Griffin Powell, Planner II, presented the request for preliminary and final approval to rezone 8.53 acres from Multi-Family Residential Low to Medium 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 Roscoe Road. The Planning Commission gave the request a favorable recommendation (7 in favor, 0 against).

There being no comments, the public hearing adjourned.

Ordinances

1. First Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1202-PUDA-24, Terry Cove Harbor PUD, Lot 231 Rear Setback Variance. **Motion made (Silvers/Boyd) 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/Boyd) to adopt the ordinance.** Roll call vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (6-0).**
2. First Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1006-PUDA-24, Turquoise Place PUD Modification, Turquoise Place South Lot. No action taken. Ordinance will move to a second reading.
3. First Reading – Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1104-PUD-24, Roscoe Road Townhouses PUD. **Motion made (Boyd/Silvers) for unanimous consent to suspend the rules to allow for immediate consideration of this ordinance.** Roll call vote revealed: Silvers, aye; Johnson, aye; Mitchell, aye; Blalock, aye; Boyd, aye; Kennon, aye. **Motion passed. (6-0).** **Motion made (Silvers/Blalock) 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 (Blalock/Johnson) to adjourn. Vote unanimous in favor.

Time: 7:39 P.M.

APPROVED this the 4th day of February, 2025.

Renee Eberly
City Clerk

**MINUTES OF
COMMITTEE OF THE WHOLE MEETING
ORANGE BEACH CITY COUNCIL
JANUARY 7, 2025 – 7:39 P.M.
CITY HALL – COUNCIL CHAMBERS**

The Orange Beach City Council met to review potential items for the January 21, 2025, 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. Discuss policies, procedures, and schedule of fees for the Orange Beach Shooting Facility.
2. Resolution appointing Larry Ramirez to the Library Board.
3. Resolution appropriating funds to support the Safe Harbor Animal Coalition in the amount of \$10,000 for FY2025.
4. Resolution authorizing the execution of a development agreement with Wharf Landing, LLC.
5. Resolution authorizing the execution of a task order with AECOM for a traffic signal study at the intersection of SR-180 and Wharf Parkway in an amount not to exceed \$13,000.
6. Resolution authorizing a franchise for The Dumpster Guy Baldwin LLC to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris.
7. Reminder: Public hearing and first reading for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0103-PUD-25, Lost Bay PUD on January 21, 2025.

Public Comments:

None

There being no further business, the meeting adjourned.

Time: 7:45 P.M.

APPROVED this 4th day of February, 2025.

Renee Eberly
City Clerk



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Reschedule Council Meeting on March 4, 2025, to March 11, 2025, due to Fat Tuesday. (RE)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Discuss policies, procedures, and schedule of fees for the Orange Beach Shooting Facility. (JL/PW)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. Memo 2024.12.11 - Shooting Range Fees



MEMORANDUM

To: Ford Handley, City Administrator
C: Renee Eberly, City Clerk
From: Phillip West, Director, Coastal Resources Dept.
Date: December 11, 2024
Re: **Proposed Shooting Facility/Range Fees**

We have substantially completed the trap and skeet fields at the OB Shooting Complex, and are ready to open it for both official skeet team school practices and for public use. We feel we can open for 4 days a week (6 hours of shooting per day) with the staff we currently have in place. We have a framework of fees (resident/non-resident rates, memberships, etc.) we are recommending the following fees for shooting clay sports (trap and skeet), only:

Orange Beach Single Membership:	\$125
Non-Resident Membership:	\$200
(Family Memberships add \$	

\$12.00 per round for trap & skeet (non-members)

\$9.00 per round for a Member;

\$5.00 per round for trap & skeet for OFFICIAL TEAM PRACTICE ONLY for the OBHS and OBMS Trap & Skeet team (\$4.00 is our cost for clays per round; \$5 per round would also cover personnel costs).

Beginning Jan. 1, 2025, we would also recommend being permitted to offer annual "Field Sponsorships" for each trap/skeet field (corporate banner, etc.) for \$5,000 per field.

Thank you for your consideration--let me know if you would like to discuss our recommendations at your convenience, please.

COASTAL RESOURCES

P.O. BOX 3950 • 4697 WALKER AVENUE • ORANGE BEACH, ALABAMA 36561 • PHONE: 251.981.1063



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: Coastal Resources

Description of Topic: Resolution appropriating funds to the Pensacola and Perdido Bays Estuary Program in the amount of \$20,000. (WS)

Background/Description: Since the Estuary Program was established in 2018, the Program has worked directly with each of our member governments and community partners to implement watershed-scale initiatives to enhance our region's quality of life and advance the City's mission. In FY 23-24, for every dollar the City invested into the Estuary Program, the Program was able to leverage that 480 to 1. To date, the Program and its partners have secured approximately \$84 million for the implementation of priorities identified in the Comprehensive Conservation and Management Plan (CCMP) to benefit our waterways and communities. Financial support from local governments is critical to realizing federal support of key regional restoration and infrastructure priorities.

Action Options/Recommendation:

Source of Funding (if applicable): Budgeted with the Coastal Resources annual budget.

ATTACHMENTS:

1. 02-04-25 25-xxx Appropriate Funds Pensacola Perdido Bays Estuary Program

RESOLUTION NO. 25-xxx

**A RESOLUTION APPROPRIATING FUNDS TO THE
PENSACOLA AND PERDIDO BAYS ESTUARY PROGRAM
IN THE AMOUNT OF \$20,000**

FINDINGS:

1. On May 2, 2023, City Council adopted Resolution No. 23-084 authorizing the execution of an Amended and Restated Interlocal Agreement for the Pensacola and Perdido Bays Estuary Program.
2. The Pensacola and Perdido Bays Estuary Program has requested financial support from the City of Orange Beach to promote effective planning, restoration, and protection of the Pensacola Bay and Perdido Bay System.
3. The City Council has determined that appropriating said funds to the Pensacola and Perdido Bays Estuary Program serves a public purpose and is 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 Orange Beach City Council, having determined that it serves a public purpose and is in the best interest of the City, hereby appropriates the sum of Twenty Thousand Dollars (\$20,000.00) to the Pensacola and Perdido Bays Estuary Program; and
2. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 4th DAY OF FEBRUARY, 2025.

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. 25-xxx, which was duly and legally adopted at a regular meeting of the City Council on February 4, 2025.

City Clerk



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution awarding the bid for Two Vehicles for the Community Development Department. (TR)

Background/Description: Bid opening scheduled for January 30, 2025.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution awarding the proposal for Pouring and Vending Rights.
(TR)

Background/Description: Bid opening scheduled for January 30, 2025.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution awarding the bid for Senior Center Renovations. (TR)

Background/Description: Bid opening scheduled for January 30, 2025.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution awarding the bid for Library Renovations. (TR)

Background/Description: Bid opening scheduled for January 30, 2025.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution awarding the bid for the Veterans Memorial. (TR)

Background/Description: Bid opening scheduled for January 30, 2025.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing execution of a professional services agreement with Sally Wyrick for water aerobics instruction at the Aquatics Center. (NA)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 02-04-25 25-xxx Authorize Professional Services Agreement Sally Wyrick Water Aerobics Aquatics Center
2. 2025.01.16 Professional Services Agreement Sally Wyrick Water Aerobics Aquatics Center

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT WITH SALLY WYRICK
FOR WATER AEROBICS INSTRUCTION AT THE AQUATICS CENTER**

FINDINGS:

1. The City of Orange Beach has reached an agreement (attached Exhibit A) with Sally Wyrick whereby Sally Wyrick will provide water aerobics instruction at the Orange Beach Aquatics Center.
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 Sally Wyrick 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 4th DAY OF FEBRUARY, 2025.

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. 25-xxx, which was duly and legally adopted at a regular meeting of the City Council on February 4, 2025.

City Clerk

PROFESSIONAL SERVICES CONTRACT

This Agreement is made and entered into by and between the City of Orange Beach, an Alabama municipal corporation (the “City”) and Sally Wyrick, an individual (sometimes hereinafter “Contractor”), as follows:

1. Recitals:

- a. Contractor is a water aerobics instructor who provides instruction.
- b. The City desires to engage Contractor to provide such services for the benefit of Orange Beach residents and visitors.
- c. In consideration of the mutual covenants and agreements hereinafter set forth to be kept and performed by the other, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties do hereby covenant and agree as follows.

2. Contractor’s Obligations:

- a. Contractor shall offer water aerobics classes at the Orange Beach Aquatics Center on an as needed basis.
- b. Contractor must possess a current certification from (at least) one of the following nationally recognized certifying agencies: Aquatic Exercise Association (AEA), United States Water Fitness Association (USWFA), FiTour, and/or YMCA. (Certifications from organizations not listed may be accepted, pending approval by the Aquatics Center Coordinator).
- c. Contractor must have an Orange Beach Business License.
- d. Contractor will conduct each class scheduled, regardless of the number of participants present at the scheduled class time.
- e. Pre-determined cancellations must be decided no less than two hours prior to class time pursuant to the following policy:
 - i. Instructors may make recommendations for cancellations in cases of emergencies, illness, weather, or other unforeseen circumstances that may prevent them from conducting their scheduled classes.
 - ii. The final decision regarding cancellations will be made by the Aquatics Facility Director to ensure operational consistency.
 - iii. Instructor/s must notify the Aquatics Facility Director as soon as possible in the event of a potential cancellation. Advance notice allows for appropriate arrangements to be made to minimize disruption to the schedule.
 - iv. Whenever possible, substitute instructors should be used to minimize the impact on the community and ensure continuity of service.
 - v. Failure to adhere to this cancellation policy may result in penalties, including but not limited to a reduction in scheduled hours or termination of instructor’s contract.
 - vi. The City of Orange Beach reserves the right to cancel classes, combine or divide classes, change the time, date or place of classes, change the contract instructor and make other changes which become necessary for the best interests of the City and its participants.
- f. Contractor will hold classes for a minimum of fifty minutes.

3. City’s Obligations:

- a. City agrees to make available during normal operational hours lanes 5 and 6 and the deep end of the Aquatics Center for the Contractor to teach classes.
 - b. City agrees to provide all necessary equipment for Contractor's water aerobic classes.
4. Compensation:

Contractor will be paid at a fixed rate of \$30.00 per class on a bi-weekly basis. If inclement weather occurs during a class time, the current class will be cancelled, and the instructor will be paid for the full hour. This does not include pre-determined cancellations.
5. Term:

The term of this agreement shall begin on February 3, 2025, and end on November 26, 2025, unless terminated earlier in accordance with paragraph 11. This agreement may be renewed annually by resolution adopted by the City Council. Classes will not be held during the months of January and December.
6. Independent Contractor:
 - a. Notwithstanding any of the provisions of this Agreement, it is agreed that City has no financial interest in the business of Contractor and shall not be liable for any debts or obligations incurred by Contractor, nor shall City be deemed or construed to be a partner, joint venturer or otherwise interested in the assets of Contractor, or in the sums earned or derived by Contractor, nor shall Contractor at any time or times use the name or credit of City in purchasing or attempting to purchase any car, equipment, supplies or other thing or things whatsoever.
 - b. Contractor, in the performance of its operations and obligations hereunder, shall not be deemed to be an agent of City but shall be deemed to be an Independent Contractor in every respect and shall take all steps at its own expense, as City may from time-to-time request, to indicate that it is an Independent Contractor. City does not and will not assume any responsibility for the means by which or the manner in which the services by Contractor provided for herein are performed, but on the contrary, Contractor shall be wholly responsible therefor.
7. Assignment:

Contractor acknowledges that its identity and peculiar capacity to provide the services described hereinabove constitute a material consideration for City's having entered into this Agreement. Therefore, Contractor shall not transfer or assign this Agreement or any of the rights or privileges granted herein without the prior written consent of City; which such consent shall be granted or denied solely at City's discretion.
8. Insurance:
 - a. Contractor shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor under this Agreement, including the following, at a minimum:
 - i. Worker's compensation insurance as required by law; and
 - ii. Commercial general liability insurance with minimum coverage limits of \$100,000 per person and \$500,000 per occurrence, naming the City of Orange Beach and the City's officers, employees, and consultants as additional insured. The policy shall be with a carrier and in a form acceptable to the City at the City's sole discretion.
 - b. Any insurance carried by the City, its officers, or its employees or contractors is excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

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

9. Indemnity:

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

10. Compliance with Law:

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

11. Termination:

This agreement may be terminated by either party for any reason upon one (1) week notice of the intent to terminate.

12. Final Agreement:

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

13. Modifications:

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

14. Severability:

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

15. 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 would be Baldwin County, Alabama.

16. Permits, Licensing, etc:

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

17. Confidentiality:

Contractor (including its employees, agents, subcontractors) acknowledges that all confidential business and personal information ("Protected Information") that it may obtain while performing services for the City, is deemed confidential and proprietary to the City. During Contractor's tenure

with the City, Contractor agrees to use Protected Information only and strictly as required to perform its services on behalf of the City. Contractor will not disclose Protected Information to any person or entity without the prior written consent of the City and the written agreement of any third party. Contractor agrees to refer any request for public information or records to the City Clerk, who is the custodian of records for the City and is responsible for the disclosure of public records in accordance with the public records laws of the state. Contractor agrees that it will not duplicate or incorporate Protected Information into its own records or databases and that after the conclusion of its services to the City all Protected Information in the Contractor's possession will be turned over to the City. Contractor agrees not to disclose, use, transfer, or transmit the information to any person or entity for any purpose whatsoever. This includes records, passwords, access codes, manuals, statistics, software, audio/video recordings, or storage disks of any kind containing Protected Information.

18. Notices:

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

City of Orange Beach:

City Clerk
Post Office Box 458
Orange Beach, Alabama 36561

With Required Copy to:

City Attorney
Post Office Box 458
Orange Beach, Alabama 36561

And to Contractor:

Sally Wyrick
26434 Caribe Drive
Orange Beach, AL 36561

IN WITNESS WHEREOF, we have hereunto set our hands and seal on this the _____ day of _____, 2025.

CITY OF ORANGE BEACH,
An Alabama Municipal Corporation

By: _____
Tony Kennon, Mayor

ATTEST:

Renee Eberly, City Clerk

CONTRACTOR

By: _____
Sally Wyrick, an Individual

STATE OF ALABAMA

COUNTY OF BALDWIN

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

Given under my hand and seal on the _____ day of _____, 2025.

(SEAL)

Notary Public
My Commission Expires: _____

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said County in said State, hereby certify that Sally Wyrick, an individual, is signed to the foregoing agreement, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the above and foregoing, she executed the same voluntarily on the day the same bears date.

Given under my hand and seal on the _____ day of _____, 2025.

(SEAL)

Notary Public
My Commission Expires: _____



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing execution of a professional services agreement with Sharyon Miller for Ageless Grace Brain Fitness instruction at the Senior Center. (NA)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 02-04-25 25-xxx Authorize Professional Services Agreement Sharyon Miller Senior Center
2. 2025.01.16 Professional Services Agreement Sharyon Miller Senior Center

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT WITH SHARYON MILLER
FOR AGELESS GRACE BRAIN FITNESS INSTRUCTION AT THE SENIOR CENTER**

FINDINGS:

1. The City of Orange Beach has reached an agreement (attached Exhibit A) with Sharyon Miller whereby Sharyon Miller will provide Ageless Grace Brain Fitness instruction at the Orange Beach Senior Center.
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 Sharyon Miller 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 4th DAY OF FEBRUARY, 2025.

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. 25-xxx, which was duly and legally adopted at a regular meeting of the City Council on February 4, 2025.

City Clerk

PERFORMANCE CONTRACT

This Agreement is made and entered into by and between the City of Orange Beach, an Alabama municipal corporation (the “City”) and Sharyon Miller (sometimes hereinafter “Contractor”), as follows:

1. Recitals:

- a. Contractor is a fitness instructor who provides instruction.
- b. The City desires to engage Contractor to provide such services for the benefit of Orange Beach residents and visitors.
- c. In consideration of the mutual covenants and agreements hereinafter set forth to be kept and performed by the other, and other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the parties do hereby covenant and agree as follows.

2. Contractor’s Obligations:

- a. Contractor shall offer fitness classes at Orange Beach Senior/Adult Activity Center
- b. Contractor must possess a current Ageless Grace Brain Fitness Instructor Certification
- c. Contractor must have an Orange Beach Business License.
- d. Contractor will conduct each class scheduled, regardless of the number if participants present at the scheduled class time.
- e. Pre-determined cancellations must be decided no less than two hours prior to the class time pursuant to the following policy:
 - i. Instructors may make recommendations for cancellations in cases of emergencies, illness, weather, or other unforeseen circumstances that may prevent them from conducting their scheduled class.
 - ii. The final decision regarding cancellations will be made by the Senior Programs Coordinator to ensure operational consistency.
 - iii. Instructor/s must notify the Senior Programs Coordinator as soon as possible in the event of a potential cancellation. Advance notice allows for appropriate arrangements to be made to minimize disruption to the schedule.
 - iv. Failure to adhere to this cancellation policy may result in penalties, including but not limited to a reduction in scheduled hours or termination of instructors contract.
 - v. The City of Orange Beach reserves the right to cancel classes, combine or divide classes, change the time, date or place of classes, change the contract instructor and make other changes which become necessary for the best interests of the City and its participants.
- f. Contractor will hold classes for a minimum of fifty five minutes.

3. City’s Obligations:

- a. City agrees to make available during normal operational hours a room to conduct classes inside the Orange Beach Senior/Adult Activity Center.
- b. City agrees to provide all necessary equipment for Contractor’s fitness classes.

4. Compensation:

Contractor will be paid at a fixed rate of \$30.00 per class on a bi-weekly basis.

5. Term:

The term of this agreement shall begin on March 5, 2025, and end on March 4, 2026, unless terminated earlier in accordance with paragraph 10. This agreement may be renewed annually by resolution adopted by the City Council.

6. Independent Contractor:

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

7. Assignment:

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

8. Insurance:

- a. Contractor shall procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor under this Agreement, including the following, at a minimum:
 - i. Worker's compensation insurance as required by law; and
 - ii. Commercial general liability insurance with minimum coverage limits of \$100,000 per person and \$500,000 per occurrence, naming the City of Orange Beach and the City's officers, employees, and consultants as additional insured. The policy shall be with a carrier and in a form acceptable to the City at the City's sole discretion.
- b. Any insurance carried by the City, its officers, or its employees or contractors is excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.
- c. Contractor shall provide to the City a Certificate of Insurance as evidence that required policies are in full force and effect.

9. Indemnity:

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

Contractor or City and these defenses and matters may be raised in the City's behalf in any action or proceeding arising from this Agreement.

10. Compliance with Law:

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

11. Termination:

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

12. Final Agreement:

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

13. Modifications:

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

14. Severability:

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

15. Laws Governing:

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

16. Permits, Licensing, etc:

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

17. Confidentiality:

Contractor (including its employees, agents, subcontractors) acknowledges that all confidential business and personal information ("Protected Information") that it may obtain while performing services for the City, is deemed confidential and proprietary to the City. During Contractor's tenure with the City, Contractor agrees to use Protected Information only and strictly as required to perform its services on behalf of the City. Contractor will not disclose Protected Information to any person or entity without the prior written consent of the City and the written agreement of any third party. Contractor agrees to refer any request for public information or records to the City Clerk, who is the custodian of records for the City and is responsible for the disclosure of public records in accordance with the public records laws of the state. Contractor agrees that it will not duplicate or incorporate Protected Information into its own records or databases and that after the conclusion of its services to the City all Protected Information in the Contractor's possession will be turned over to the City. Contractor agrees not to disclose, use, transfer, or transmit the information to any person or entity for

any purpose whatsoever. This includes records, passwords, access codes, manuals, statistics, software, audio/video recordings, or storage disks of any kind containing Protected Information.

18. Notices:

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

City of Orange Beach:

City Clerk
Post Office Box 458
Orange Beach, Alabama 36561

With Required Copy to:

City Attorney
Post Office Box 458
Orange Beach, Alabama 36561

And to Contractor:

Sharyon Miller
9419 County Rd 91
Lillian, AL 36549

IN WITNESS WHEREOF, we have hereunto set our hands and seal on this the _____ day of _____, 2025.

CITY OF ORANGE BEACH,
An Alabama Municipal Corporation

By: _____
Mayor Anthony T. Kennon

ATTEST:

Renee Eberly, City Clerk

CONTRACTOR:

SHARYON MILLER

By: _____
Sharyon Miller

STATE OF ALABAMA
COUNTY OF BALDWIN

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

Given under my hand and seal on the _____ day of _____, 2025.

(SEAL)

Notary Public
My Commission Expires: _____

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said County in said State, hereby certify that Sharyon Miller is signed to the foregoing agreement, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the above and foregoing, she, as such owner and with full authority, executed the same voluntarily for and as the act of said municipal corporation on the day the same bears date.

Given under my hand and seal on the _____ day of _____, 2025.

(SEAL)

Notary Public
My Commission Expires: _____



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing a franchise for Alabama Container Company, LLC, to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris. (TC)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 02-04-25 25-xxx Authorize Franchise Renewal Solid Waste Alabama Container Company
2. 2025.01.16 Franchise Renewal - Solid Waste - Alabama Container Company_public

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING A FRANCHISE RENEWAL FOR
ALABAMA CONTAINER COMPANY, LLC
TO REMOVE AND DISPOSE OF COMMERCIAL SOLID WASTE AND
TO REMOVE AND TRANSPORT CONSTRUCTION AND DEMOLITION DEBRIS**

FINDINGS:

1. Alabama Container Company, LLC, an Alabama limited liability company, has made application for a non-exclusive franchise for the use of city streets to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris from construction projects.
2. The City of Orange Beach is willing to grant a non-exclusive franchise on the terms and conditions set out in the attached Franchise Agreement.

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 franchise agreement by and between the City of Orange Beach and Alabama Container Company, LLC, subject to final review by the City Attorney; and
2. That Alabama Container Company, LLC, within 30 days, shall file its acceptance of the terms of the franchise in the form attached.

ADOPTED THIS 4th DAY OF FEBRUARY, 2025.

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. 25-xxx, which was duly and legally adopted at a regular meeting of the City Council on February 4, 2025.

City Clerk

**FRANCHISE AGREEMENT AUTHORIZING
ALABAMA CONTAINER COMPANY, LLC
TO COLLECT COMMERCIAL SOLID WASTE AND CONSTRUCTION DEBRIS
IN THE CITY AND ITS POLICE JURISDICTION**

SECTION 1 - Non-Exclusive Franchise Granted

The City of Orange Beach hereby grants to **ALABAMA CONTAINER COMPANY, LLC** (hereinafter called the Franchisee) a non-exclusive franchise to use of streets and public places for the collection and disposal of Commercial Solid Waste and the removal and transportation of Construction and Demolition Debris, under the terms and conditions hereinafter set out.

SECTION 2 - Definitions

As used in this franchise, the following terms shall have the meaning assigned as follows:

ADMINISTRATOR shall mean the City Administrator of Orange Beach or his/her designee.

APPROVED CONTAINER shall mean an enclosed container usually constructed of metal with a close fitting cover or doors with a capacity in excess of one (1) cubic yard, approved by the County Health Department which is used to store large volumes of Solid Waste for collection.

BUSINESS shall mean all commercial establishments, including, but not limited to motels, hotels, recreational vehicle rental space(s), stores, office buildings, irrespective of the form of ownership, restaurants, service stations and garages, laundry and cleaning establishments, industrial establishments and all other places not classified as “residential premises” or a “residential unit” that produce or accumulate solid waste, including adjacent unimproved property.

CITY shall mean the City of Orange Beach, a political subdivision of the State of Alabama.

COLLECTION shall mean the act of removing material from a construction or demolition site.

COLLECTOR shall mean the entity authorized by this ordinance to engage in the collection and transportation of Construction and Demolition Debris.

COMMERCIAL DEMOLITION DEBRIS shall mean material from a construction or demolition site mixed with other types of solid waste. This debris shall be handled as Business and not Residential.

COMMERCIAL SOLID WASTE shall mean garbage, rubbish, yard waste or trash, clean debris, “white” goods, construction and demolition waste or other discarded material or refuse, other than Residential.

CONSTRUCTION AND DEMOLITION DEBRIS shall mean materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to steel, glass, brick, concrete, asphalt roofing materials, pipe, gypsum wallboard, and lumber, from a construction or demolition project and including rocks, soils, tree remains, trees (all diameters), and other vegetative matter which normally results from land clearing operations. Mixing of Construction and Demolition Debris with other types of Solid Waste, including material from a construction or demolition site which is not from the actual construction or destruction of a structure, will cause it to be classified as Commercial Demolition Debris.

COUNCIL shall mean the City Council of the City of Orange Beach, Alabama.

CUSTOMER shall mean any person or persons, firm, corporation or association who/which contracts with the Collector for collection and disposal of Commercial Solid Waste and/or Construction and Demolition Debris for a fee.

DISPOSAL FACILITY shall mean the Magnolia Landfill located in the County, or if not available, to any other Solid Waste Facility or Solid Waste Management Facility designated as a RCRA Subtitle D site or one operating under Subtitle D regulations in Alabama, Mississippi or Florida.

HAZARDOUS WASTE shall mean Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed and including any materials specifically designated by state or federal agencies.

HOUSEHOLD WASTE shall mean any combination of refuse usual to housekeeping and generated solely by residents in the ordinary course of residential occupancy of a premises, excluding major appliances, such as stoves and refrigerators, furniture, automobile bodies and parts, tires, household and yard appliances, and other bulky items not suitable for proper confinement in the garbage receptacle.

PUTRESCIBLE WASTE shall mean food waste or garbage that will rot or decay producing foul odors or attract vectors. Putrescible waste includes containers that are contaminated by such waste.

RESIDENTIAL WASTE shall mean Garbage, Rubbish, and Recyclable Materials resulting from the normal housekeeping activities of a Residential Unit.

SOLID WASTE shall mean Garbage, Rubbish, Yard Waste or Trash, Clean Debris, "White" Goods, Construction and Demolition Waste or other discarded material or refuse.

SPECIAL WASTES shall mean Solid Waste that requires special handling and management, including, but not limited to, whole tires, used oil, lead acid batteries, and Biological Wastes.

WHITE GOODS shall mean refrigerators, ranges, water heaters, freezers and other large appliances.

YARD WASTE shall mean material resulting from landscape maintenance, including but not limited to grass clippings, leaves, twigs, small trees (6" diameter or less), etc., and material not resulting from land-clearing operations.

SECTION 3 - Service Undertaking

The Franchisee shall offer services solely for the collection and disposal of Commercial Solid Waste and Construction and Demolition Debris to persons located within the corporate limits of the City and its police jurisdiction. Upon request, a Franchisee shall provide to the City's Finance Department, a listing of customers, service location, frequency of pickup and types of service provided, as well as, franchisee telephone numbers and contact personnel.

SECTION 4 - Equipment

Franchisee shall utilize such trucks or other collection equipment and/or vehicles necessary and approved by the City's Public Works Director for the collection and disposal of Commercial Solid Waste. Vehicles utilized by Franchisee shall be so covered, secured or sealed that there will be no loss during haulage to cause littering of streets and highways, or cause a nuisance or hazard to the public health. Franchisee shall utilize an adequate number of collection vehicles and/or equipment based on number of customers and solid waste generated. In the event the City in its discretion determines that an adequate number or type of vehicles or equipment is not being utilized by Franchisee, it shall so notify Franchisee in writing. All vehicles or equipment utilized by Franchisee shall be maintained in a safe and clean operating condition, and the City at its convenience may inspect such vehicles or equipment from time to time. The collection containers provided by Franchisee shall be maintained by Franchisee in good repair and in a sanitary condition.

SECTION 5 - Frequency of Collection

Franchisee shall begin and complete scheduled collections of Commercial Solid Waste and Construction and Demolition Debris at a time that shall be mutually agreed between Customer and Franchisee. Collection containers provided by Franchisee shall be in a sanitary condition and equipped so that contents will not fall out.

SECTION 6 - Compliance with Collection and Disposal Laws and Regulations

Franchisee shall dispose of all solid waste collected by it in accordance with all applicable federal, state, county, and municipal laws, ordinances, rules and regulations pertaining to the collection of disposal of such waste material. Specifically, but without limitation, such waste shall be disposed of only in a disposal facility duly licensed and permitted by all governmental entities and agencies having jurisdiction with respect to such site and Franchisee shall comply with all reporting requirements of all governmental entities and agencies having jurisdiction. Upon request, Franchisee shall provide the City with copies of any and all such reports.

SECTION 7 - Books and Records of Franchisee

The books and records of Franchisee relevant to its collection and disposal services in the service area shall be available for inspection or audit by the City during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday, legal holidays excepted. If such books and records are not regularly maintained by Franchisee within the corporate limits of the City, Franchisee shall present such books and records for inspection or audit at the Municipal Complex upon twenty-four (24) hours oral or written demand for inspection or audit. In addition, upon request, Franchisee shall provide to the City a customer listing, frequency of collection, quantity of waste collected, and any other necessary reports or documentation, to meet ADEM reporting requirements.

The accounting system utilized by the Franchisee shall be in accordance with generally accepted accounting principles. Franchisee shall provide the City with an acceptable detailed annual operating statement or consolidated operating statement within forty-five (45) days after the end of each of Franchisee's fiscal year during the term of this Franchise.

SECTION 8 - Cause for Cancellation

The City shall have the right to cancel this Franchise for cause, including, without limitation, insufficiency or irregularity of services, financial irregularities, violation of governmental law, ordinance, rule or regulation, or other misfeasance, malfeasance, or nonfeasance in the provision of services under this Franchise or breach of the terms and conditions herein. In the event the City believes cause for termination exists, it will give written notice to Franchisee of the basis on which it believes cause for termination exists and will give Franchisee an opportunity to appear before a regular or special meeting of the Municipal Council to present any evidence or explanation of the existence of cause for termination. Following such presentation, the City may elect to terminate this Franchise, may elect to continue this Franchise, either as written or under probationary conditions, or may elect such other action as may be in the best interest of the City. Franchisee shall be given written notice of the action of the Council, and no termination shall become effective earlier than thirty (30) days following the giving of such notice.

SECTION 9 - Indemnification

The Franchisee shall indemnify and hold the City, its elected and appointed officials, officers, agents, servants, and employees harmless from any and all claims or demands (including reasonable attorneys fees) of whatever kind or character arising directly or indirectly, proximately or remotely, from the operation of solid waste collection activities by Franchisee.

SECTION 10 - No Assignment or Transfer

This Franchise nor the rights of Franchisee hereunder may not be sold, assigned, pledged or transferred in whole or in part by Franchisee. In this regard, the sale, transfer, or conveyance of more than fifty percent (50%) of the shares of voting stock of Franchisee to any one person or entity shall be considered an assignment.

SECTION 11 - Insurance

Franchisee, as a condition under this document, shall furnish and maintain comprehensive general liability insurance coverage in coverage amount not less than \$2,000,000, single limit, under a policy

issued by an insurer acceptable to the City. Such policy shall be in a form satisfactory to the City and shall name the City as additional insured against any liability for personal injury, death, or property damage arising directly or indirectly from the collection or disposal services to be performed by Franchisee. Any lapse in the coverage required in this paragraph shall result in an automatic and immediate suspension of the franchise rights granted Franchisee hereunder. Franchisee shall provide acceptable documentation to the City of Workers Compensation Insurance.

SECTION 12 - Nonexclusivity

The franchise rights granted hereunder shall be non-exclusive, and the City may at any time and from time to time award similar franchise rights to other persons or entities. This Franchise is the grant of a non-exclusive franchise pursuant to Section 220 of the Constitution of Alabama.

SECTION 13 - No Agency

Franchisee shall be an independent contractor and not the agent of the City for any purpose. The City assumes no responsibility for the collection of fees or other debts owed to Franchisee.

SECTION 14 - Term

This franchise shall become effective upon its adoption by the City Council and when Franchisee files its acceptance, attached hereto as Exhibit A, and furnishes proof that it has complied with all of the terms of this Franchise. This Franchise shall expire, unless sooner terminated or extended in writing after the approval of the City, on December 31, 2026.

SECTION 15 - Consideration for Franchise Rights

As consideration for the franchise rights granted hereunder and unless and until increased or amended as provided in this paragraph, Franchisee shall pay to the City an annual franchise fee equal to three percent (3%) of Franchisee's gross receipts from charges for services rendered pursuant to this Franchise. Such franchise fee shall be paid to the City every three (3) months, with the first payment being due and payable three (3) months from the effective date of this Franchise. A late charge equal to ten percent (10%) of the amount due every three (3) months shall be assessed for each one to thirty-day (1-30) period said franchise fee is not paid after its due date.

The City reserves the right from time to time and at any time during the term of this Franchise to amend the terms hereof, to increase the amount of the franchise fee, to impose a franchise fee obligation in a set amount or to otherwise alter or amend the franchise fee obligation of Franchisee hereunder; provided, however, that Franchisee shall be given written notice of any such alteration or amendment and such alteration or amendment shall not take effect sooner than the date that is sixty (60) days after the date on which the notice is delivered to Franchisee or the first anniversary date of the effective date of this Franchise occurring after the giving of notice, whichever date is later. In the event of notification of an increase of the franchise fee hereunder or the imposition of a fee based on a percentage of Franchisee's receipts, Franchisee may elect in writing prior to the effective date of the franchise fee increase or amendment to terminate this Franchise as of the effective date of the franchise fee increase or amendment, in which case all rights and privileges of Franchisee shall terminate as of such date.

SECTION 16 - Permit Submittal

Copies of all applications for permits from board or agencies of the County, State, or Federal government having jurisdiction over any activities of the Franchisee in relation to this Franchise shall be provided to the City at the time of their submittal to the governing agency.

SECTION 17 - Complete Franchise

This Franchise sets out the complete conditions with respect to the subject matter hereof and may not be amended except in a writing whose execution by the City has been approved by Ordinance or formal resolution of the Municipal Council.

SECTION 18 - Compliance with ADEM and other State Reporting Requirements

The City is required to quarterly and annually submit full cost accounting of solid waste collections, etc., to the Baldwin County Commission and the Alabama Department of Environmental Management (ADEM). Franchisee shall submit all required and requested full cost accounting reports to the County Commission and ADEM by the requested deadline dates. Copies of these reports will be submitted simultaneously to the City, along with a full listing of all customer accounts.

SECTION 19 - Severability Clause

The provisions of this Ordinance are hereby declared to be severable. In the event any provision hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this Ordinance.

ATTEST:

Tony Kennon, Mayor

Renee Eberly, City Clerk

ALABAMA CONTAINER COMPANY, LLC
Franchisee

By: _____

Its: _____

**ACCEPTANCE OF A FRANCHISE
IN THE CITY OF ORANGE BEACH, ALABAMA**

RECITALS:

1. The City of Orange Beach, Alabama ("City") by action of its City Council on February 4, 2025, adopted Resolution No. 25-xxx ("Resolution") approving a non-exclusive franchise for the use of the public streets to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris under the terms and conditions set out in the Franchise Agreement for Alabama Container Company, LLC ("Provider").
2. This Resolution requires the Provider to accept the terms of the Resolution in a form and substance acceptable to the City.

NOW, THEREFORE, pursuant to the terms and requirements of the Resolution, and in consideration of the City's approval of the Franchise, Provider accepts the Franchise and makes the following representations and warranties to the City:

1. Provider is authorized to do business in Alabama and has full power, authority, and legal capacity to execute, deliver, and perform this Acceptance and perform the terms and conditions of the Franchise;
2. All actions necessary to authorize the execution and delivery of this Acceptance and the performance of the Franchise, have been duly authorized;
3. Provider has carefully read the terms and conditions of the Franchise and accepts all of the terms and conditions imposed thereunder, and agrees to abide by the same;
4. Provider acknowledges by acceptance of the Franchise that it has not been induced to accept the Franchise by reason of any promise, verbal or written, by or on behalf of the City, or by any third person, regarding any term or condition of the Franchise not expressed therein;
5. The Provider agrees to comply with all of the terms and conditions of the City's Ordinances and other laws and rules applicable to Providers' business;
6. Provider will immediately notify the City if it be engages in an activity that is neither contemplated nor authorized under the terms of the Agreement; and
7. Concurrent with this acceptance of the Agreement, Provider agrees to perform the following tasks within thirty (30) days of the adoption of the Resolution and any necessary publication, unless another date is specified in the Agreement:
 - A. Pay all required application fees required under the terms of the Agreement;
 - B. Pay the costs of any necessary publication;
 - C. File a certificate of insurance as required under the terms of the Agreement; and
 - D. Acquire a business license from the City of Orange Beach.

Failure to perform all such actions within a timely manner shall be deemed to be a rejection and repudiation of the Franchise Agreement.

Dated: _____

ALABAMA CONTAINER COMPANY, LLC

By: _____

Its: _____



CITY of ORANGE BEACH
FRANCHISE APPLICATION

☐ NEW
☒ RENEWAL

Business Name Alabama Container Company, LLC

Applicant's Name Emma M Waltman

Mailing Address PO Box 235, Lillian, AL 36549

Physical Address Office 13338 Cripple Creek Ln, Lillian, AL 36549

Telephone 251-962-4325 E-Mail emma.waltman.acce@gmail.com

Type of Franchise Requested _____

Owner/Officers	Address	DOB
<u>Richard M Waltman, Sr</u>	<u>13338 Cripple Creek Ln, Lillian, AL 36549</u>	<u>2-15-56</u>
<u>Emma M Waltman</u>	<u>13338 Cripple Creek Ln, Lillian, AL</u>	<u>8-21-61</u>
<u>Richard M Waltman Jr</u>	<u>13338 Cripple Creek Ln, Lillian, AL</u>	<u>11-15-80</u>

\$250.00 NON-REFUNDABLE APPLICATION FEE SHALL BE PAID WITH APPLICATION

DATE PAID 1/14/25

1. Attach a copy of proof of insurance showing City of Orange Beach as additional insured.
2. Attach a financial statement showing in detail applicant's current financial condition.

Applicant agrees to pay all costs and expenses incurred by the City in preparation of the Franchise agreement and the enactment of the enabling ordinance, to include attorney's fees for drafting of the Franchise agreement.

APPLICANT UNDERSTANDS THAT THE FILING OF THIS APPLICATION DOES NOT, IN ITSELF, CONSTITUTE AUTHORITY TO OPERATE AND WILL SUBMIT SUCH ADDITIONAL INFORMATION IN CONNECTION WITH THIS APPLICATION AS THE COUNCIL MAY REQUIRE.

Applicant Signature Emma M Waltman Date 1/11/25

CERTIFICATE OF INSURANCE	ISSUE DATE
---------------------------------	-------------------

7/31/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: IF THE CERTIFICATE HOLDER IS AN ADDITIONAL INSURED, THE POLICY(IES) MUST BE ENDORSED. IF SUBROGATION IS WAIVED, SUBJECT TO THE TERMS AND CONDITIONS OF THE POLICY, CERTAIN POLICIES MAY REQUIRE AN ENDORSEMENT. A STATEMENT ON THIS CERTIFICATE DOES NOT CONFER RIGHTS TO THE CERTIFICATE HOLDER IN LIEU OF SUCH ENDORSEMENT(S).

PRODUCER	INSURER(S) AFFORDING COVERAGE
Tommy Foxworth Insurance Agency LLC 11617-A US Hwy 31 Ste 1 Daphne, AL 36527	INSURER A: Nautilus Insurance Company
	INSURER B: N/A
INSURED Alabama Container Company, LLC PO Box 235 Lillian, AL 36549	INSURER C: N/A
	INSURER D: AlaCOMP
	INSURER E: N/A

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS	
A	GENERAL LIABILITY	NN1701886	7/26/2024	7/26/2025	GENERAL AGGREGATE	2,000,000
					PRODUCTS-COM/OP AGG.	Included
					PERSONAL & ADV. INJURY	1,000,000
					EACH OCCURRENCE	1,000,000
					DAMAGE PREM RENTED TO YOU	100,000
					MED EXPENSE (Any one person)	5,000
B	PERSONAL LIABILITY				COMBINED SINGLE LIMIT	
					MEDICAL PAYMENTS TO OTHERS	
C	EXCESS LIABILITY				EACH OCCURRENCE	
					AGGREGATE	
D	WORKERS COMPENSATION	WC-100-0026424-2025A	1/1/2025	1/1/2026	EACH ACCIDENT	1,000,000
E	PROPERTY				BUILDING	
					CONTENTS	
					BUSINESS INCOME	

This contract is registered and delivered as a surplus line coverage under the Alabama Surplus Line Insurance Law. Surplus Lines Broker: Keith E. Allred, License #655753

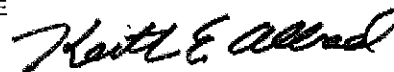
DESCRIPTION OF OPERATIONS / SPECIALTY ITEMS

CERTIFICATE HOLDER

City of Orange Beach
PO Box 458
Orange Beach, AL 36561

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED SIGNATURE





**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing a franchise for Bishop Enterprises, L.L.C., to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris. (TC)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 02-04-25 25-xxx Authorize Franchise Renewal Solid Waste Bishop Enterprises
2. 2025.01.16 Franchise Renewal - Solid Waste - Bishop Enterprises_public

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING A FRANCHISE RENEWAL FOR
BISHOP ENTERPRISES, L.L.C.
TO REMOVE AND DISPOSE OF COMMERCIAL SOLID WASTE AND
TO REMOVE AND TRANSPORT CONSTRUCTION AND DEMOLITION DEBRIS**

FINDINGS:

1. Bishop Enterprises, L.L.C., a limited liability company registered to do business in the State of Alabama, has made application for a non-exclusive franchise for the use of city streets to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris from construction projects.
2. The City of Orange Beach is willing to grant a non-exclusive franchise on the terms and conditions set out in the attached Franchise Agreement.

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 franchise agreement by and between the City of Orange Beach and Bishop Enterprises, L.L.C., subject to final review by the City Attorney; and
2. Bishop Enterprises, L.L.C., within 30 days, shall file its acceptance of the terms of the franchise in the form attached.

ADOPTED THIS 4th DAY OF FEBRUARY, 2025.

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. 25-xxx, which was duly and legally adopted at a regular meeting of the City Council on February 4, 2025.

City Clerk

**FRANCHISE AGREEMENT AUTHORIZING
BISHOP ENTERPRISES, L.L.C.
TO COLLECT COMMERCIAL SOLID WASTE AND CONSTRUCTION DEBRIS
IN THE CITY AND ITS POLICE JURISDICTION**

SECTION 1 -Non-Exclusive Franchise Granted

The City of Orange Beach hereby grants to **BISHOP ENTERPRISES, L.L.C.** (hereinafter called the Franchisee) a non-exclusive franchise to use of streets and public places for the collection and disposal of Commercial Solid Waste and the removal and transportation of Construction and Demolition Debris, under the terms and conditions hereinafter set out.

SECTION 2 - Definitions

As used in this franchise, the following terms shall have the meaning assigned as follows:

ADMINISTRATOR shall mean the City Administrator of Orange Beach or his/her designee.

APPROVED CONTAINER shall mean an enclosed container usually constructed of metal with a close fitting cover or doors with a capacity in excess of one (1) cubic yard, approved by the County Health Department which is used to store large volumes of Solid Waste for collection.

BUSINESS shall mean all commercial establishments, including, but not limited to motels, hotels, recreational vehicle rental space(s), stores, office buildings, irrespective of the form of ownership, restaurants, service stations and garages, laundry and cleaning establishments, industrial establishments and all other places not classified as “residential premises” or a “residential unit” that produce or accumulate solid waste, including adjacent unimproved property.

CITY shall mean the City of Orange Beach, a political subdivision of the State of Alabama.

COLLECTION shall mean the act of removing material from a construction or demolition site.

COLLECTOR shall mean the entity authorized by this ordinance to engage in the collection and transportation of Construction and Demolition Debris.

COMMERCIAL DEMOLITION DEBRIS shall mean material from a construction or demolition site mixed with other types of solid waste. This debris shall be handled as Business and not Residential.

COMMERCIAL SOLID WASTE shall mean garbage, rubbish, yard waste or trash, clean debris, “white” goods, construction and demolition waste or other discarded material or refuse, other than Residential.

CONSTRUCTION AND DEMOLITION DEBRIS shall mean materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to steel, glass, brick, concrete, asphalt roofing materials, pipe, gypsum wallboard, and lumber, from a construction or demolition project and including rocks, soils, tree remains, trees (all diameters), and other vegetative matter which normally results from land clearing operations. Mixing of Construction and Demolition Debris with other types of Solid Waste, including material from a construction or demolition site which is not from the actual construction or destruction of a structure, will cause it to be classified as Commercial Demolition Debris.

COUNCIL shall mean the City Council of the City of Orange Beach, Alabama.

CUSTOMER shall mean any person or persons, firm, corporation or association who/which contracts with the Collector for collection and disposal of Commercial Solid Waste and/or Construction and Demolition Debris for a fee.

DISPOSAL FACILITY shall mean the Magnolia Landfill located in the County, or if not available, to any other Solid Waste Facility or Solid Waste Management Facility designated as a RCRA Subtitle D site or one operating under Subtitle D regulations in Alabama, Mississippi or Florida.

HAZARDOUS WASTE shall mean Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed and including any materials specifically designated by state or federal agencies.

HOUSEHOLD WASTE shall mean any combination of refuse usual to housekeeping and generated solely by residents in the ordinary course of residential occupancy of a premises, excluding major appliances, such as stoves and refrigerators, furniture, automobile bodies and parts, tires, household and yard appliances, and other bulky items not suitable for proper confinement in the garbage receptacle.

PUTRESCIBLE WASTE shall mean food waste or garbage that will rot or decay producing foul odors or attract vectors. Putrescible waste includes containers that are contaminated by such waste.

RESIDENTIAL WASTE shall mean Garbage, Rubbish, and Recyclable Materials resulting from the normal housekeeping activities of a Residential Unit.

SOLID WASTE shall mean Garbage, Rubbish, Yard Waste or Trash, Clean Debris, "White" Goods, Construction and Demolition Waste or other discarded material or refuse.

SPECIAL WASTES shall mean Solid Waste that requires special handling and management, including, but not limited to, whole tires, used oil, lead acid batteries, and Biological Wastes.

WHITE GOODS shall mean refrigerators, ranges, water heaters, freezers and other large appliances.

YARD WASTE shall mean material resulting from landscape maintenance, including but not limited to grass clippings, leaves, twigs, small trees (6" diameter or less), etc., and material not resulting from land-clearing operations.

SECTION 3 - Service Undertaking

The Franchisee shall offer services solely for the collection and disposal of Commercial Solid Waste and Construction and Demolition Debris to persons located within the corporate limits of the City and its police jurisdiction. Upon request, a Franchisee shall provide to the City's Finance Department, a listing of customers, service location, frequency of pickup and types of service provided, as well as, franchisee telephone numbers and contact personnel.

SECTION 4 - Equipment

Franchisee shall utilize such trucks or other collection equipment and/or vehicles necessary and approved by the City's Public Works Director for the collection and disposal of Commercial Solid Waste. Vehicles utilized by Franchisee shall be so covered, secured or sealed that there will be no loss during haulage to cause littering of streets and highways, or cause a nuisance or hazard to the public health. Franchisee shall utilize an adequate number of collection vehicles and/or equipment based on number of customers and solid waste generated. In the event the City in its discretion determines that an adequate number or type of vehicles or equipment is not being utilized by Franchisee, it shall so notify Franchisee in writing. All vehicles or equipment utilized by Franchisee shall be maintained in a safe and clean operating condition, and the City at its convenience may inspect such vehicles or equipment from time to time. The collection containers provided by Franchisee shall be maintained by Franchisee in good repair and in a sanitary condition.

SECTION 5 - Frequency of Collection

Franchisee shall begin and complete scheduled collections of Commercial Solid Waste and Construction and Demolition Debris at a time that shall be mutually agreed between Customer and Franchisee. Collection containers provided by Franchisee shall be in a sanitary condition and equipped so that contents will not fall out.

SECTION 6 - Compliance with Collection and Disposal Laws and Regulations

Franchisee shall dispose of all solid waste collected by it in accordance with all applicable federal, state, county, and municipal laws, ordinances, rules and regulations pertaining to the collection of disposal of such waste material. Specifically, but without limitation, such waste shall be disposed of only in a disposal facility duly licensed and permitted by all governmental entities and agencies having jurisdiction with respect to such site and Franchisee shall comply with all reporting requirements of all governmental entities and agencies having jurisdiction. Upon request, Franchisee shall provide the City with copies of any and all such reports.

SECTION 7 - Books and Records of Franchisee

The books and records of Franchisee relevant to its collection and disposal services in the service area shall be available for inspection or audit by the City during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday, legal holidays excepted. If such books and records are not regularly maintained by Franchisee within the corporate limits of the City, Franchisee shall present such books and records for inspection or audit at the Municipal Complex upon twenty-four (24) hours oral or written demand for inspection or audit. In addition, upon request, Franchisee shall provide to the City a customer listing, frequency of collection, quantity of waste collected, and any other necessary reports or documentation, to meet ADEM reporting requirements.

The accounting system utilized by the Franchisee shall be in accordance with generally accepted accounting principles. Franchisee shall provide the City with an acceptable detailed annual operating statement or consolidated operating statement within forty-five (45) days after the end of each of Franchisee's fiscal year during the term of this Franchise.

SECTION 8 - Cause for Cancellation

The City shall have the right to cancel this Franchise for cause, including, without limitation, insufficiency or irregularity of services, financial irregularities, violation of governmental law, ordinance, rule or regulation, or other misfeasance, malfeasance, or nonfeasance in the provision of services under this Franchise or breach of the terms and conditions herein. In the event the City believes cause for termination exists, it will give written notice to Franchisee of the basis on which it believes cause for termination exists and will give Franchisee an opportunity to appear before a regular or special meeting of the Municipal Council to present any evidence or explanation of the existence of cause for termination. Following such presentation, the City may elect to terminate this Franchise, may elect to continue this Franchise, either as written or under probationary conditions, or may elect such other action as may be in the best interest of the City. Franchisee shall be given written notice of the action of the Council, and no termination shall become effective earlier than thirty (30) days following the giving of such notice.

SECTION 9 - Indemnification

The Franchisee shall indemnify and hold the City, its elected and appointed officials, officers, agents, servants, and employees harmless from any and all claims or demands (including reasonable attorneys fees) of whatever kind or character arising directly or indirectly, proximately or remotely, from the operation of solid waste collection activities by Franchisee.

SECTION 10 - No Assignment or Transfer

This Franchise nor the rights of Franchisee hereunder may not be sold, assigned, pledged or transferred in whole or in part by Franchisee. In this regard, the sale, transfer, or conveyance of more than fifty percent (50%) of the shares of voting stock of Franchisee to any one person or entity shall be considered an assignment.

SECTION 11 - Insurance

Franchisee, as a condition under this document, shall furnish and maintain comprehensive general liability insurance coverage in coverage amount not less than \$2,000,000, single limit, under a policy

issued by an insurer acceptable to the City. Such policy shall be in a form satisfactory to the City and shall name the City as additional insured against any liability for personal injury, death, or property damage arising directly or indirectly from the collection or disposal services to be performed by Franchisee. Any lapse in the coverage required in this paragraph shall result in an automatic and immediate suspension of the franchise rights granted Franchisee hereunder. Franchisee shall provide acceptable documentation to the City of Workers Compensation Insurance.

SECTION 12 - Nonexclusivity

The franchise rights granted hereunder shall be non-exclusive, and the City may at any time and from time to time award similar franchise rights to other persons or entities. This Franchise is the grant of a non-exclusive franchise pursuant to Section 220 of the Constitution of Alabama.

SECTION 13 - No Agency

Franchisee shall be an independent contractor and not the agent of the City for any purpose. The City assumes no responsibility for the collection of fees or other debts owed to Franchisee.

SECTION 14 - Term

This franchise shall become effective upon its adoption by the City Council and when Franchisee files its acceptance, attached hereto as Exhibit A, and furnishes proof that it has complied with all of the terms of this Franchise. This Franchise shall expire, unless sooner terminated or extended in writing after the approval of the City, on December 31, 2026.

SECTION 15 - Consideration for Franchise Rights

As consideration for the franchise rights granted hereunder and unless and until increased or amended as provided in this paragraph, Franchisee shall pay to the City an annual franchise fee equal to three percent (3%) of Franchisee's gross receipts from charges for services rendered pursuant to this Franchise. Such franchise fee shall be paid to the City every three (3) months, with the first payment being due and payable three (3) months from the effective date of this Franchise. A late charge equal to ten percent (10%) of the amount due every three (3) months shall be assessed for each one to thirty-day (1-30) period said franchise fee is not paid after its due date.

The City reserves the right from time to time and at any time during the term of this Franchise to amend the terms hereof, to increase the amount of the franchise fee, to impose a franchise fee obligation in a set amount or to otherwise alter or amend the franchise fee obligation of Franchisee hereunder; provided, however, that Franchisee shall be given written notice of any such alteration or amendment and such alteration or amendment shall not take effect sooner than the date that is sixty (60) days after the date on which the notice is delivered to Franchisee or the first anniversary date of the effective date of this Franchise occurring after the giving of notice, whichever date is later. In the event of notification of an increase of the franchise fee hereunder or the imposition of a fee based on a percentage of Franchisee's receipts, Franchisee may elect in writing prior to the effective date of the franchise fee increase or amendment to terminate this Franchise as of the effective date of the franchise fee increase or amendment, in which case all rights and privileges of Franchisee shall terminate as of such date.

SECTION 16 - Permit Submittal

Copies of all applications for permits from board or agencies of the County, State, or Federal government having jurisdiction over any activities of the Franchisee in relation to this Franchise shall be provided to the City at the time of their submittal to the governing agency.

SECTION 17 - Complete Franchise

This Franchise sets out the complete conditions with respect to the subject matter hereof and may not be amended except in a writing whose execution by the City has been approved by Ordinance or formal resolution of the Municipal Council.

SECTION 18 - Compliance with ADEM and other State Reporting Requirements

The City is required to quarterly and annually submit full cost accounting of solid waste collections, etc., to the Baldwin County Commission and the Alabama Department of Environmental Management (ADEM). Franchisee shall submit all required and requested full cost accounting reports to the County Commission and ADEM by the requested deadline dates. Copies of these reports will be submitted simultaneously to the City, along with a full listing of all customer accounts.

SECTION 19 - Severability Clause

The provisions of this Ordinance are hereby declared to be severable. In the event any provision hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this Ordinance.

Tony Kennon, Mayor

ATTEST:

Renee Eberly, City Clerk

BISHOP ENTERPRISES, L.L.C.
Franchisee

By: _____

Its: _____

**ACCEPTANCE OF A FRANCHISE
IN THE CITY OF ORANGE BEACH, ALABAMA**

RECITALS:

1. The City of Orange Beach, Alabama ("City") by action of its City Council on February 4, 2025, adopted Resolution No. 25-xxx ("Resolution") approving a non-exclusive franchise for the use of the public streets to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris under the terms and conditions set out in the Franchise Agreement for Bishop Enterprises, L.L.C. ("Provider").
2. This Resolution requires the Provider to accept the terms of the Resolution in a form and substance acceptable to the City.

NOW, THEREFORE, pursuant to the terms and requirements of the Resolution, and in consideration of the City's approval of the Franchise, Provider accepts the Franchise and makes the following representations and warranties to the City:

1. Provider is authorized to do business in Alabama and has full power, authority, and legal capacity to execute, deliver, and perform this Acceptance and perform the terms and conditions of the Franchise;
2. All actions necessary to authorize the execution and delivery of this Acceptance and the performance of the Franchise, have been duly authorized;
3. Provider has carefully read the terms and conditions of the Franchise and accepts all of the terms and conditions imposed thereunder, and agrees to abide by the same;
4. Provider acknowledges by acceptance of the Franchise that it has not been induced to accept the Franchise by reason of any promise, verbal or written, by or on behalf of the City, or by any third person, regarding any term or condition of the Franchise not expressed therein;
5. The Provider agrees to comply with all of the terms and conditions of the City's Ordinances and other laws and rules applicable to Providers' business;
6. Provider will immediately notify the City if it be engages in an activity that is neither contemplated nor authorized under the terms of the Agreement; and
7. Concurrent with this acceptance of the Agreement, Provider agrees to perform the following tasks within thirty (30) days of the adoption of the Resolution and any necessary publication, unless another date is specified in the Agreement:
 - A. Pay all required application fees required under the terms of the Agreement;
 - B. Pay the costs of any necessary publication;
 - C. File a certificate of insurance as required under the terms of the Agreement; and
 - D. Acquire a business license from the City of Orange Beach.

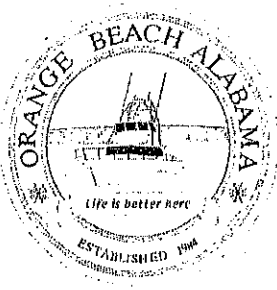
Failure to perform all such actions within a timely manner shall be deemed to be a rejection and repudiation of the Franchise Agreement.

Dated: _____

BISHOP ENTERPRISES, L.L.C.

By: _____

Its: _____



CITY of ORANGE BEACH
FRANCHISE APPLICATION

☐ NEW
☒ RENEWAL

Business Name Bishop Enterprises LLC
Applicant's Name Bishop Enterprises LLC / Deborah Bishop
Mailing Address P.O. Box 987, Semmes AL 36575
Physical Address Office 4275 Frank Maples Rd. Eight Mile 36613
Telephone (251) 645-4069 E-Mail ginger@cls-midway.com
Type of Franchise Requested Roll off Dumpster Service

Owner/Officers	Address	DOB
<u>Deborah Bishop-member</u>	<u>PO Box 987 Semmes, AL 36575</u>	<u>10/15/65</u>
<u>Gary Bishop Sr-member</u>	<u>" "</u>	<u>8/22/59</u>

\$250.00 NON-REFUNDABLE APPLICATION FEE SHALL BE PAID WITH APPLICATION

DATE PAID 1/8/25

1. Attach a copy of proof of insurance showing City of Orange Beach as additional insured.
2. Attach a financial statement showing in detail applicant's current financial condition.

Applicant agrees to pay all costs and expenses incurred by the City in preparation of the Franchise agreement and the enactment of the enabling ordinance, to include attorney's fees for drafting of the Franchise agreement.

APPLICANT UNDERSTANDS THAT THE FILING OF THIS APPLICATION DOES NOT, IN ITSELF, CONSTITUTE AUTHORITY TO OPERATE AND WILL SUBMIT SUCH ADDITIONAL INFORMATION IN CONNECTION WITH THIS APPLICATION AS THE COUNCIL MAY REQUIRE

Applicant Signature Deborah Bishop Date 12/30/24



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

01/16/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Valent Group, LLC 1110 Montlilar Drive Suite 400 Mobile AL 36609		CONTACT NAME: Danelle Stokes PHONE (A/C, No, Ext): E-MAIL ADDRESS: dstokes@valentgroup.com FAX (A/C, No):															
INSURED Bishop Enterprises, LLC P O Box 987 Semmes AL 36575		INSURER(S) AFFORDING COVERAGE <table border="1"><thead><tr><th>INSURER</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A: Benchmark Ins Co</td><td>41394</td></tr><tr><td>INSURER B: Starr Indemnity & Liability Company</td><td>38318</td></tr><tr><td>INSURER C: Midwest Employers Casualty Company</td><td>23612</td></tr><tr><td>INSURER D: Ironshore Specialty Insurance Company</td><td>25445</td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></tbody></table>		INSURER	NAIC #	INSURER A: Benchmark Ins Co	41394	INSURER B: Starr Indemnity & Liability Company	38318	INSURER C: Midwest Employers Casualty Company	23612	INSURER D: Ironshore Specialty Insurance Company	25445	INSURER E:		INSURER F:	
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INSURER E:																	
INSURER F:																	

COVERAGES**CERTIFICATE NUMBER:** (25-26 Bishop)**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Contractual Liability included ☒ 30 day NOC applies GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:	Y		GLP00953	07/01/2024	07/01/2025	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	Y		BAP00951	07/01/2024	07/01/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	☒ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 0	Y		1000587208241	07/01/2024	07/01/2025	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 Prod-Comp/Ops Aggr \$ 5,000,000
	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y ☒ N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		MA237-3-2025-AL/EWC009234	01/01/2025	12/31/2025	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Contractors Pollution Liability (5,000 ded per occur)			ICELLUW00160137	09/20/2024	09/20/2025	occurrence \$ 1,000,000 aggregate \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is listed as an additional insured as required by written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of Orange Beach P.O. Box 458 Orange Beach AL 36561	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Charlie Huntzinger, Jr.</i>
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**ADDITIONAL REMARKS SCHEDULE**Page 2 of 2

AGENCY Valent Group, LLC		NAMED INSURED Bishop Enterprises, LLC	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance: Additional Coverages

Commercial Inland Marine- Occurrence
Issuing Company: XL Specialty Insurance Company
NAIC: 37885
Policy Number: UM00025709MA24A
Policy Period: 07/01/2024 to 07/01/2025

Leased/Rented Equipment
\$250,000 per item
\$250,000 aggregate
\$1,000 deductible

Installation Coverage:
\$750,000 Covered Property Any Job Site
\$500,000 Temporary Premises
\$500,000 Transit
\$2,500 deductible



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing a franchise for TBD Construction, LLC, dba Big Red, to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris. (TC)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 02-04-25 25-xxx Authorize Franchise Solid Waste TBD Construction Big Red
2. 2025.01.16 Franchise Application - Solid Waste - TBD Construction Big Red_public

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING A FRANCHISE RENEWAL FOR
TBD CONSTRUCTION, LLC (DBA BIG RED)
TO REMOVE AND DISPOSE OF COMMERCIAL SOLID WASTE AND
TO REMOVE AND TRANSPORT CONSTRUCTION AND DEMOLITION DEBRIS**

FINDINGS:

1. TBD Construction, LLC, an Alabama limited liability company doing business as Big Red, has made application for a non-exclusive franchise for the use of city streets to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris from construction projects.
2. The City of Orange Beach is willing to grant a non-exclusive franchise on the terms and conditions set out in the attached Franchise Agreement.

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 franchise agreement by and between the City of Orange Beach and TBD Construction, LLC, dba Big Red Container, subject to final review by the City Attorney; and
2. That TBD Construction, LLC, dba Big Red Container, within 30 days, shall file its acceptance of the terms of the franchise in the form attached.

ADOPTED THIS 4th DAY OF FEBRUARY, 2025.

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. 25-xxx, which was duly and legally adopted at a regular meeting of the City Council on February 4, 2025.

City Clerk

**FRANCHISE AGREEMENT AUTHORIZING
TBD CONSTRUCTION, LLC (DBA BIG RED CONTAINER)
TO COLLECT COMMERCIAL SOLID WASTE AND CONSTRUCTION DEBRIS
IN THE CITY AND ITS POLICE JURISDICTION**

SECTION 1 - Non-Exclusive Franchise Granted

The City of Orange Beach hereby grants to **TBD CONSTRUCTION, LLC, dba BIG RED** (hereinafter called the Franchisee) a non-exclusive franchise to use of streets and public places for the collection and disposal of Commercial Solid Waste and the removal and transportation of Construction and Demolition Debris, under the terms and conditions hereinafter set out.

SECTION 2 - Definitions

As used in this franchise, the following terms shall have the meaning assigned as follows:

ADMINISTRATOR shall mean the City Administrator of Orange Beach or his/her designee.

APPROVED CONTAINER shall mean an enclosed container usually constructed of metal with a close fitting cover or doors with a capacity in excess of one (1) cubic yard, approved by the County Health Department which is used to store large volumes of Solid Waste for collection.

BUSINESS shall mean all commercial establishments, including, but not limited to motels, hotels, recreational vehicle rental space(s), stores, office buildings, irrespective of the form of ownership, restaurants, service stations and garages, laundry and cleaning establishments, industrial establishments and all other places not classified as “residential premises” or a “residential unit” that produce or accumulate solid waste, including adjacent unimproved property.

CITY shall mean the City of Orange Beach, a political subdivision of the State of Alabama.

COLLECTION shall mean the act of removing material from a construction or demolition site.

COLLECTOR shall mean the entity authorized by this ordinance to engage in the collection and transportation of Construction and Demolition Debris.

COMMERCIAL DEMOLITION DEBRIS shall mean material from a construction or demolition site mixed with other types of solid waste. This debris shall be handled as Business and not Residential.

COMMERCIAL SOLID WASTE shall mean garbage, rubbish, yard waste or trash, clean debris, “white” goods, construction and demolition waste or other discarded material or refuse, other than Residential.

CONSTRUCTION AND DEMOLITION DEBRIS shall mean materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to steel, glass, brick, concrete, asphalt roofing materials, pipe, gypsum wallboard, and lumber, from a construction or demolition project and including rocks, soils, tree remains, trees (all diameters), and other vegetative matter which normally results from land clearing operations. Mixing of Construction and Demolition Debris with other types of Solid Waste, including material from a construction or demolition site which is not from the actual construction or destruction of a structure, will cause it to be classified as Commercial Demolition Debris.

COUNCIL shall mean the City Council of the City of Orange Beach, Alabama.

CUSTOMER shall mean any person or persons, firm, corporation or association who/which contracts with the Collector for collection and disposal of Commercial Solid Waste and/or Construction and Demolition Debris for a fee.

DISPOSAL FACILITY shall mean the Magnolia Landfill located in the County, or if not available, to any other Solid Waste Facility or Solid Waste Management Facility designated as a RCRA Subtitle D site or one operating under Subtitle D regulations in Alabama, Mississippi or Florida.

HAZARDOUS WASTE shall mean Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed and including any materials specifically designated by state or federal agencies.

HOUSEHOLD WASTE shall mean any combination of refuse usual to housekeeping and generated solely by residents in the ordinary course of residential occupancy of a premises, excluding major appliances, such as stoves and refrigerators, furniture, automobile bodies and parts, tires, household and yard appliances, and other bulky items not suitable for proper confinement in the garbage receptacle.

PUTRESCIBLE WASTE shall mean food waste or garbage that will rot or decay producing foul odors or attract vectors. Putrescible waste includes containers that are contaminated by such waste.

RESIDENTIAL WASTE shall mean Garbage, Rubbish, and Recyclable Materials resulting from the normal housekeeping activities of a Residential Unit.

SOLID WASTE shall mean Garbage, Rubbish, Yard Waste or Trash, Clean Debris, "White" Goods, Construction and Demolition Waste or other discarded material or refuse.

SPECIAL WASTES shall mean Solid Waste that requires special handling and management, including, but not limited to, whole tires, used oil, lead acid batteries, and Biological Wastes.

WHITE GOODS shall mean refrigerators, ranges, water heaters, freezers and other large appliances.

YARD WASTE shall mean material resulting from landscape maintenance, including but not limited to grass clippings, leaves, twigs, small trees (6" diameter or less), etc., and material not resulting from land-clearing operations.

SECTION 3 - Service Undertaking

The Franchisee shall offer services solely for the collection and disposal of Commercial Solid Waste and Construction and Demolition Debris to persons located within the corporate limits of the City and its police jurisdiction. Upon request, a Franchisee shall provide to the City's Finance Department, a listing of customers, service location, frequency of pickup and types of service provided, as well as, franchisee telephone numbers and contact personnel.

SECTION 4 - Equipment

Franchisee shall utilize such trucks or other collection equipment and/or vehicles necessary and approved by the City's Public Works Director for the collection and disposal of Commercial Solid Waste. Vehicles utilized by Franchisee shall be so covered, secured or sealed that there will be no loss during haulage to cause littering of streets and highways, or cause a nuisance or hazard to the public health. Franchisee shall utilize an adequate number of collection vehicles and/or equipment based on number of customers and solid waste generated. In the event the City in its discretion determines that an adequate number or type of vehicles or equipment is not being utilized by Franchisee, it shall so notify Franchisee in writing. All vehicles or equipment utilized by Franchisee shall be maintained in a safe and clean operating condition, and the City at its convenience may inspect such vehicles or equipment from time to time. The collection containers provided by Franchisee shall be maintained by Franchisee in good repair and in a sanitary condition.

SECTION 5 - Frequency of Collection

Franchisee shall begin and complete scheduled collections of Commercial Solid Waste and Construction and Demolition Debris at a time that shall be mutually agreed between Customer and Franchisee. Collection containers provided by Franchisee shall be in a sanitary condition and equipped so that contents will not fall out.

SECTION 6 - Compliance with Collection and Disposal Laws and Regulations

Franchisee shall dispose of all solid waste collected by it in accordance with all applicable federal, state, county, and municipal laws, ordinances, rules and regulations pertaining to the collection of disposal of such waste material. Specifically, but without limitation, such waste shall be disposed of only in a disposal facility duly licensed and permitted by all governmental entities and agencies having jurisdiction with respect to such site and Franchisee shall comply with all reporting requirements of all governmental entities and agencies having jurisdiction. Upon request, Franchisee shall provide the City with copies of any and all such reports.

SECTION 7 - Books and Records of Franchisee

The books and records of Franchisee relevant to its collection and disposal services in the service area shall be available for inspection or audit by the City during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday, legal holidays excepted. If such books and records are not regularly maintained by Franchisee within the corporate limits of the City, Franchisee shall present such books and records for inspection or audit at the Municipal Complex upon twenty-four (24) hours oral or written demand for inspection or audit. In addition, upon request, Franchisee shall provide to the City a customer listing, frequency of collection, quantity of waste collected, and any other necessary reports or documentation, to meet ADEM reporting requirements.

The accounting system utilized by the Franchisee shall be in accordance with generally accepted accounting principles. Franchisee shall provide the City with an acceptable detailed annual operating statement or consolidated operating statement within forty-five (45) days after the end of each of Franchisee's fiscal year during the term of this Franchise.

SECTION 8 - Cause for Cancellation

The City shall have the right to cancel this Franchise for cause, including, without limitation, insufficiency or irregularity of services, financial irregularities, violation of governmental law, ordinance, rule or regulation, or other misfeasance, malfeasance, or nonfeasance in the provision of services under this Franchise or breach of the terms and conditions herein. In the event the City believes cause for termination exists, it will give written notice to Franchisee of the basis on which it believes cause for termination exists and will give Franchisee an opportunity to appear before a regular or special meeting of the Municipal Council to present any evidence or explanation of the existence of cause for termination. Following such presentation, the City may elect to terminate this Franchise, may elect to continue this Franchise, either as written or under probationary conditions, or may elect such other action as may be in the best interest of the City. Franchisee shall be given written notice of the action of the Council, and no termination shall become effective earlier than thirty (30) days following the giving of such notice.

SECTION 9 - Indemnification

The Franchisee shall indemnify and hold the City, its elected and appointed officials, officers, agents, servants, and employees harmless from any and all claims or demands (including reasonable attorneys fees) of whatever kind or character arising directly or indirectly, proximately or remotely, from the operation of solid waste collection activities by Franchisee.

SECTION 10 - No Assignment or Transfer

This Franchise nor the rights of Franchisee hereunder may not be sold, assigned, pledged or transferred in whole or in part by Franchisee. In this regard, the sale, transfer, or conveyance of more than fifty percent (50%) of the shares of voting stock of Franchisee to any one person or entity shall be considered an assignment.

SECTION 11 - Insurance

Franchisee, as a condition under this document, shall furnish and maintain comprehensive general liability insurance coverage in coverage amount not less than \$2,000,000, single limit, under a policy

issued by an insurer acceptable to the City. Such policy shall be in a form satisfactory to the City and shall name the City as additional insured against any liability for personal injury, death, or property damage arising directly or indirectly from the collection or disposal services to be performed by Franchisee. Any lapse in the coverage required in this paragraph shall result in an automatic and immediate suspension of the franchise rights granted Franchisee hereunder. Franchisee shall provide acceptable documentation to the City of Workers Compensation Insurance.

SECTION 12 - Nonexclusivity

The franchise rights granted hereunder shall be non-exclusive, and the City may at any time and from time to time award similar franchise rights to other persons or entities. This Franchise is the grant of a non-exclusive franchise pursuant to Section 220 of the Constitution of Alabama.

SECTION 13 - No Agency

Franchisee shall be an independent contractor and not the agent of the City for any purpose. The City assumes no responsibility for the collection of fees or other debts owed to Franchisee.

SECTION 14 - Term

This franchise shall become effective upon its adoption by the City Council and when Franchisee files its acceptance, attached hereto as Exhibit A, and furnishes proof that it has complied with all of the terms of this Franchise. This Franchise shall expire, unless sooner terminated or extended in writing after the approval of the City, on December 31, 2020.

SECTION 15 - Consideration for Franchise Rights

As consideration for the franchise rights granted hereunder and unless and until increased or amended as provided in this paragraph, Franchisee shall pay to the City an annual franchise fee equal to three percent (3%) of Franchisee's gross receipts from charges for services rendered pursuant to this Franchise. Such franchise fee shall be paid to the City every three (3) months, with the first payment being due and payable three (3) months from the effective date of this Franchise. A late charge equal to ten percent (10%) of the amount due every three (3) months shall be assessed for each one to thirty-day (1-30) period said franchise fee is not paid after its due date.

The City reserves the right from time to time and at any time during the term of this Franchise to amend the terms hereof, to increase the amount of the franchise fee, to impose a franchise fee obligation in a set amount or to otherwise alter or amend the franchise fee obligation of Franchisee hereunder; provided, however, that Franchisee shall be given written notice of any such alteration or amendment and such alteration or amendment shall not take effect sooner than the date that is sixty (60) days after the date on which the notice is delivered to Franchisee or the first anniversary date of the effective date of this Franchise occurring after the giving of notice, whichever date is later. In the event of notification of an increase of the franchise fee hereunder or the imposition of a fee based on a percentage of Franchisee's receipts, Franchisee may elect in writing prior to the effective date of the franchise fee increase or amendment to terminate this Franchise as of the effective date of the franchise fee increase or amendment, in which case all rights and privileges of Franchisee shall terminate as of such date.

SECTION 16 - Permit Submittal

Copies of all applications for permits from board or agencies of the County, State, or Federal government having jurisdiction over any activities of the Franchisee in relation to this Franchise shall be provided to the City at the time of their submittal to the governing agency.

SECTION 17 - Complete Franchise

This Franchise sets out the complete conditions with respect to the subject matter hereof and may not be amended except in a writing whose execution by the City has been approved by Ordinance or formal resolution of the Municipal Council.

SECTION 18 - Compliance with ADEM and other State Reporting Requirements

The City is required to quarterly and annually submit full cost accounting of solid waste collections, etc., to the Baldwin County Commission and the Alabama Department of Environmental Management (ADEM). Franchisee shall submit all required and requested full cost accounting reports to the County Commission and ADEM by the requested deadline dates. Copies of these reports will be submitted simultaneously to the City, along with a full listing of all customer accounts.

SECTION 19 - Severability Clause

The provisions of this Ordinance are hereby declared to be severable. In the event any provision hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this Ordinance.

ATTEST:

Tony Kennon, Mayor

Renee Eberly, City Clerk

TBD CONSTRUCTION, LLC
dba BIG RED
Franchisee

By: _____

Its: _____

**ACCEPTANCE OF A FRANCHISE
IN THE CITY OF ORANGE BEACH, ALABAMA**

RECITALS:

1. The City of Orange Beach, Alabama ("City") by action of its City Council on February 4, 2025, adopted Resolution No. 25-xxx ("Resolution") approving a non-exclusive franchise for the use of the public streets to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris under the terms and conditions set out in the Franchise Agreement for TBD Construction, LLC, dba Big Red ("Provider").
2. This Resolution requires the Provider to accept the terms of the Resolution in a form and substance acceptable to the City.

NOW, THEREFORE, pursuant to the terms and requirements of the Resolution, and in consideration of the City's approval of the Franchise, Provider accepts the Franchise and makes the following representations and warranties to the City:

1. Provider is authorized to do business in Alabama and has full power, authority, and legal capacity to execute, deliver, and perform this Acceptance and perform the terms and conditions of the Franchise;
2. All actions necessary to authorize the execution and delivery of this Acceptance and the performance of the Franchise, have been duly authorized;
3. Provider has carefully read the terms and conditions of the Franchise and accepts all of the terms and conditions imposed thereunder, and agrees to abide by the same;
4. Provider acknowledges by acceptance of the Franchise that it has not been induced to accept the Franchise by reason of any promise, verbal or written, by or on behalf of the City, or by any third person, regarding any term or condition of the Franchise not expressed therein;
5. The Provider agrees to comply with all of the terms and conditions of the City's Ordinances and other laws and rules applicable to Providers' business;
6. Provider will immediately notify the City if it be engages in an activity that is neither contemplated nor authorized under the terms of the Agreement; and
7. Concurrent with this acceptance of the Agreement, Provider agrees to perform the following tasks within thirty (30) days of the adoption of the Resolution and any necessary publication, unless another date is specified in the Agreement:
 - A. Pay all required application fees required under the terms of the Agreement;
 - B. Pay the costs of any necessary publication;
 - C. File a certificate of insurance as required under the terms of the Agreement; and
 - D. Acquire a business license from the City of Orange Beach.

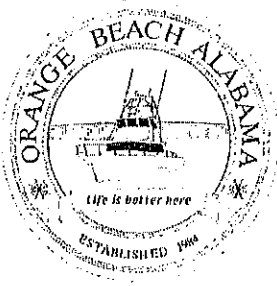
Failure to perform all such actions within a timely manner shall be deemed to be a rejection and repudiation of the Franchise Agreement.

Dated: _____

TBD CONSTRUCTION, LLC
dba BIG RED

By: _____

Its: _____



CITY of ORANGE BEACH
FRANCHISE APPLICATION

☐ NEW
☒ RENEWAL

Business Name TBD Construction LLC (dba Big Red)
Applicant's Name Dan Mize
Mailing Address 15251 CR-49 Summerdale AL 36580
Physical Address Office 15251 CR-49 Summerdale AL 36580
Telephone 251-990-5047 E-Mail danmize@rentbigred.com
Type of Franchise Requested _____

Owner/Officers	Address	DOB
<u>Andy Luedecke</u>	<u>6803 North Winding Brook Dr Daphne AL 36526</u>	<u>06/03/1976</u>
<u>Chris Dowhan</u>	<u>919 Sea Cliff Dr Fairhope AL 36532</u>	<u>07/29/1968</u>

\$250.00 NON-REFUNDABLE APPLICATION FEE SHALL BE PAID WITH APPLICATION

DATE PAID 01-15-2025

1. Attach a copy of proof of insurance showing City of Orange Beach as additional insured.
2. Attach a financial statement showing in detail applicant's current financial condition.

Applicant agrees to pay all costs and expenses incurred by the City in preparation of the Franchise agreement and the enactment of the enabling ordinance, to include attorney's fees for drafting of the Franchise agreement.

APPLICANT UNDERSTANDS THAT THE FILING OF THIS APPLICATION DOES NOT, IN ITSELF, CONSTITUTE AUTHORITY TO OPERATE AND WILL SUBMIT SUCH ADDITIONAL INFORMATION IN CONNECTION WITH THIS APPLICATION AS THE COUNCIL MAY REQUIRE.

Applicant Signature Ralph D. Mize Date 01-14-2025

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/09/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER Propel Insurance 151 Major Reynolds Place; Ste 210 Knoxville, TN 37919		CONTACT NAME: Hayli Dunn PHONE (A/C, No, Ext): 800 499-0933 FAX (A/C, No): 866 577-1326 E-MAIL ADDRESS: hayli.dunn@propelinsurance.com	
INSURED TBD Construction LLC 15251 County Road 49 Summerdale, AL 36580		INSURER(S) AFFORDING COVERAGE INSURER A: Auto-Owners Insurance Company NAIC #: 18988 INSURER B: Bridgefield Casualty Insurance Company 10335 INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

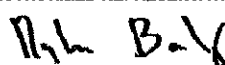
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			38857789	06/04/2024	06/04/2025	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$300,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS NON-OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY			5285778900	06/04/2024	06/04/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			5285778901	06/04/2024	06/04/2025	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? ☒ Y ☒ N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	019661008	06/04/2024	06/04/2025	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is included as additional insured in regards to general liability when required in written contract

CERTIFICATE HOLDER

CANCELLATION

City of Orange Beach 4099 Orange Beach Boulevard Orange Beach, AL 36561	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing a franchise for BFI Waste Services, LLC, dba Republic Services of Magnolia Springs, to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris. (TC)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 02-04-25 25-xxx Authorize Franchise Renewal Solid Waste BFI Waste Services Republic Services of Magnolia
2. 2025.01.16 Franchise Renewal - Solid Waste - BFI Waste Services Republic Services of Magnolia Springs_public

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING A FRANCHISE FOR
BFI WASTE SERVICES, LLC (DBA REPUBLIC SERVICES OF MAGNOLIA SPRINGS)
TO REMOVE AND DISPOSE OF COMMERCIAL SOLID WASTE AND
TO REMOVE AND TRANSPORT CONSTRUCTION AND DEMOLITION DEBRIS**

FINDINGS:

1. BFI Waste Services, LLC, an Alabama limited liability company doing business as Republic Services of Magnolia Springs, has made application for a non-exclusive franchise for the use of city streets to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris from construction projects.
2. The City of Orange Beach is willing to grant a non-exclusive franchise on the terms and conditions set out in the attached Franchise Agreement.

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 franchise agreement by and between the City of Orange Beach and BFI Waste Services, LLC, dba Republic Services of Magnolia Springs, subject to final review by the City Attorney; and
2. That BFI Waste Services, LLC, dba Republic Services of Magnolia Springs, within 30 days, shall file its acceptance of the terms of the franchise in the form attached.

ADOPTED THIS 4th DAY OF FEBRUARY, 2025.

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. 25-xxx, which was duly and legally adopted at a regular meeting of the City Council on February 4, 2025.

City Clerk

**FRANCHISE AGREEMENT AUTHORIZING
BFI WASTE SERVICES, LLC (DBA REPUBLIC SERVICES OF MAGNOLIA SPRINGS)
TO COLLECT COMMERCIAL SOLID WASTE AND CONSTRUCTION DEBRIS
IN THE CITY AND ITS POLICE JURISDICTION**

SECTION 1 - Non-Exclusive Franchise Granted

The City of Orange Beach hereby grants to **BFI WASTE SERVICES, LLC, dba REPUBLIC SERVICES OF MAGNOLIA SPRINGS** (hereinafter called the Franchisee) a non-exclusive franchise to use of streets and public places for the collection and disposal of Commercial Solid Waste and the removal and transportation of Construction and Demolition Debris, under the terms and conditions hereinafter set out.

SECTION 2 - Definitions

As used in this franchise, the following terms shall have the meaning assigned as follows:

ADMINISTRATOR shall mean the City Administrator of Orange Beach or his/her designee.

APPROVED CONTAINER shall mean an enclosed container usually constructed of metal with a close fitting cover or doors with a capacity in excess of one (1) cubic yard, approved by the County Health Department which is used to store large volumes of Solid Waste for collection.

BUSINESS shall mean all commercial establishments, including, but not limited to motels, hotels, recreational vehicle rental space(s), stores, office buildings, irrespective of the form of ownership, restaurants, service stations and garages, laundry and cleaning establishments, industrial establishments and all other places not classified as “residential premises” or a “residential unit” that produce or accumulate solid waste, including adjacent unimproved property.

CITY shall mean the City of Orange Beach, a political subdivision of the State of Alabama.

COLLECTION shall mean the act of removing material from a construction or demolition site.

COLLECTOR shall mean the entity authorized by this ordinance to engage in the collection and transportation of Construction and Demolition Debris.

COMMERCIAL DEMOLITION DEBRIS shall mean material from a construction or demolition site mixed with other types of solid waste. This debris shall be handled as Business and not Residential.

COMMERCIAL SOLID WASTE shall mean garbage, rubbish, yard waste or trash, clean debris, “white” goods, construction and demolition waste or other discarded material or refuse, other than Residential.

CONSTRUCTION AND DEMOLITION DEBRIS shall mean materials generally considered to be not water soluble and non-hazardous in nature, including, but not limited to steel, glass, brick, concrete, asphalt roofing materials, pipe, gypsum wallboard, and lumber, from a construction or demolition project and including rocks, soils, tree remains, trees (all diameters), and other vegetative matter which normally results from land clearing operations. Mixing of Construction and Demolition Debris with other types of Solid Waste, including material from a construction or demolition site which is not from the actual construction or destruction of a structure, will cause it to be classified as Commercial Demolition Debris.

COUNCIL shall mean the City Council of the City of Orange Beach, Alabama.

CUSTOMER shall mean any person or persons, firm, corporation or association who/which contracts with the Collector for collection and disposal of Commercial Solid Waste and/or Construction and Demolition Debris for a fee.

DISPOSAL FACILITY shall mean the Magnolia Landfill located in the County, or if not available, to any other Solid Waste Facility or Solid Waste Management Facility designated as a RCRA Subtitle D site

or one operating under Subtitle D regulations in Alabama, Mississippi or Florida.

HAZARDOUS WASTE shall mean Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed and including any materials specifically designated by state or federal agencies.

HOUSEHOLD WASTE shall mean any combination of refuse usual to housekeeping and generated solely by residents in the ordinary course of residential occupancy of a premises, excluding major appliances, such as stoves and refrigerators, furniture, automobile bodies and parts, tires, household and yard appliances, and other bulky items not suitable for proper confinement in the garbage receptacle.

PUTRESCIBLE WASTE shall mean food waste or garbage that will rot or decay producing foul odors or attract vectors. Putrescible waste includes containers that are contaminated by such waste.

RESIDENTIAL WASTE shall mean Garbage, Rubbish, and Recyclable Materials resulting from the normal housekeeping activities of a Residential Unit.

SOLID WASTE shall mean Garbage, Rubbish, Yard Waste or Trash, Clean Debris, "White" Goods, Construction and Demolition Waste or other discarded material or refuse.

SPECIAL WASTES shall mean Solid Waste that requires special handling and management, including, but not limited to, whole tires, used oil, lead acid batteries, and Biological Wastes.

WHITE GOODS shall mean refrigerators, ranges, water heaters, freezers and other large appliances.

YARD WASTE shall mean material resulting from landscape maintenance, including but not limited to grass clippings, leaves, twigs, small trees (6" diameter or less), etc., and material not resulting from land-clearing operations.

SECTION 3 - Service Undertaking

The Franchisee shall offer services solely for the collection and disposal of Commercial Solid Waste and Construction and Demolition Debris to persons located within the corporate limits of the City and its police jurisdiction. Upon request, a Franchisee shall provide to the City's Finance Department, a listing of customers, service location, frequency of pickup and types of service provided, as well as, franchisee telephone numbers and contact personnel.

SECTION 4 - Equipment

Franchisee shall utilize such trucks or other collection equipment and/or vehicles necessary and approved by the City's Public Works Director for the collection and disposal of Commercial Solid Waste. Vehicles utilized by Franchisee shall be so covered, secured or sealed that there will be no loss during haulage to cause littering of streets and highways, or cause a nuisance or hazard to the public health. Franchisee shall utilize an adequate number of collection vehicles and/or equipment based on number of customers and solid waste generated. In the event the City in its discretion determines that an adequate number or type of vehicles or equipment is not being utilized by Franchisee, it shall so notify Franchisee in writing. All vehicles or equipment utilized by Franchisee shall be maintained in a safe and clean operating condition, and the City at its convenience may inspect such vehicles or equipment from time to time. The collection containers provided by Franchisee shall be maintained by Franchisee in good repair and in a sanitary condition.

SECTION 5 - Frequency of Collection

Franchisee shall begin and complete scheduled collections of Commercial Solid Waste and Construction and Demolition Debris at a time that shall be mutually agreed between Customer and Franchisee. Collection containers provided by Franchisee shall be in a sanitary condition and equipped so that

contents will not fall out.

SECTION 6 - Compliance with Collection and Disposal Laws and Regulations

Franchisee shall dispose of all solid waste collected by it in accordance with all applicable federal, state, county, and municipal laws, ordinances, rules and regulations pertaining to the collection of disposal of such waste material. Specifically, but without limitation, such waste shall be disposed of only in a disposal facility duly licensed and permitted by all governmental entities and agencies having jurisdiction with respect to such site and Franchisee shall comply with all reporting requirements of all governmental entities and agencies having jurisdiction. Upon request, Franchisee shall provide the City with copies of any and all such reports.

SECTION 7 - Books and Records of Franchisee

The books and records of Franchisee relevant to its collection and disposal services in the service area shall be available for inspection or audit by the City during the hours of 8:00 a.m. to 4:00 p.m. Monday through Friday, legal holidays excepted. If such books and records are not regularly maintained by Franchisee within the corporate limits of the City, Franchisee shall present such books and records for inspection or audit at the Municipal Complex upon twenty-four (24) hours oral or written demand for inspection or audit. In addition, upon request, Franchisee shall provide to the City a customer listing, frequency of collection, quantity of waste collected, and any other necessary reports or documentation, to meet ADEM reporting requirements.

The accounting system utilized by the Franchisee shall be in accordance with generally accepted accounting principles. Franchisee shall provide the City with an acceptable detailed annual operating statement or consolidated operating statement within forty-five (45) days after the end of each of Franchisee's fiscal year during the term of this Franchise.

SECTION 8 - Cause for Cancellation

The City shall have the right to cancel this Franchise for cause, including, without limitation, insufficiency or irregularity of services, financial irregularities, violation of governmental law, ordinance, rule or regulation, or other misfeasance, malfeasance, or nonfeasance in the provision of services under this Franchise or breach of the terms and conditions herein. In the event the City believes cause for termination exists, it will give written notice to Franchisee of the basis on which it believes cause for termination exists and will give Franchisee an opportunity to appear before a regular or special meeting of the Municipal Council to present any evidence or explanation of the existence of cause for termination. Following such presentation, the City may elect to terminate this Franchise, may elect to continue this Franchise, either as written or under probationary conditions, or may elect such other action as may be in the best interest of the City. Franchisee shall be given written notice of the action of the Council, and no termination shall become effective earlier than thirty (30) days following the giving of such notice.

SECTION 9 - Indemnification

The Franchisee shall indemnify and hold the City, its elected and appointed officials, officers, agents, servants, and employees harmless from any and all claims or demands (including reasonable attorneys fees) of whatever kind or character arising directly or indirectly, proximately or remotely, from the operation of solid waste collection activities by Franchisee.

SECTION 10 - No Assignment or Transfer

This Franchise nor the rights of Franchisee hereunder may not be sold, assigned, pledged or transferred in whole or in part by Franchisee. In this regard, the sale, transfer, or conveyance of more than fifty percent (50%) of the shares of voting stock of Franchisee to any one person or entity shall be considered an assignment.

SECTION 11 - Insurance

Franchisee, as a condition under this document, shall furnish and maintain comprehensive general liability insurance coverage in coverage amount not less than \$2,000,000, single limit, under a policy issued by an insurer acceptable to the City. Such policy shall be in a form satisfactory to the City and shall name the City as additional insured against any liability for personal injury, death, or property damage arising directly or indirectly from the collection or disposal services to be performed by Franchisee. Any lapse in the coverage required in this paragraph shall result in an automatic and immediate suspension of the franchise rights granted Franchisee hereunder. Franchisee shall provide acceptable documentation to the City of Workers Compensation Insurance.

SECTION 12 - Nonexclusivity

The franchise rights granted hereunder shall be non-exclusive, and the City may at any time and from time to time award similar franchise rights to other persons or entities. This Franchise is the grant of a non-exclusive franchise pursuant to Section 220 of the Constitution of Alabama.

SECTION 13 - No Agency

Franchisee shall be an independent contractor and not the agent of the City for any purpose. The City assumes no responsibility for the collection of fees or other debts owed to Franchisee.

SECTION 14 - Term

This franchise shall become effective upon its adoption by the City Council and when Franchisee files its acceptance, attached hereto as Exhibit A, and furnishes proof that it has complied with all of the terms of this Franchise. This Franchise shall expire, unless sooner terminated or extended in writing after the approval of the City, on December 31, 2026.

SECTION 15 - Consideration for Franchise Rights

As consideration for the franchise rights granted hereunder and unless and until increased or amended as provided in this paragraph, Franchisee shall pay to the City an annual franchise fee equal to three percent (3%) of Franchisee's gross receipts from charges for services rendered pursuant to this Franchise. Such franchise fee shall be paid to the City every three (3) months, with the first payment being due and payable three (3) months from the effective date of this Franchise. A late charge equal to ten percent (10%) of the amount due every three (3) months shall be assessed for each one to thirty-day (1-30) period said franchise fee is not paid after its due date.

The City reserves the right from time to time and at any time during the term of this Franchise to amend the terms hereof, to increase the amount of the franchise fee, to impose a franchise fee obligation in a set amount or to otherwise alter or amend the franchise fee obligation of Franchisee hereunder; provided, however, that Franchisee shall be given written notice of any such alteration or amendment and such alteration or amendment shall not take effect sooner than the date that is sixty (60) days after the date on which the notice is delivered to Franchisee or the first anniversary date of the effective date of this Franchise occurring after the giving of notice, whichever date is later. In the event of notification of an increase of the franchise fee hereunder or the imposition of a fee based on a percentage of Franchisee's receipts, Franchisee may elect in writing prior to the effective date of the franchise fee increase or amendment to terminate this Franchise as of the effective date of the franchise fee increase or amendment, in which case all rights and privileges of Franchisee shall terminate as of such date.

SECTION 16 - Permit Submittal

Copies of all applications for permits from board or agencies of the County, State, or Federal government having jurisdiction over any activities of the Franchisee in relation to this Franchise shall be provided to the City at the time of their submittal to the governing agency.

SECTION 17 - Complete Franchise

This Franchise sets out the complete conditions with respect to the subject matter hereof and may not be

amended except in a writing whose execution by the City has been approved by Ordinance or formal resolution of the Municipal Council.

SECTION 18 - Compliance with ADEM and other State Reporting Requirements

The City is required to quarterly and annually submit full cost accounting of solid waste collections, etc., to the Baldwin County Commission and the Alabama Department of Environmental Management (ADEM). Franchisee shall submit all required and requested full cost accounting reports to the County Commission and ADEM by the requested deadline dates. Copies of these reports will be submitted simultaneously to the City, along with a full listing of all customer accounts.

SECTION 19 - Severability Clause

The provisions of this Ordinance are hereby declared to be severable. In the event any provision hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this Ordinance.

ATTEST:

Tony Kennon, Mayor

Renee Eberly, City Clerk

BFI WASTE SERVICES, LLC
dba REPUBLIC SERVICES OF MAGNOLIA
SPRINGS
Franchisee

By: _____

Its: _____

**ACCEPTANCE OF A FRANCHISE
IN THE CITY OF ORANGE BEACH, ALABAMA**

RECITALS:

1. The City of Orange Beach, Alabama ("City") by action of its City Council on February 4, 2025, adopted Resolution No. 25-xxx ("Resolution") approving a non-exclusive franchise for the use of the public streets to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris under the terms and conditions set out in the Franchise Agreement for BFI Waste Services, LLC ("Provider").
2. This Resolution requires the Provider to accept the terms of the Resolution in a form and substance acceptable to the City.

NOW, THEREFORE, pursuant to the terms and requirements of the Resolution, and in consideration of the City's approval of the Franchise, Provider accepts the Franchise and makes the following representations and warranties to the City:

1. Provider is authorized to do business in Alabama and has full power, authority, and legal capacity to execute, deliver, and perform this Acceptance and perform the terms and conditions of the Franchise;
2. All actions necessary to authorize the execution and delivery of this Acceptance and the performance of the Franchise, have been duly authorized;
3. Provider has carefully read the terms and conditions of the Franchise and accepts all of the terms and conditions imposed thereunder, and agrees to abide by the same;
4. Provider acknowledges by acceptance of the Franchise that it has not been induced to accept the Franchise by reason of any promise, verbal or written, by or on behalf of the City, or by any third person, regarding any term or condition of the Franchise not expressed therein;
5. The Provider agrees to comply with all of the terms and conditions of the City's Ordinances and other laws and rules applicable to Providers' business;
6. Provider will immediately notify the City if it be engages in an activity that is neither contemplated nor authorized under the terms of the Agreement; and
7. Concurrent with this acceptance of the Agreement, Provider agrees to perform the following tasks within thirty (30) days of the adoption of the Resolution and any necessary publication, unless another date is specified in the Agreement:
 - A. Pay all required application fees required under the terms of the Agreement;
 - B. Pay the costs of any necessary publication;
 - C. File a certificate of insurance as required under the terms of the Agreement; and
 - D. Acquire a business license from the City of Orange Beach.

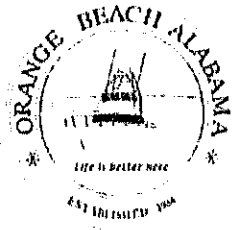
Failure to perform all such actions within a timely manner shall be deemed to be a rejection and repudiation of the Franchise Agreement.

Dated: _____

BFI WASTE SERVICES, LLC

By: _____

Its: _____



CITY of ORANGE BEACH
FRANCHISE APPLICATION

☐ NEW
☒ RENEWAL

Business Name BFI Waste Services LLC dba Republic Services of Magnolia Springs

Applicant's Name REPUBLIC SERVICES

Mailing Address 3720 Varner Drive, Mobile, AL 36693

Physical Address Office Same as above

Telephone 251-544-5337 E-Mail arodgers@republicservices.com

Type of Franchise Requested Commercial

Owner/Officers	Address	DOB
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See attached

\$250.00 NON-REFUNDABLE APPLICATION FEE SHALL BE PAID WITH APPLICATION

DATE PAID 1/13/25

1. Attach a copy of proof of insurance showing City of Orange Beach as additional insured.
2. Attach a financial statement showing in detail applicant's current financial condition.

Applicant agrees to pay all costs and expenses incurred by the City in preparation of the Franchise agreement and the enactment of the enabling ordinance, to include attorney's fees for drafting of the Franchise agreement.

APPLICANT UNDERSTANDS THAT THE FILING OF THIS APPLICATION DOES NOT, IN ITSELF, CONSTITUTE AUTHORITY TO OPERATE AND WILL SUBMIT SUCH ADDITIONAL INFORMATION IN CONNECTION WITH THIS APPLICATION AS THE COUNCIL MAY REQUIRE.

Applicant Signature [Signature] Date 12/29/24

12.20.16



CERTIFICATE OF LIABILITY INSURANCE

Page 1 of 3

DATE (MM/DD/YYYY)
06/30/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER CANNON COCHRAN MANAGEMENT SERVICES, INC. 17015 NORTH SCOTTSDALE ROAD SCOTTSDALE, AZ 85255	CONTACT NAME:	
	PHONE (A/C No.Ext):	FAX (A/C No.Ext):
INSURED REPUBLIC SERVICES, INC. 18500 N. ALLIED WAY PHOENIX, AZ 85064	E-MAIL ADDRESS: certficateam@ccmsi.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: ACE American Insurance Co.	
	INSURER B: Indemnity Insurance Co of North America	
	INSURER C: Illinois Union Insurance Company	
	INSURER D: ACE Property and Casualty Insurance Co.	
INSURER E:		
INSURER F:		

COVERAGES**CERTIFICATE NUMBER: 2468254****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC ☐ OTHER:			HDO G48921000	06/30/2024	06/30/2025	EACH OCCURRENCE \$ 10,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 10,000,000 MED EXP (Any one person) PERSONAL & ADV INJURY \$ 10,000,000 GENERAL AGGREGATE \$ 30,000,000 PRODUCTS -COMP/OP AGG \$ 20,000,000
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☒ OWNED AUTOS ONLY ☒ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			ISA H10740083	06/30/2024	06/30/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 10,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
D	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$			XEU G46782148 008	06/30/2024	06/30/2025	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
B A A A C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N	N/A	WLR C57256862 - AOS WLR C57257672 - OR SCF C57257726 - WI WCU C57257829 - OH XS TNS C57194790 - TX NS/XS	06/30/2024 06/30/2024 06/30/2024 06/30/2024 06/30/2024	06/30/2025 06/30/2025 06/30/2025 06/30/2025 06/30/2025	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 3,000,000 E.L. DISEASE -EA EMPLOYEE \$ 3,000,000 E.L. DISEASE -POLICY LIMIT \$ 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Division Number: 4960 - Named Insured Includes: BFI Waste Services, LLC - Dba: Allied Waste Services of Magnolia Springs - Republic Services of Magnolia Springs

CERTIFICATE HOLDERCITY OF ORANGE BEACH
PO BOX 458
ORANGE BEACH, AL 36561
United States**CANCELLATION**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
AUTHORIZED REPRESENTATIVE



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing the purchase of Three Vehicles for the Police Department through State Bid from McSweeney Auto Group Clanton, LLC, in the amount of \$143,551.77. (SB)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 02-04-25 25-xxx Authorize Purchase 3 Vehicles Police State Bid
2. 2025.01.22 Quote - Police - McSweeney Auto Group Vehicles x3

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING THE PURCHASE OF
THREE VEHICLES FOR THE POLICE DEPARTMENT
THROUGH STATE BID FROM MCSWEENEY AUTO GROUP CLANTON, LLC
IN THE AMOUNT OF \$143,551.77**

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 Three (3) Vehicles for the Police Department through Alabama State Bid in a total amount of \$143,551.77;
2. That the Mayor is hereby authorized to approve payment to McSweeney Auto Group Clanton, LLC, in the amount of \$47,384.59 plus \$466.00 delivery each for Three (3) 2025 Chevrolet PPV Tahoe 2WD;
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 4th DAY OF FEBRUARY, 2025.

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. 25-xxx, which was duly and legally adopted at a regular meeting of the City Council on February 4, 2025.

City Clerk



COMMIT TO PURCHASE

Bill to:

Orange Beach Police Dept
4480 Orange Beach Blvd
Orange Beach, AL 36561

Quote #: 02-13-25**Date:** 1/13/25**Prepared by:** Deidre Allman

DESCRIPTION	QTY	UNIT \$	AMOUNT
Purchasing vehicles under state contract #			
☐ MA240000004918	Cab Chassis		
☐ MA240000004922	Law Enforcement		
☒ MA240000004917	Fleet Vehicle		

VEHICLE: 2025 Chevy PPV Tahoe 2wd 3 \$ 142,153.77

Chassis - \$47,384.59

DELIVERY: \$2/mile - State contract terms 699 \$ 1,398.00

TOTAL: \$ 143,551.77

SIGNATURE OF ACCEPTANCE:

Signature

Print Name

Title

Date

PO # (required) _____

TERMS & CONDITIONS

Execution of this form authorizes McSweeney Chevy GMC to place vehicle order on behalf of the signor and commits signor to its purchase. Vehicle to be picked up/delivered within five days of chassis arrival to McSweeney Chevy GMC. Vehicle payment due on receipt to customer or scheduled upfitter, if applicable, in accordance to the State Contract terms. Failure to comply will result in additional interest fees of 7.5%.



Orange Beach

86 PEACH TOWER RD
CLANTON, AL 35045

2025 TAHOE 2WD/4WD PPV (9C1)

ALABAMA CONTRACT # MA240000004922

CC10706	2WD	\$	46,276.21	☒
CK10706	4WD	\$	52,101.00	☐

Exterior			Interior		
GNT	Radiant Red	☐ ←	\$ 435.60	H1T	Cloth front 40/20/40 bench seat ☒
GAZ	Summit White	☒			*Select 5YI if installing aftermarket console
GBA	Black	☐			
GXD	Sterling Gray	☐	A50	Cloth front reclining bucket - 4wd only	
G6M	Dark Ash	☐		*Req PQA 1FL safety pkg	\$ 318.50 ☐
GXP	Lakeshore Blue	☐			
SEO	Special Paint	*available at additional cost with minimum order qty of 5			

Engine / Transmission

L84	Engine, 5.3L EcoTec3 V8	\$	-	☒
MHU	Transmission, 10-speed automatic			

Additional Factory Options:

PQA	1FL Safety package	\$	885.40	☐
K05	Engine block heater	\$	91.00	☐
B30T	Floor covering, color-keyed carpeting in occupant area	\$	177.45	☐
AKP	Glass, solar absorbing, non-tinted	\$	-	☐
9G8	Headlamps, daytime running lamps & auto headlamp control delete	\$	45.50	☒
6N6	Inoperative door locks & handles	\$	62.79	☒
6N5	Inoperative rear windows	\$	51.87	☒
T53	Lamps, alternate flashing red & blue rear compartment lid warning	\$	514.15	☐
6C7	Lighting, red & white front auxiliary dome	\$	154.70	☐
UN9	Radio Suppression Package, with ground straps	\$	86.45	☒
5T5	Seats, front cloth & second row vinyl (requires PQA safety package on 2wd)	\$	-	☐
5Y1	Seats, front center (20% seat) delete (N/A with B30, STD on 4wd)	\$	-	☒
7X2	Spotlight, left- and right-hand	\$	1,219.40	☐
7X3	Spotlight, left-hand	\$	728.00	☒
NZV	Wheels, 20" machined aluminum with charcoal pockets	\$	1,001.00	☐
6J3	Wiring, grille lamps & siren speakers (recommended for upfit)	\$	83.72	☒
6J4	Wiring, horn & siren circuit, (recommended for upfit)	\$	50.05	☒

Chassis Total \$ 47,384.59

Delivery (\$2/mile) \$ -

Total Price \$ 47,384.59



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing the execution of a task order with Thompson Engineering, Inc., for construction inspection and administration services for the TAPAA-TA21(912) Sidewalk Project along Commercial Avenue in an amount not to exceed \$54,542.21. (CP)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 02-04-25 25-xxx Authorize Task Order Thompson Engineering TAP Grant Sidewalk Project
2. 2025.01.24 Task Order Thompson Engineering TAP Grant Sidewalk Project

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING THE EXECUTION OF A
TASK ORDER WITH THOMPSON ENGINEERING, INC.,
FOR CONSTRUCTION INSPECTION AND ADMINISTRATION SERVICES FOR THE
TAPAA-TA21(912) SIDEWALK PROJECT ALONG COMMERCIAL AVENUE
IN AN AMOUNT NOT TO EXCEED \$54,542.21**

FINDINGS:

1. On March 7, 2023, the City Council adopted Resolution No. 23-041 approving a professional services agreement with Thompson Engineering, Inc., for engineering services.
2. The Agreement authorized work to be assigned by one or more task orders approved from time to time by the City Council.
3. The City Engineer has submitted a Task Order (attached Exhibit A) for Council approval.
4. The proposed Task Order requires Thompson Engineering Inc. to perform construction engineering and inspection, materials sampling and testing, construction stormwater inspections, and construction administration services needed to ensure the TAPAA-TA21(912) Sidewalk Project is constructed within reasonable conformity with the plans, specifications, and contract provisions of the project.
5. The scope of work described in the Task Order is authorized by the Agreement 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 Task Order as presented to Council between the City of Orange Beach and Thompson Engineering, Inc., 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 \$54,542.21 to Thompson Engineering, Inc., to complete the Task Order as presented; and
3. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 4th DAY OF FEBRUARY, 2025.

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. 25-xxx, which was duly and legally adopted at a regular meeting of the City Council on February 4, 2025.

City Clerk



January 10, 2025

City of Orange Beach
ATTN: Chris Pappas, City Engineer
PO Box 2432
4101 Orange Beach Blvd
Orange Beach, AL 36561

RE: Task Order No. 2024-03 Request
CEI/CMT for TAPAA-TA21(912) Sidewalk Project

This proposal is for construction engineering and inspection, materials sampling and testing, construction stormwater inspections, and construction administration services needed to ensure the project is constructed in conformity with the plans, specifications, and contract provisions of the project. Thompson Engineering is pleased to submit this proposal along with our understanding of the project, proposed scope and fee, and a Task Order request to provide professional services for this work.

BACKGROUND AND UNDERSTANDING

Our understanding of the project is the City of Orange Beach is ready to construct the proposed sidewalk project along Commercial Ave from the west end to Gulf Bay Rd. Thompson Engineering is an ALDOT pre-qualified consultant and is prepared to meet all the requirements of this project. We understand that all permits have been applied for and approved, including the ADEM NOI for NPDES general permit coverage for the discharges associated with construction activities on the projects.

PROPOSED SCOPE OF WORK AND COMPENSATION

See attached Task Order.

Thank you for the opportunity to submit this proposal and we look forward to working with you soon. Please contact us if you have any questions or require additional information.

Sincerely,
THOMPSON ENGINEERING, INC.

Charles Weber, P.E.
Senior Project Manager

Enclosures

4830 Main Street, Ste. G-212
Orange Beach, AL 36561
251.378.6190 ph. / 251.666.6422 fax

A THOMPSON HOLDINGS, INC. COMPANY

TASK ORDER AUTHORIZATION
TASK ORDER NO. 2024-03
CITY OF ORANGE BEACH ALABAMA
PERFORMANCE CONTRACT
ENGINEERING SERVICES

This Task Order shall be for the construction engineering and inspection, materials sampling and testing, construction stormwater inspections, and construction administration services needed to ensure the TAPAA-TA21(912) Sidewalk Project is constructed within reasonable conformity with the plans, specifications, and contract provisions of the project.

The cost for completing this work shall be on a Time and Materials Basis with a total estimated fee of **Fifty-Four Thousand, Five Hundred Forty-Two Dollars and Twenty-One Cents (\$54,542.21)**. Additional services outside of original scope of work will be performed as directed by the City of Orange Beach at billing rates and fees provided in Thompson Engineering, Inc.'s (TEI) currently approved Professional Services Agreement with the City.

The following exhibits are made part of this Task Order and are attached hereto:

Exhibit A – Scope of Work
Exhibit B – Man-Day Fee Estimate

OFFERED BY CONSULTANT

Charles Weber, P.E. _____

Representative's Printed Name

 _____

Signature

THOMPSON ENGINEERING, INC. _____

Firm Name

Date 1-10-2025 _____

Senior Project Manager _____

Title

RECOMMENDED FOR APPROVAL

Signature

Date _____

Title

APPROVED BY CITY OF ORANGE BEACH

Signature

Date _____

Title

EXHIBIT A

CITY OF ORANGE BEACH ALABAMA

TASK ORDER NO. 2024-03

SCOPE OF WORK:

This Task Order shall be for the construction engineering and inspection, materials sampling and testing, construction stormwater inspections, and construction administration services needed to ensure the project is constructed in reasonable conformity with the plans, specifications, and contract provisions of the project.

Thompson Engineering will generally adhere to guides, manuals, procedures and advisories regarding road construction projects in Alabama. Examples include the ALDOT Construction Manual which describes many of the procedures and practices relating to construction engineering and inspection; the ALDOT Testing Manual which sets out test frequency of samples and tests, sampling point, sample size, sampling and test methods and appropriate reporting to be provided; the AASHTO Standard Specifications for Transportation Materials and Methods of Sampling and Testing; and, applicable ASTM Standards.

Construction Engineering & Inspection (CEI) Services

We will perform construction engineering and inspection services as follows:

- Conduct a pre-construction conference with the contractor, sub-contractors, City representatives, utility companies, and any other required parties
- Conduct other meetings with the contractor, sub-contractors, City representatives, utility companies, and any other required parties as required to review plans, schedules, problems or other areas of concern
- Perform routine field monitoring and inspections to assure quality of workmanship and materials are in reasonable conformance of the plans, specifications, and other contract provisions
- Keep detailed and accurate records of daily operations and significant events that affect work, including project diaries and inspector's daily reports as required
- Provide interpretations of plans, specifications and contract provisions and make recommendations to the City to resolve disputes that may arise
- Ensure staff have appropriate certifications for inspections of work being performed
- Monitor and inspect temporary traffic control devices and maintenance of traffic operations during normal working hours and as needed during after normal hours, weekends and holidays
- Monitor and inspect temporary erosion control BMP's and provide reporting as required by the NPDES permit and ADEM construction stormwater requirements
- Perform QCP and CBMPP evaluations and updates as required by the NPDES Permit and ADEM
- Record all work completed by the contractor and certify monthly pay estimates for work based on daily records and calculations

- Assist the City in holding a final inspection
- Prepare and provide final estimate and close-out documentation to the City

Construction Materials Testing (CMT) Services

We will perform geotechnical engineering and materials testing sub-consultant to perform services as follows:

- Review contractor submittals for construction materials
- Perform sampling and testing of materials and completed work items to assure materials and workmanship are in reasonable conformance with the plans, specifications, and other contract provisions
- Secure job control samples and utilize test results to determine acceptability of materials and completed work items
- Perform moisture and density testing for compacted areas per ASTM guidelines and project specifications
- Monitor and approve asphalt plant production and asphalt cores, as required
- Perform asphalt inspection, testing and reporting in accordance with industry standards and project specifications
- Perform concrete inspection, testing and reporting in accordance with ACI and ASTM standards and project specifications
- Perform routine evaluation and testing for quality control on soils, asphalt, concrete and other construction materials to ensure the project is constructed in accordance with the plans and specifications

WORK SCHEDULE:

Services shall commence immediately upon receipt of authorization to proceed from the City. It is anticipated that construction will be completed within 150 calendar days of construction commencement.

End of Exhibit A

EXHIBIT B

[illegible]

EXHIBIT B

Project No.	TAPAA-TA21(912)		
County	Baldwin		
Description	City of Orange Beach - Sidewalk		
	0		
Scope of Work	Construction Engineering and Inspection Services		
Consultant	Thompson Engineering		
Fee Proposal (Construction Engineering and Inspection)			
PERSONNEL COST			
	Man-days x Daily Rate		
Project Manager	3.00	\$ 315.44	\$ 946.32
Level II Inspector	40.00	\$ 224.00	\$ 8,960.00
Level I Inspector	50.00	\$ 160.00	\$ 8,000.00
		\$ -	\$ -
Total Direct Labor		\$	17,906.32
Combined Overhead (%)	125.18	\$	22,415.13
		\$	3,685.00
Sub-Total		\$	44,006.45
Profit (10%)		\$	4,400.65
Sub-Total		\$	48,407.10
SUB-CONSULTANTS (attach man-day & fee FROM each sub-consultant; show total fee for each here)			
		\$	-
		\$	-
		\$	-
		\$	-
		\$	-
		\$	-
Subconsultant Administration Expense (5%)		\$	-
Sub-Total		\$	48,407.10
Facilities Capital Cost of Money (% of Direct Labor)	0.520	\$	93.11
TOTAL FEE		\$	48,500.21

**See Grand Total Fee sheet

EXHIBIT B

Project No. TAPAA-TA21(912)				
County Baldwin				
Description City of Orange Beach - Sidewalk				
Scope of Work Construction Engineering and Inspection Services				
Consultant Thompson Engineering				
Out-of-pocket Expenses (CE&I)				
TRAVEL COST				
Mileage Cost	Trips	Miles/Trip	\$/Mile	Total
Construction Engineering and Inspection	50	110	\$0.670	\$ 3,685.00
Total Mileage Cost				\$ 3,685.00
Total Out-of-pocket Expenses				\$ 3,685.00
Comments:				

EXHIBIT B

Construction Materials Testing (CMT) Fee Proposal

Description	Unit	Estimated Quantity	Unit Fees	Subtotal
Project Manager	Hour	1	\$110.00	\$110.00
Field Technician Level III	Hour	20	\$68.00	\$1,360.00
Administrative Level I	Hour	20	\$67.00	\$1,340.00
Standard Proctor (ASTM-D698, Method A&B)	Each	2	\$86.00	\$172.00
Modified Proctor (ASTM-D1557, Method C&D)	Each	2	\$145.00	\$290.00
200 Wash (ASTM-D1140)	Each	2	\$35.00	\$70.00
Compressive Strength of Concrete Cylinders (ASTM C-39)	Each	180	\$15.00	\$2,700.00
Not to Exceed Project Budget				\$6,042.00



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: Community Development

Description of Topic: Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 1204-PUD-21, Cactus Cantina PUD Reversion. (Suggested date 2/18/2025) (GP)

Background/Description: Pursuant to Section 7.08 of the Orange Beach Zoning Ordinance, the Community Development Department requests approval to repeal Case No. 1204-PUD-21 (Ordinance No. 2022-1405) to rescind the Planned Unit Development (PUD) zoning for PIN 230547 located at 4251 Orange Beach Boulevard. The zoning will return to the original classification of Neighborhood Business (NB).

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: Community Development

Description of Topic: Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0105-ZT-25, Section 10.0306, Beach Overlay District Pedestrian-Oriented Area Sidewalks. (Suggested date 2/18/2025) (GP)

Background/Description: The Community Development Department requests approval of a zoning text amendment to Section 10.0306 regarding the requirements for the pedestrian sidewalks in the pedestrian-oriented area in the Beach Overlay District.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: Community Development

Description of Topic: Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0104-PUD-25, Coastal Cottages PUD. (Suggested date 2/18/2025) (GP)

Background/Description: Engineering Design Group, on behalf of Coastal Land Properties, requests preliminary and final PUD approval to rezone 25 acres from General Business (GB) to Planned Unit Development (PUD) for a townhouse subdivision containing 136 lots.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
JANUARY 28, 2025**

Departments: City Clerk

Description of Topic: Ordinance amending Chapter 30 of the Code of Ordinances for the City of Orange Beach, Alabama, to add a new Article XII entitled, "Wildlife Friendly Lighting," to establish outdoor lighting standards for the protection of wildlife in the Beach Overlay District. (JL)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 2025-xxxx Amd Ch 30 Add Art XII Wildlife Friendly Lighting

ORDINANCE NO. 2025-xxxx

**AN ORDINANCE AMENDING CHAPTER 30 OF THE
CODE OF ORDINANCES FOR THE CITY OF ORANGE BEACH, ALABAMA
TO ADD A NEW ARTICLE XII ENTITLED “WILDLIFE FRIENDLY LIGHTING”
TO ESTABLISH OUTDOOR LIGHTING STANDARDS FOR THE
PROTECTION OF WILDLIFE IN THE BEACH OVERLAY DISTRICT**

FINDINGS:

1. The City of Orange Beach, Alabama, is a coastal community with an extensive shoreline on the Gulf of Mexico.
2. The City of Orange Beach beaches provide marine nesting locations for sea turtles and other coastal wildlife.
3. The City of Orange Beach recognizes that artificial lighting is a serious threat to and has negative effects on many species including amphibians, birds, mammals, insects, and plants. In Orange Beach, species including but not limited to the Perdido Key Beach Mouse, the Alabama Beach Mouse, Least Terns, Black Skimmers, Piping Plovers, and the Gulf Coast Solitary Bee and are protected by Federal and State law.
4. The City of Orange Beach recognizes specifically that nesting adult and hatchling sea turtles are negatively affected by artificial light visible as defined herein.
5. The City of Orange Beach recognizes that both its economy and the quality of life of its residents are enriched by a healthy sea turtle population as well as a healthy ecosystem of wildlife.
6. The City of Orange Beach desires to minimize the detrimental impact of artificial lighting on sea turtles and other listed sensitive wildlife by implementing policies that reduce the amount of artificial light impacting the delicate ecosystem held within the City of Orange Beach.

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

1. That Chapter 30 of the City of Orange Beach Code of Ordinances is hereby amended to add a new Article XII entitled “Wildlife Friendly Lighting” which shall read in its entirety as follows:

ARTICLE XII. - WILDLIFE FRIENDLY LIGHTING

DIVISION 1. - GENERALLY

Sec. 30-310. - Purpose and objectives.

The purpose of this article is to protect nesting and hatchling sea turtles on the beaches in the City of Orange Beach by ensuring that their nesting habitat is not degraded by artificial light as well as minimize impacts on protected species listed herein

Sec. 30-311. - Definitions.

For purposes of this Ordinance the following definitions shall apply:

Artificial light means the light emanating from any human-made device.

Beach means the area between the Coastal Construction Line and the waters of the Gulf of Mexico.

Cumulatively visible means visibility as a result of numerous artificial light sources that as a group are directly or indirectly visible to an observer standing anywhere within any wildlife habitat.

Directly visible means visibility of the glowing elements, lamps, globes, or reflectors of an artificial light source by an observer standing anywhere within any wildlife habitat.

Foot-candle means the English unit for measuring illuminance; the uniform illumination of a surface one foot away from a point source of one candela; one lumen per square foot; equal to 10.76 lux.

Full cutoff means a lighting fixture constructed in such a manner that no light emitted by the fixture, either directly from the lamp or a diffusing element or indirectly by reflection or refraction from any part of the luminaire, is projected at or above 90° as determined by photometric test or certified by the manufacturer.

Fully shielded means a lighting fixture constructed in such a manner that the glowing elements, lamps, globes, or reflectors of the fixture are completely covered by an opaque material to prevent them from being directly visible as defined herein. Any structural part of the light fixture providing this shielding must be permanently affixed.

Indirectly visible means visibility of reflected light as a result of glowing elements, lamps, globes, or reflectors of an artificial light source which is visible to an observer standing in any wildlife habitat without the light source being directly visible as defined herein.

Long wavelength means a luminaire emitting light wavelengths of 560 nanometers or greater and absent wavelengths below 560 nanometers. Lamps that meet the definition of Long Wavelength through the use of filters, gels, or lenses are not recommended. Narrowband long wavelength lights appear amber, orange, or red in color and not contain shorter spectrums of light.

Sea turtle nesting season means the nesting period for sea turtles is from May 1 through October 31 of each year.

Nighttime means the locally effective time period between sunset and sunrise.

Non-egress lighting means lighting that is not being used to light a distinct path or meet minimum requirements for emergency egress, including but not limited to decorative lights (e.g. Christmas lights, strobe lights, string lights, etc.), balcony lights, landscape lights, and uplights.

Outdoor area means any portion of a property that could have an artificial light source either attached or not attached to a permanent structure, including but not limited to pathway lighting, landscape lighting, pool lighting, etc.

Sea turtle means any turtle, including all life stages from egg to adult, of these species: Green (Chelonia mydas), Leatherback (Dermochelys coriacea), Loggerhead (Caretta caretta), Hawksbill (Eretmochelys imbricata), and Kemp's Ridley (Lepidochelys kempi).

Sea turtle nesting habitat means all sandy beaches adjoining the waters of the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida in all coastal counties and all inlet shorelines of those beaches. Nesting habitat includes all sandy beaches and unvegetated or sparsely vegetated dunes immediately adjacent to the sandy beach and accessible to nesting female turtles.

Temporary lighting means any non-permanent light source that may be hand-held or portable including but not limited to tiki torches, lanterns, flashlights (including cell phone flashlights), candles, flash photography, etc.

Beach Overlay District means the Beach Overlay District lying to the north and south of Highway 182 from the Florida state line to the Gulf Shores/City of Orange Beach city limit as defined in the City Zoning Ordinance.

Coastal Construction Line (CCL) means the portion of the coastal construction line established pursuant to the provisions of Division 8 of the ADEM Administrative Code that lies within the Orange Beach City Limits and Police Jurisdiction.

Sec. 30-312–30-320. - Reserved.

DIVISION 2. - APPLICABILITY

Sec. 30-321. - Beach overlay district.

The provisions of this article apply to all buildings and related infrastructure, including landscaping, as well as all other activities within the Beach Overlay District as defined herein.

Sec.30-322. - Annual public notice.

At least thirty days prior to the commencement of every sea turtle nesting season, the City of Orange Beach may post or provide written notice of the provisions contained in this Ordinance in public places within the City of Orange Beach and to properties within the Beach Overlay District.

Sec. 30-322–30-330. - Reserved.

DIVISION 3. - LIGHTING PROVISIONS

Sec. 30-331. - Exterior lighting affixed to structures.

- (a) All lighting affixed to the exterior of permanent structures shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.
- (b) All non-egress lighting affixed to the exterior of permanent structures shall not be directly, indirectly, or cumulatively visible as defined herein.
- (c) Lighting at egress points shall be limited to the minimum number of fixtures and an average of one foot-candle necessary to meet federal, state, and local safety requirements.
- (d) Locations including but not limited to stairwells, elevators, parking garages, or courtyards shall not produce light that is directly, indirectly, or cumulatively visible as defined herein. Window film, tinting, light screens, shades or curtains shall be used to block visibility of interior lights directly visible as defined herein. Light screens shall be used on open or enclosed staircases of a building or for parking garages to limit visibility of lights.
- (e) All glass windows, walls, railings and doors shall utilize glass with an inside to outside light transmittance value of 45% or less.
- (f) Emergency lights shall be on a separate circuit and activated only during power outages or other situations in which emergency lighting is necessary for public safety.

Sec. 30-332. - Outdoor areas.

- (a) All lighting of outdoor areas shall be long wavelength, downward directed, full cutoff, fully shielded and mounted as close to the ground or finished floor surface as possible to achieve the required foot-candles.
- (b) All pathway lighting shall utilize low level fixtures that do not exceed 42 inches in height.
- (c) All non-egress outdoor lighting shall not be directly, indirectly, or cumulatively visible as defined herein.
- (d) Internally or externally lighted signs shall not be located on the seaward or shore-perpendicular sides of any structures, and shall not produce light that is directly, indirectly, or cumulatively visible as defined herein.
- (e) Ponds and fountains on the seaward or shore-perpendicular sides of any structures shall not include or produce light that is directly, indirectly, or cumulatively visible as defined herein.

- (f) Fire pits shall be shielded with an opaque structure or partition, and positioned such that the flame is not directly, indirectly, or cumulatively visible as defined herein.
- (g) Televisions shall be interior facing (away from wildlife habitats) and shall be shielded or positioned such that they are not directly, indirectly, or cumulatively visible as defined herein.
- (h) Temporary lighting shall not be directly, indirectly, or cumulatively visible directly visible as defined herein after 9pm.

Sec. 30-333. - Parking areas and roadways.

- (a) All lighting of parking areas and roadways shall be long wavelength, downward directed, full cutoff, fully shielded, and mounted to the minimum level required to maintain compliance with federal, state and local law, but in no event shall pole height be greater than twelve feet (12') above ground.
- (b) Parking area and roadway lighting shall be shielded and not directly visible as defined herein via vegetation, natural features, or artificial structures rising from the ground. These shall prevent artificial light sources, including but not limited to vehicular headlights, from producing light that is directly, indirectly, or cumulatively visible as defined herein. Parking lot lighting that is within line of sight of the beach shall be low intensity lighting 55 watts or less.
- (c) Lighting of roadways and parking areas shall produce no more lighting than the minimum requirement as outlined by federal, state and local law.
- (d) Equipment yards, storage yards, and temporary security lights shall also adhere to the lighting restrictions contained in this section.

Sec. 30-334. - Pool areas.

- (a) Lighting of pool decks, pool facilities, swimming pools, and spas shall be long wavelength and fully shielded.
- (b) Lighting of the pool water surfaces, and the pool wet deck surfaces shall comply with the minimum light levels set forth in the International Pool and Spa Code as adopted by the City of Orange Beach and as revised in Section 42-4(i) of the Code of Ordinances of City of Orange Beach.
- (c) All other above-water lighting of pool decks, pool facilities, swimming pools, and spas shall otherwise adhere to the applicable requirements for acceptable light fixtures contained in Sections 30-331, 30-332, and 30-333.
- (d) Underwater lighting of pools or spa light shall:
 - (1) Be mounted horizontally in the wall; and
 - (2) Not produce light that is directly, indirectly, or cumulatively visible from any portion of the beach or other habitat.

Sec. 30-335. - Pier structures.

- (a) Lighting of pier structures projecting over the beach or over water shall be long wavelength, downward-directed, and fully shielded.
- (b) Lighting of pier structures projecting over the beach, or over water, shall be mounted no higher than 42 inches above the deck surface. These shall be directed onto the deck surface only, preventing light pollution or light spillage beyond the walking surface.

- (c) Lighting of pier structures projecting over the beach or over water shall comply with minimum light levels set forth in applicable federal and state laws designed to protect public safety but shall not be above minimum levels.

Sec. 30-336. - Dune walkovers and beach access points.

No lights shall be permitted on dune walkovers, elevated walkovers or beach access points.

Sec. 30-337. - Special events, motor vehicles, and temporary lighting.

- (a) All special events or construction taking place on or adjacent to the beach shall require a permit from the Coastal Resources Department.
- (b) Lighting associated with a special event that may directly, indirectly, or cumulatively be visible as defined herein shall not be authorized after 9pm during sea turtle nesting season.
- (c) The operation of motorized vehicles shall be prohibited on the beach unless otherwise specifically authorized for official purposes by the City of Orange Beach.
- (d) All temporary construction lighting shall be:
 - (1) Subject to all requirements of this article, including utilizing fixtures that are long wavelength, downward directed, full cutoff, and fully shielded so light is not directly or indirectly visible as defined herein;
 - (2) Turned off during nighttime in sea turtle nesting season, or if temporary lighting is deemed necessary during sea turtle nesting season it shall only be allowed from 6:00am to 9:00pm, must be restricted to the minimal amount necessary, and shall incorporate all other requirements of this ordinance not inconsistent herewith;
 - (3) Mounted less than eight feet above the adjacent floor or deck, measured from the bottom of fixture; and
 - (4) Restricted to the minimal number of foot-candles necessary to conform to the applicable construction safety regulations.

Sec. 30-338–30-350. - Reserved.

DIVISION 4. - COMPLIANCE AND ENFORCE PROCEDURES

Sec. 30-351. - Inspections.

- (a) The City's Coastal Resources Director or his/her designee will be responsible for inspecting lighting within the Beach Overlay District.
- (b) The Coastal Regulatory Manager or designee shall have the necessary training and technical knowledge to enable them to effectively carry out the duties required herein.
- (c) The Coastal Resources Director or his/her designee shall be responsible for:
 - (1) Inspecting the Beach Overlay District within the jurisdictional boundaries of the City of Orange Beach to determine the extent of compliance with this article; and
 - (2) In the event of the finding of a violation at a particular public or private property, conducting further inspections of the property. (At any time, beginning on the night after the deadline date given on the written notice of violation. These follow-up inspections shall continue until the lighting has been brought into compliance with this article.)
- (d) It shall be unlawful for any person to interfere with, or in any manner hinder the Beach Lighting Inspector, or any of their designees, while in the discharge of their duties under the terms of this article.

- (e) It shall be unlawful for any person to knowingly conceal any potential violations or any lighting on a property before it has been inspected by the Coastal Regulatory Manager.

Sec. 30-352. - Notice of violation.

- (a) Upon finding any violation of this Ordinance, the Coastal Resources Director or his/her designee shall deliver a written notice of the violation of this Ordinance to the property owner and direct said owner to promptly remove or cure any violation hereof.
- (b) The time allowed for achieving ordinance compliance shall be stated in the notice. Continued violation beyond the specified time in the notice shall constitute a violation of this article and be penalized as provided in Section 30-353 of this article.

Sec. 30-353. - Penalties.

Any person who is found guilty of a violation of any provision of this article shall be subject to penalties for violation of a City Ordinance as set out in Section 1-7 of the Code of Ordinances for the City of Orange Beach. Each item constituting violation shall constitute a separate violation of this article and each day the violation continues shall constitute a separate violation.

Sec. 30-354–30-360. - Reserved.

DIVISION 5. - OTHER CLAUSES

Sec. 30-361. - Conflict with other ordinances.

Deviations from this article for public safety shall be subject to the article variance procedures as established by this City. The recommendations or other hardship of the United State Fish and Wildlife Service shall be considered in the grant or denial of any variance.

Sec. 30-362. - Severability.

If any section, subsection or phrase of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision hereof and such holding shall not affect the validity of the remaining portions thereof.

2. That all ordinances or parts of Ordinances in conflict are, to the extent of such conflict, repealed; and
3. That this Ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED THIS 4th DAY OF FEBRUARY, 2025.

Renee Eberly
City Clerk

The City Clerk of the City of Orange Beach, Alabama hereby certifies
that the foregoing **ORDINANCE 2025-xxxx**
was posted on _____ in the following three

(3) public places:

Orange Beach City Hall _____
Orange Beach Post Office _____
Orange Beach Public Library _____

Renee Eberly, City Clerk