



REGULAR COMMITTEE OF THE WHOLE MEETING AGENDA

I. Roll Call

II. Consideration of Previous Minutes

1. Work Session 04/01/2025
2. Regular Council Meeting 04/02/2025
3. Committee of the Whole 04/02/2025

III. Unfinished Business

Miscellaneous

Resolutions

Ordinances

IV. New Business

Miscellaneous

Resolutions

1. Resolution authorizing execution of a software service agreement with Zapp Software, LLC, for the 2026 Festival of Art, 2026 Seafood Festival, and 2025 Freedom Fest. (DB/MA)
2. Resolution authorizing execution of a service agreement by and between the City of Orange Beach and Coastal Cats & Critters, Inc., for the housing and care of feral cats removed from active beach mouse habitats. (JL)
3. Resolution authorizing execution of a service agreement by and between the City of Orange Beach and Safe Harbor Animal Coalition (SHAC) for the removal of feral cats from active beach mouse habitats. (JL)
4. Resolution authorizing the execution of a professional services agreement with Goodwyn, Mills & Cawood, Inc., for engineering, design, and testing. (RE)

5. Resolution authorizing the execution of a task order with Goodwyn, Mills & Cawood, Inc., to perform a Discharge Information Zone (DIZ) study for the Orange Beach Wastewater Treatment Plant in an amount not to exceed \$54,435. (KB/RS)

Public Hearings

1. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0401-RZ-25, Twilley Property Rezoning. (Suggested date 5/6/2025) (GP)
2. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0409-ZT-25, Zoning Text Amendment, Article 8, Parking Requirements for Automotive Repair and Service Center. (Suggested date 5/6/2025) (GP)
3. Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0410-ZT-25, Zoning Text Amendment, Article 4, Density and Wetlands and Wetland Setbacks. (Suggested date 5/6/2025) (GP)
4. Set a public hearing date for consideration of Conditional Use Approval for Case No. 0502-CU-25, Bayside Garages at Orange Beach. (Suggested date 5/20/2025) (GP)

Ordinances

1. Ordinance declaring City-owned real property as unneeded for municipal purposes and authorizing the execution of a ground lease agreement with the Solid Waste Disposal Authority of Baldwin County, Alabama, Inc. (JL)

V. Public Comments

VI. Adjourn

**MINUTES OF
ORANGE BEACH CITY COUNCIL
WORK SESSION
APRIL 1, 2025 – 11:00 A.M.
COASTAL ARTS CENTER**

The Orange Beach City Council met on April 1, 2025, at 11:00 A.M. with Mayor Tony Kennon presiding.

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. Mayor and Council salaries.
2. Compensation study.
3. Comprehensive plan.
4. Proposed sports tourism complex.
5. Potential dates for next Council work session.
6. Employee meeting.
7. Traffic light at Cumberland Farms.
8. Legal update.
9. Succession planning.
10. Board of Adjustment vacancy.
11. Temporary mobile businesses.
12. Financial update.
13. Tennis and golf pros.
14. Proposed reduction in zoning regulations for express oil change businesses.
15. Adult businesses.
16. CoastAL tower.
17. Jubilee Point bridge.
18. School penny tax update.
19. Special event communication and invitations.
20. South Baldwin Urgent Care for employees..

21. Vacated Finance building.

22. Chickens.

There being no further business, the meeting adjourned.

Time: 2:48 P.M.

APPROVED this 6th day of May, 2025.

Renee Eberly
City Clerk

**MINUTES OF
REGULAR COUNCIL MEETING
ORANGE BEACH CITY COUNCIL
APRIL 2, 2025 – 5:00 P.M.
PERFORMING ARTS CENTER**

- I. CALL TO ORDER** Mayor Tony Kennon called the meeting to order at 5:00 P.M.
- II. INVOCATION** Councilmember Jerry Johnson
- III. PLEDGE OF ALLEGIANCE** OBMHS Lady Makos Tennis Team
- 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 03/11/2025
Committee of the Whole 03/11/2025

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/Boyd) 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

1. Presentation by the State Champion Mako Cheerleaders. Coach Kayley Hoyle presented the Mayor and Council with a plaque and championship ring.

X. RECOGNITIONS

XI. UNFINISHED BUSINESS

Resolutions

1. Resolution awarding the bid for construction of Pickleball Courts, Restrooms, Roadway and Parking Lot Improvements to Harris Contracting Services, Inc., in an amount not to exceed \$2,715,000 and per unit pricing. **Motion made (Silvers/Blalock) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**

Ordinances

1. Second Reading – Ordinance amending Chapter 30, Article III, Section 30-45 of the Code of Ordinances for the City of Orange Beach, Alabama, entitled "Noises Prohibited." **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).**

XII. NEW BUSINESS

Resolutions

1. Resolution declaring exercise equipment owned by the City of Orange Beach as surplus and unneeded and authorizing the donation of said property to the Orange Beach Board of Education. **Motion made (Silvers/Boyd) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
2. Resolution reappointing Shannon Robinson to the Orange Beach City Board of Education. **Motion made (Blalock/Mitchell) to postpone indefinitely.** Vote unanimous in favor. **Motion passed.**
3. Resolution authorizing execution of a professional services agreement with Adams and Reese, LLP, for federal and state governmental relations and consulting services. **Motion made (Blalock/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
4. Resolution authorizing execution of a professional services agreement with Grace Stanton for theatrical performance direction for "Lion King JR." **Motion made (Mitchell/Boyd) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
5. Resolution authorizing execution of a professional services agreement with Lauren McCaghren for dance instruction for "Lion King JR." **Motion made (Mitchell/Johnson) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
6. Resolution authorizing a franchise agreement for Waste Pro of Florida, Inc., to remove and dispose of commercial solid waste and to remove and transport construction and demolition

debris. **Motion made (Silvers/Blalock) to adopt the resolution.** Vote unanimous in favor.
Motion passed.

7. Resolution authorizing a franchise agreement for Flora-Bama Old S.A.L.T.S., Inc., to operate a taxi service within the city limits and police jurisdiction of the City of Orange Beach. **Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor.
Motion passed.
8. Resolution establishing fees for the Orange Beach Golf Center. **Motion made (Boyd/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
9. Resolution awarding the request for proposals for a Comprehensive Classification and Total Compensation Study to Human Resource Management, Inc., in an amount not to exceed \$59,750. **Motion made (Silvers/Blalock) to adopt the resolution.** Vote unanimous in favor.
Motion passed.
10. Resolution authorizing the execution of a performance contract with Mack Tucker for golf instruction services. **Motion made (Johnson/Mitchell) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
11. Resolution authorizing minimal fees for events hosted by the Parks and Recreation Department. **Motion made (Blalock/Silvers) to adopt the resolution.** Vote unanimous in favor. **Motion passed.**
12. Resolution awarding the request for proposals for Tennis Professional Services to Natalie van Blerk. **Motion made (Mitchell/Blalock) to adopt the resolution.** Vote unanimous in favor.
Motion passed.

Ordinances

1. First Reading – Ordinance amending Chapter 50, Article III of the Code of Ordinances for the City of Orange Beach, Alabama, to add a new section prohibiting commercial activity on beaches, shorelines, and waterways. No action taken. Ordinance will move forward to a second reading.

XIII. PUBLIC COMMENTS

None

XIV. ADJOURN

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

Time: 5:15 P.M.

APPROVED this the 6th day of May, 2025.

Renee Eberly
City Clerk

**MINUTES OF
COMMITTEE OF THE WHOLE MEETING
ORANGE BEACH CITY COUNCIL
APRIL 2, 2025 – 5:15 P.M.
CITY HALL – COUNCIL CHAMBERS**

The Orange Beach City Council met to review potential items for the April 15, 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. Resolution authorizing execution of a subgrant award agreement with the Alabama Department of Economic and Community Affairs (ADECA) for license plate reader cameras for the Police Department.
2. Resolution authorizing execution of professional services agreement with DeRhonda Ponder for special needs aide services for the Expect Excellence Program.
3. Resolution authorizing execution of a professional services agreement with Matthew Hurst for theater performance direction and stage management assistance for "Lion King JR."
4. Resolution authorizing execution of a performance agreement with McLean Motor Sports Productions, LLC, for the "Bama Coast Cruisin'" event as part of the 2025 Freedom Fest.
5. Resolution authorizing execution of a performance agreement with Gulf Coast Gun Collectors Association for a collectible firearms show at the Orange Beach Event Center as part of the 2025 Freedom Fest.
6. Resolution authorizing a franchise renewal for Coast Group Transportation, LLC, dba Coast Cab, to operate a taxi service within the city limits and police jurisdiction of the City of Orange Beach.
7. Resolution authorizing a franchise renewal for Robin's Rides, LLC, to operate a taxi service within the city limits and police jurisdiction of the City of Orange Beach.
8. Resolution authorizing a franchise renewal for The Surfside Shuttle, LLC, to operate a taxi service within the city limits and police jurisdiction of the City of Orange Beach.
9. Resolution authorizing a franchise renewal for Waste Away Group, Inc., dba Waste Management, to remove and dispose of commercial solid waste and to remove and transport construction and demolition debris.
10. Resolution authorizing execution of a professional services agreement with Lose and Associates, Inc., dba Lose Design, for a conceptual design to renovate and expand the Aquatics Center.
11. Reminder: Public hearing and first reading for an Ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0408-PUDA-25, Village of Tannin PUD Modification, Lot 1 Land Use Designation on April 15, 2025.

Public Comments:

None

There being no further business, the meeting adjourned.

Time: 5:17 P.M.

APPROVED this 6th day of May, 2025.

Renee Eberly
City Clerk



**REGULAR COMMITTEE OF THE WHOLE MEETING
APRIL 15, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing execution of a software service agreement with Zapp Software, LLC, for the 2026 Festival of Art, 2026 Seafood Festival, and 2025 Freedom Fest. (DB/MA)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 05-06-25 25-xxx Authorize Software Service Agreement Zapp 2026 Festival of Art Seafood Festival 2025 Freedom Festival
2. 2025.04.01 Software Service Agreement Zapp Art Jury Festivals

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
SOFTWARE SERVICE AGREEMENT WITH
ZAPP SOFTWARE, LLC
FOR THE 2026 FESTIVAL OF ART, 2026 SEAFOOD FESTIVAL, AND 2025 FREEDOM FEST**

FINDINGS:

1. The Art Director and Special Events Coordinator have requested to use Zapp Software, LLC, for art jury processing software services for the 2026 Festival of Art, 2026 Seafood Festival, and 2025 Freedom Fest.
2. After having reviewed the software service agreement (attached Exhibit A), the City Council has determined that the provisions are in the best interest of the City of Orange Beach, Alabama.

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

1. That the Mayor is hereby authorized to execute the Software Service Agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach and ZAPP Software, LLC, as an act for and on behalf of the City of Orange Beach subject to final approval by the City Attorney; and
2. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 6th DAY OF MAY, 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 May 6, 2025.

City Clerk

ZAPP® SOFTWARE SERVICE RENEWAL AGREEMENT – Small Show



Powered by
Creative West

1536 Wynkoop St, Suite 522 Denver, CO 80202-1376 | (303) 629.1166
www.zapplication.org

Effective Dates:

-

Original Contract Date:

This **Renewal Agreement** ("Agreement") as dated above ("Effective Date") and entered into between **ZAPP Software, LLC**, a Colorado limited liability company ("**ZAPP**"), and the client identified in the signature block of this Agreement ("**Client**"), for the renewal of Client's term under the original ZAPP Service Agreement as dated above between ZAPP and Client (the "Service Agreement"), as follows:

1. Annual Renewal and Fees. ZAPP and Client agree that Client remains eligible for ZAPP's Small Show pricing structure. Client agrees to renew its ZAPP® Service under the Service Agreement for the contract period effective dates and use fees per show during that term, as follows:

LICENSE FEES	QTY	PRICE	DISCOUNT
Base Licensing Fee 1-150 applications.	1	\$1,100.00	\$0.00
OR Per Application Fee 151+ applications collected, automatically assessed post deadline.	0	\$6.99	\$0.00
Financial Transaction Fee 2.95% + \$0.30 per artist credit card transaction	0	\$0.00	\$0.00
ADD-ONS (OPTIONAL)			
By checking the box(es) below, client elects to use the selected module(s) for the contract period defined above, and accordingly, agrees to pay the corresponding use fees.			
☒ Multiple Show Fee Fee includes hosting up to 5 events.	1	\$500.00	\$0.00
☐ Projected Jury Management Used with additional software, JuryBuddy. Equipment rental and shipping costs apply. Note: Monitor jurying is included with your contract.	1	\$500.00	\$0.00
☒ ZAPP Gallery Creates a gallery of participating artists viewable publicly on ZAPP or embedded on your website. Cost is per show.	1	\$200.00	\$0.00
☐ ZAPP Onsite At-festival jury system to identify award winners. Cost is per show.	1	\$200.00	\$0.00
☐ ZAPP Digital Package (Onsite + Gallery) Get both the Gallery and ZAPP Onsite with a discount. Cost is per show.	1	\$250.00	\$0.00
☐ ZAPP Booth Management Access the Booth Map and Booth Request tools. Cost is per show. Contracts with multiple shows receive a 50% discount.	1	\$100.00	-\$50.00

☐ Increased Limit to Additional Admin Users Fee includes up to 5 additional admin users. Note: Five users are included with your contract. You may increase your limit up to three times for a total of 20 admin users.	1	\$25.00	\$0.00
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Total \$1,800.00

2. Meaning of Terms. Unless otherwise provided in this Agreement, the terms used in this Agreement shall have the same meaning ascribed to them in the Service Agreement.

3. Entire Agreement. This Agreement shall be deemed as a part of the Service Agreement. Except as modified by this Agreement, all terms and conditions of the Service Agreement remain in full force and effect. Any reference to the Service Agreement in any other documents shall be construed as including this Agreement.

The duly authorized representatives of ZAPP and Client have executed this Agreement as of the Effective Date.

Client	ZAPP Software, LLC a Colorado limited liability company
Incorporated in (state): Alabama	Incorporated in: Colorado
Signature:	Signature:
Printed:	Printed: Mareike Bergen
Title:	Title: ZAPP Manager
Date:	Date:

This document expires on: 07 / 05 / 2025

ORGANIZATION INFORMATION

Managing Organization: City of Orange Beach - Coastal Arts Center

Only duly authorized representatives from the listed Managing Organization should sign this agreement. All billing and legal documents will reference the organization listed above. Payments will be made to this organization only.

Please email zapphelp@wearecreativewest.org if you need to change your organization's name or if the managing organization for the event has changed.

Remittance Address: P.O. Box 458

City, State, ZIP: Orange Beach AL 36561

EVENT INFORMATION (the "Show")

Event Name: Orange Beach Festival of Art

Event Dates: 03 / 14 / 2026 - 03 / 15 / 2026

Do you charge an application fee? Yes

Free-entry events are not eligible to auto-deduct their ZAPP fees.

What is the maximum amount of times an artist can apply?

1

Is this application Invite-Only? No

Select "Yes" to make your application private. You will receive a code to share with eligible applicants.

EVENT INFORMATION (the "Show")

Event Name: Orange Beach Freedom Fest

Event Dates: 09 / 20 / 2025 - 09 / 21 / 2025

Do you charge an application fee? Yes

Free-entry events are not eligible to auto-deduct their ZAPP fees.

What is the maximum amount of times an artist can apply?

1

Is this application Invite-Only? No

Select "Yes" to make your application private. You will receive a code to share with eligible applicants.

EVENT INFORMATION (the "Show")

Event Name: Orange Beach Seafood Festival

Event Dates: 02 / 28 / 2026 - 02 / 28 / 2026	Do you charge an application fee? Yes Free-entry events are not eligible to auto-deduct their ZAPP fees.
What is the maximum amount of times an artist can apply? 1	Is this application Invite-Only? No Select "Yes" to make your application private. You will receive a code to share with eligible applicants.

CONTACT INFORMATION

Account Manager: Primary point of contact for ZAPP. This role manages account information on ZAPP and can add or remove administrator accounts for the organization.

Name	Desiree Hodge
Email	dhodge@orangebeachal.gov
Phone	251-981-2787

Billing Contact: Individual to receive invoices and remittance payments (if different from above). This role cannot add or remove administrator accounts for the organization.

Name	Desiree Hodge
Email	dhodge@orangebeachal.gov
Phone	251-981-2787

PAYMENT PREFERENCES

How will you pay your license fees? Auto-deduct from Revenue
Events cannot be published until payment is received.

If you chose **auto-deduct from revenue** no upfront payment is required. Payment is required upfront for all other options.
If you chose by **card**, we will email you an invoice to pay online.
If you choose by **EFT/ACH**, we will email you instructions.
If you chose by **physical check**, mail to: (Standard mail only. Do not overnight)
ZAPP Software, LLC
1536 Wynkoop St. Suite 522
Denver, CO 80202-1376

REMITTANCES

Select your preference for receiving remittance payments from ZAPP: EFT Deposit
EFT payments will be directly deposited into your bank account.

Do you need to add or update your banking information? No

FOR INTERNAL USE

Total Payment: \$1,800.00 Contract ID:

Entered in GP:

Code	Fee Type	Amount
4425	Application	\$550.00
4435	Image Management	\$550.00
4445	Per App (autodeduct)	\$6.99
4485	Multiple	500
4426	Add-Ons	

EFT Date:

Payment: Auto-deduct from Revenue

Invoice:

Paid:

Auto Deduct Eligible: Yes

Max artist applications: 1

Invite Only: No

OG Contract Date:

Organization Name: City of Orange Beach - Coastal Arts Center

First Show: Orange Beach Festival of Art

Main Contact: Desiree Hodge

Main Email: dhodge@orangebeachal.gov

Billing Contact: Desiree Hodge

Billing Email: dhodge@orangebeachal.gov

Remittance Address: P.O. Box 458

Orange Beach

AL

36561

Notes:



**REGULAR COMMITTEE OF THE WHOLE MEETING
APRIL 15, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing execution of a service agreement by and between the City of Orange Beach and Coastal Cats & Critters, Inc., for the housing and care of feral cats removed from active beach mouse habitats. (JL)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 05-06-25 25-xxx Authorize Service Agreement Orange Beach Coastal Cats Critters CCC Feral Cat Removal
2. 2025.04.11 Service Agreement Orange Beach Coastal Cats Critters CCC Feral Cat Removal

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
SERVICE AGREEMENT BY AND BETWEEN THE CITY OF ORANGE BEACH AND
COASTAL CATS & CRITTERS, INC., (CCC) FOR THE HOUSING AND CARE OF
FERAL CATS REMOVED FROM ACTIVE BEACH MOUSE HABITATS**

FINDINGS:

1. The Perdido Key Beach Mouse and the Alabama Beach Mouse are both endangered species with active habitats in Orange Beach, Alabama.
2. The City of Orange Beach receives Alabama Beach Mouse Conservation Funds and Perdido Key Beach Mouse Conservation Funds as part of development permitting process, the expenditure of these funds being subject to approval by U.S. Fish and Wildlife Service (hereinafter "USFWS") offices in Panama City, Florida, and Daphne, Alabama.
3. The feral cat population in Orange Beach poses a great threat to the endangered beach mouse species due to the predatory nature of the cats.
4. Coastal Cats & Critters, Inc., (hereinafter "CCC") is a non-profit corporation located in Baldwin County, Alabama that operates a sanctuary for abandoned, unadoptable, and feral cats.
5. The City of Orange Beach and CCC have come to an agreement (attached Exhibit A) which satisfy the requirements of the Panama City, Florida and Daphne, Alabama USFWS offices, wherein the City will provide an agreed upon amount in return for housing and continued care of feral cats removed from beach mouse habitats within the Orange Beach.
6. The Council has determined that it is in the best interest of the City of Orange Beach to authorize the execution of the attached Service Agreement with CCC.

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 attached Service Agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach, Alabama, a class 8 municipality, and Coastal Cats & Critters, Inc., a non-profit corporation, as an act for and on behalf of the City of Orange Beach, subject to final approval by the City Attorney; and
2. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 6th DAY OF MAY, 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 May 6, 2025.

City Clerk

AGREEMENT FOR SERVICES BETWEEN
THE CITY OF ORANGE BEACH AND
COASTAL CATS & CRITTERS, INC.,

This Agreement for Services establishes and defines a collaborative working relationship between the City of Orange Beach (the City), a Class 8 Municipality, and Coastal Cats & Critters, Inc., a 501(c)(3) nonprofit corporation (CCC) for the purpose of housing and caring for feral cats removed from the habitats of the protected Perdido Key Beach Mouse and Alabama Beach Mouse.

The Perdido Key Beach Mouse and the Alabama Beach Mouse are both endangered species with active habitats in Orange Beach, AL. The City of Orange Beach receives Alabama Beach Mouse Conservation Funds and Perdido Key Beach Mouse Conservation Funds as part of development permitting process. The City of Orange Beach administers expenditure of the Alabama Beach Mouse Conservation Funds and Perdido Key Beach Mouse Conservation Funds subject to approval by the U.S. Fish and Wildlife Service (USFWS). USFWS has approved the expenditure of the funds pursuant to the terms herein.

Coastal Cats and Critters, Inc., (CCC) is a non-profit corporation located in Baldwin County, Alabama. CCC operates a sanctuary for abandoned, unadoptable, and feral cats in Baldwin County, Alabama (the "Sanctuary"). The City has come to an Agreement with the Safe Harbor Animal Coalition, for the removal of feral cats from protected beach mouse habitats as well as performance of required veterinary care for placement in the Sanctuary. CCC and the City have come to an Agreement pursuant to the terms herein whereby CCC will house and care for up to fifty (50) cats removed from protected beach mouse habitat areas in Orange Beach at the Sanctuary once the cats have been spayed/neutered, ear-tipped, vaccinated, and microchipped.

TERMS

- I. CCC SHALL:
1. Use all funds provided by the City for the housing and care of cats removed from Beach Mouse habitats in Orange Beach;
 2. Maintain an accounting of all funds received and expended pursuant to this Agreement;
 3. Accept and permanently care for up to fifty (50) cats removed from beach mouse habitats in Orange Beach which have been properly vetted as described herein;
 4. Notify the City if at any time there is no space available in the acclimation area of the Sanctuary for the required acclimation period of new cats;
 5. Prioritize the acceptance, housing and care of feral cats removed from beach mouse habitats in Orange Beach; and
 6. Maintain a record of all cats housed in the Sanctuary which have been accepted as a part of this Agreement.
- II. OB SHALL:

1. Provide \$25,000 to CCC for the housing and care of up to fifty (50) feral cats removed from beach mouse habitats in Orange Beach;
2. Coordinate with the appropriate parties to ensure all cats placed with CCC as a part of this Agreement have been properly vetted beforehand as described herein; and
3. Provide to CCC records for each cat placed in the Sanctuary including proof of required vetting.

III. TERM AND TERMINATION

1. The term of this Agreement shall be eighteen (18) months commencing May 1, 2025, and ending on October 31, 2026. This Agreement may be renewed by Resolution adopted by the City Council.
2. This Agreement may be terminated by either party for any reason upon thirty (30) days notice of the intent to terminate.

IV. INDEMINIFICATION & HOLD HARMLESS

SHAC 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 CCC, 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.

V. WAIVER OF LIABILITY

I, the undersigned, hereby waive and release the City of Orange Beach, Alabama, its elected and appointed officials, officers, agents and employees (hereinafter "the City"), from any and all liability, including negligence (active or passive) and from any right of action or claim for relief that may accrue to CCC, its elected and appointed officials, officers agents and employees for any injury, loss of life, personal injury and loss of or damage to property.

VI. LAW GOVERNING

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

VII. 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 be substantially impair the value of the entire agreement with respect to any party.

VIII. BREACH OF CONTRACT

If a breach of contract by CCC occurs, CCC agrees to be held liable for the payment of any attorney's fees which may be incurred by the City if litigation arises.

In witness thereof, this Agreement for Services is effective as of the last date shown below.

Tony Kennon, Mayor
City of Orange Beach

Date

ATTEST:

Renee Eberly, City Clerk

Mona Brown, President
Coastal Cats & Critters, Inc.

Date



**REGULAR COMMITTEE OF THE WHOLE MEETING
APRIL 15, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing execution of a service agreement by and between the City of Orange Beach and Safe Harbor Animal Coalition (SHAC) for the removal of feral cats from active beach mouse habitats. (JL)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 05-06-25 25-xxx Authorize Service Agreements Safe Harbor Animal Coalition SHAC Feral Cats Beach Mouse
2. 2025.04.11 Service Agreement Safe Harbor Animal Coalition SHAC

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING EXECUTION OF A
SERVICE AGREEMENT BY AND BETWEEN THE CITY OF ORANGE BEACH AND
SAFE HARBOR ANIMAL COALITION (SHAC) FOR THE
REMOVAL OF FERAL CATS FROM ACTIVE BEACH MOUSE HABITATS**

FINDINGS:

1. The Perdido Key Beach Mouse and the Alabama Beach Mouse are both endangered species with active habitats in Orange Beach, Alabama.
2. The City of Orange Beach receives Alabama Beach Mouse Conservation Funds and Perdido Key Beach Mouse Conservation Funds as part of development permitting process, the expenditure of these funds being subject to approval by U.S. Fish and Wildlife Service (FWS) offices in Panama City, Florida, and Daphne, Alabama.
3. The feral cat population in Orange Beach poses a great threat to the endangered beach mouse species due to the predatory nature of the cats.
4. Safe Harbor Animal Coalition (hereinafter “SHAC”) is a non-profit organization in Baldwin County, Alabama whose primary goal is to address an unabated feral cat population through a Trap, Neuter, Removal (TNR) program.
5. The City of Orange Beach and SHAC have come to an agreement (attached Exhibit A) which satisfy the requirements of the Panama City, Florida, and Daphne, Alabama, USFWS offices, wherein the City will provide agreed upon amounts to SHAC in return for the implementation of their Trap, Neuter, Removal (TNR) program within the City.
6. The Council has determined that it is in the best interest of the City of Orange Beach to authorize the execution of the attached Service Agreement with Safe Harbor Animal Coalition.

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 attached Service Agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach, Alabama, a class 8 municipality, and Safe Harbor Animal Coalition, a 501(c)3 non-profit, as an act for and on behalf of the City of Orange Beach, subject to final approval by the City Attorney; and
2. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 6th DAY OF MAY, 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 May 6, 2025.

City Clerk

AGREEMENT FOR SERVICES BETWEEN
THE CITY OF ORANGE BEACH AND
SAFE HARBOR ANIMAL COALITION

This Agreement for Services establishes and defines a collaborative working relationship between the City of Orange Beach (City), a Class 8 Municipality, and Safe Harbor Animal Coalition, Inc. a 501(c)(3) nonprofit organization, (SHAC) for the purpose of removing feral cats from the habitats of the protected Perdido Key Beach Mouse and Alabama Beach Mouse.

The parties previously entered Agreements October 31, 2024, and approved by Council by Resolution 23-99. By approval of this contract the parties hereby agree to mutual termination of the aforementioned Agreements. The parties agree that all services rendered have been compensated in full and no additional monies are owed. Further, the parties agree that no breach thereof occurred and neither party owes further liability or obligation to the other pursuant to terms of said Agreements.

The Perdido Key Beach Mouse and the Alabama Beach Mouse are both endangered species with active habitats in Orange Beach, AL. The City of Orange Beach receives Alabama Beach Mouse Conservation Funds and Perdido Key Beach Mouse Conservation Funds as part of development permitting process. The City of Orange Beach administers expenditure of the Alabama Beach Mouse Conservation Funds and Perdido Key Beach Mouse Conservation Funds subject to approval by the U.S. Fish and Wildlife Service (USFWS). USFWS has approved the expenditure of the funds pursuant to the terms herein.

SHAC is a non-profit organization located in Baldwin County, Alabama. SHAC originated as “Orange Beach Animal Care and Control Program” (OBACCP) operating with a stated purpose to address an unabated feral cat population in the City of Orange Beach by implementing a “Trap, Neuter, Release” (TNR) program. The TNR method is untenable and unacceptable for the protected beach mouse habitat area due to the predatory nature of the cats and the necessary protection of the beach mouse. Therefore the newly created SHAC organization will implement a “Trap, Neuter, Remove” (TNR) method in coordination with another non-profit, Coastal Cats and Critters, Inc., (CCC).

Coastal Cats and Critters, Inc., (CCC) is a non-profit corporation located in Baldwin County, Alabama. CCC operates a sanctuary for abandoned, unadoptable, and feral cats in Baldwin County, Alabama (the “Sanctuary”). CCC and the City have come to an Agreement wherein CCC will house and care for cats removed from protected beach mouse habitat areas in Orange Beach at the Sanctuary once the cats have been spayed/neutered, ear-tipped, vaccinated, and microchipped.

Private benefactors have made available land on which CCC has constructed and operates the Sanctuary, where feral cats captured from beach mouse habitats in Orange Beach will be relocated.

The parties understand that feeding stations attract cats and are a hazard to the beach mouse native to the Orange Beach area. Further the parties understand and agree that feeding

stations must be removed from the beach mouse habitat areas and the general Beach District. See Exhibit A for detailed area map.

TERMS:

I. SHAC SHALL:

1. Use all funds provided by City for the trapping, removal, vaccination, ear-tipping and microchipping of cats from Beach Mouse habitats and the entirety of the beach districts in Orange Beach;
2. Remove any and all cat feeding stations created or funded by SHAC from within Orange Beach including the beach district; Maintain records of each cat trapped; provide a photo of each cat and detailed location from which each cat is removed;
3. Neuter/Spay, vaccinate, ear clip and microchip each trapped cat before release at the Coastal Cats & Critters' (CCC) Sanctuary (aka, the "Sanctuary").;
4. Prioritize the trapping and removal of cats found in Beach Mouse habitats in Orange Beach working West to East followed by the entirety of the beach districts in Orange Beach; and
5. Maintain accounting of all funds expended.

II. OB SHALL:

1. Provide up to \$25,000 to SHAC to assist in trapping, neutering, and removal of cats from the Beach Mouse habitats in the City of Orange Beach (\$200 per cat captured in the referenced area) over the next 18 months;
2. Coordinate with the appropriate parties to oversee and assist in the removal of cat feeding stations from OB and specifically the beach district (see Exhibit A); and
3. Subject to the availability of funds, compliance with intended purpose, and success of the program, may provide additional funds in future years for the continued removal of cats in beach mouse habitat areas in Orange Beach;

III. TERM AND TERMINATION:

1. The term of this Agreement shall be eighteen (18) months commencing May 1, 2025, and ending on October 31, 2026. This Agreement may be renewed by Resolution adopted by the City Council.
2. This Agreement may be terminated by either party for any reason upon thirty (30) days notice of the intent to terminate.

IV. INDEMNIFICATION & HOLD HARMLESS:

SHAC 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 SHAC, 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.

V. WAIVER OF LIABILITY

I, the undersigned, hereby waive and release the City of Orange Beach, Alabama, its elected and appointed officials, officers, agents and employees (hereinafter “the City”), from any and all liability, including negligence (active or passive) and from any right of action or claim for relief that may accrue to SHAC, its elected and appointed officials, officers agents and employees for any injury, loss of life, personal injury and loss of or damage to property.

VI. LAW GOVERNING

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

VII. 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 be substantially impair the value of the entire agreement with respect to any party.

VIII. BREACH OF CONTRACT

If a breach of contract by SHAC occurs, SHAC agrees to be held liable for the payment of any attorney’s fees and other expenses incurred by the City pursuant to breach by SHAC.

In witness thereof, this Agreement for Services is effective as of the last date shown below.

SIGNATURE PAGE FOLLOWS

Tony Kennon, Mayor
City of Orange Beach

Date

ATTEST:

Renee Eberly, City Clerk

Mona Brown, President
Coastal Cats & Critters, Inc.

Date

DRAFT



**REGULAR COMMITTEE OF THE WHOLE MEETING
APRIL 15, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing the execution of a professional services agreement with Goodwyn, Mills & Cawood, Inc., for engineering, design, and testing. (RE)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 05-06-25 25-xxx Authorize Professional Services Agreement Goodwyn Mills Cawood GMC
2. 2025.04.04 Professional Services Agreement Goodwyn Mills Cawood GMC

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING THE EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT WITH
GOODWYN, MILLS & CAWOOD, INC.
FOR ENGINEERING, DESIGN, AND TESTING**

FINDINGS:

1. The City of Orange Beach and Goodwyn, Mills & Cawood, Inc., have reached an agreement (attached Exhibit A) whereby Goodwyn, Mills & Cawood, Inc., will provide engineering, design and testing services for the City of Orange Beach.
2. The Agreement authorizes work to be assigned by one or more task orders approved from time to time by the City Council.
3. After having reviewed the agreement, the City Council has determined that the provisions are in the best interest of the City of Orange Beach, Alabama.
4. The term of this agreement shall be for twenty-four (24) months from the date of adoption by the Orange Beach City Council.

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

1. That the Mayor is hereby authorized to execute the agreement in substantially the form and of substantially the content now before the Council between the City of Orange Beach and Goodwyn, Mills & Cawood, Inc., as an act for and on behalf of the City of Orange Beach subject to final approval by the City Attorney; and
2. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 6th DAY OF MAY, 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 May 6, 2025.

City Clerk

PROFESSIONAL SERVICES CONTRACT

THIS PROFESSIONAL SERVICES CONTRACT (hereinafter "Agreement") is made and entered into by and between the City of Orange Beach, an Alabama Municipal Corporation (hereinafter "City"), and Goodwyn, Mills & Cawood, Inc. (hereinafter "Contractor"), as follows:

WHEREAS, Contractor is engaged in the business of providing architectural services;

WHEREAS, City desires to engage Contractor to provide said services upon the following terms and conditions;

NOW THEREFORE,

WITNESSETH:

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

I. SERVICES TO BE PERFORMED

Contractor agrees to perform Engineering, Design, and Construction Services, and to represent the City as requested as their Consultant on a variety of assigned project. Each project will be assigned to Contractor in the form of a written Task Order describing the scope of work. A copy of this Agreement shall be attached to each Task Order.

Contractor agrees to perform services that may include, but not be limited to, permitting, surveying, planning, design, construction documents, construction engineering and inspection services as required by the City, and other services as requested.

II. COMPENSATION

Fees for work completed and reimbursable expenses will be invoiced to the City on a monthly basis, based on the following hourly rate schedule. It is anticipated that hourly fees will apply to conceptual and programming work in order to establish definitive scope of work for a specific project (Task Order). Once a project scope is identified, it is anticipated that a lump-sum fee will be established based on a percentage of the estimated cost of construction:

INSERT FEE SCHEDULE

III. TERM OF AGREEMENT

Unless terminated earlier in accordance with the termination provisions of this Agreement, the term of this Agreement shall commence upon its adoption by the Orange Beach City Council and shall continue thereafter for twenty-four (24) months.

IV. GENERAL PROVISIONS

- A. Contractor agrees to permit at all reasonable times and places an audit of its books and records by City's duly authorized representatives.
- B. 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 venture 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.

- C. Contractor shall act as a representative of the City, under the direct supervision of the City. Contractor shall have no authority to obligate the City in any way whatsoever. In the performance of his duties, the Contractor shall be deemed an independent contractor.
- D. 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.
- E. Contractor hereby agrees to comply strictly with all ordinances of the City of Orange Beach, Alabama, and the laws of the State of Alabama and of the United States while performing its obligations under the terms of this Agreement.
- F. Contractor agrees that upon the violation of any of the covenants and agreements herein contained, on account of any act or omission or commission of Contractor, City may, at its option, terminate and cancel this Agreement.
- G. Contractor agrees that it will comply with Title 6 of the Civil Rights Act of 1964 which provides that no person will be excluded from participation in, or be denied benefits of, or otherwise be subjected to discrimination on the grounds of race, sex, color, national origin, or disability, in connection with federally funded programs.
- H. City may terminate this Agreement with or without cause at any time by giving written notice to Contractor of such termination (herein called a "Notice of Termination"), specifying the effective date thereof not less than thirty (30) calendar days before the effective date of the termination. Contractor shall have the right to terminate this Agreement by giving City written notice and remaining in service for a sufficient time to allow City to seek a suitable replacement. Should Contractor be terminated pursuant to the terms of this subpart, then this Agreement shall terminate on the last day of Contractor's current month of employment and City shall not be liable for any compensation beyond that date.
- I. Contractor agrees to indemnify and hold the City, its elected officials, officers, agents, and employees whole and harmless from all costs, liabilities and claims for damages of any kind arising in any way out of the negligent acts, errors or omissions of the contractor in performance of this Agreement and/or the activities of the Contractor, its principals, directors, agents, servants and employees in the performance of this Agreement, for which the City is alleged to be liable. In the event the City, through no fault of its own, is made a party to any lawsuit or legal proceeding arising from Contractor's activities under this Agreement, Contractor agrees to indemnify and hold the City harmless from all costs, including attorneys' fees and expenses, associated with same. This indemnification extends only to third party claims and actions filed against the City as a result of any negligent actions by the Contractor under this Agreement. This duty shall survive the termination of this contract.
- J. All notices of cancellation, requests, demands, or other communications shall be in writing and duly delivered to the following address for City at:

Renee Eberly, City Clerk
P.O. Box 458
Orange Beach, Alabama 36561
Copy to: City Attorney

And to Contractor at:

Goodwyn Mills Cawood
Attn: Lee Walters
P.O. Box 1127
Daphne, AL 36526

- K. 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.
- L. 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.
- M. 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.
- N. This Agreement shall be governed by the laws of the State of Alabama, and the appropriate venue for any actions arising out of this Agreement shall be Baldwin County, Alabama.
- O. Contractor shall obtain, at its own expense, all necessary licenses, permits, insurance, authorization and assurances necessary in order to abide by the terms of this Agreement.

V. INSURANCE

For the term of this Agreement, the Contractor shall acquire and maintain in full force and effect the following liability and comprehensive insurance issued by a company licensed and qualified to do business in the State of Alabama, which such insurance shall name the City of Orange Beach as an additional insured, and shall attach to this contract, as proof thereof, a certificate of insurance issued by an agent licensed and qualified to do business in the State of Alabama:

Worker's Compensation – as required by State of Alabama law

General Liability Insurance – public liability including premises, products, complete operations and automobile comprehensive and liability, including owned, non-owned, and hired vehicles.

Either:

- (1) Bodily injury liability
 - \$250,000 each person
 - \$500,000 each occurrence
 - Property damage liability
 - \$100,000 each occurrence

Or,

- (2) Bodily injury and property damage combined
 - \$500,000 per occurrence

Professional Errors and Omissions – coverage limits of \$3,000,000 each claim and policy aggregate, an extended discovery period to apply for at least two (2) years after work is accepted by the City of Orange Beach, and a deductible not to exceed \$10,000 for which the Contractor will remain solely responsible.

If the certificate of insurance referenced in this Agreement does not evidence insurance of owned vehicles, said certificate and this sentence shall evidence the Contractor's covenant that it does not own any vehicles and that it will not purchase or obtain any vehicles during the term of this Agreement.

Said certificate shall require that said insurance will not be altered or terminated unless City shall be given written notice of such alteration or termination delivered to City not less than thirty (30) days before the effective date of such alteration or termination.

VI. 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.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this the _____ day of _____, 20_____.

CITY OF ORANGE BEACH, A Municipal Corporation

By: _____
Mayor Tony Kennon

ATTEST:

City Clerk

CONTRACTOR:

Goodwyn, Mills & Cawood, Inc.

By: April Henley
NAME

Its: Principal

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said County in said State, hereby certify that Tony Kennon and Renee Eberly, whose names as Mayor and City Clerk, respectively, of the City of Orange Beach, a Municipal Corporation, are signed to the foregoing agreement, and who are known to me, 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 this the _____ day of _____, 2025.

(SEAL)

Notary Public
State of Alabama At-Large
My Commission Expires: _____

STATE OF ALABAMA
COUNTY OF _____

I, the undersigned Notary Public, in and for said county in said state, hereby certify that NAME, whose name as TITLE of Goodwyn, Mills & Cawood, Inc., an Alabama corporation, 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 agreement, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

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

(SEAL)

Notary Public
State of Alabama At-Large
My Commission Expires: _____



2025
Standard Rate and Fee Schedule

Standard Hourly Rates

Executive Vice President	\$ 305.00
Senior Vice President	\$ 285.00
Vice President	\$ 265.00
Senior Professional (Architect, Engineer Regional Technical Leader, Surveyor, Interior Design, Scientist, Project Manager)	\$ 260.00
Professional III (Architect, Engineer Design Manager, Surveyor, Interior Design, Scientist, Project Manager)	\$ 240.00
Professional II (Architect, Engineer State Technical Leader, Surveyor, Interior Design, Scientist, Project Manager)	\$ 220.00
Professional I (Architect, Engineer Design Coordinator, Surveyor, Interior Design, Scientist, Project Manager)	\$ 200.00
Senior Professional Staff (Architect, Project Engineer, Interior Design, Scientist, Assistant Project Manager)	\$ 165.00
Professional Staff III (Architect, Project Professional, Interior Design, Scientist)	\$ 150.00
Professional Staff II (Architect, Staff Professional, Interior Design, Scientist)	\$ 135.00
Professional Staff I (Architect, Interior Design, Scientist)	\$ 120.00
Senior Technical (Technical Spec., Contract Spec., CADD Tech., Designer, Drafting, CA, ROW, Inspector)	\$ 165.00
Technical III (Contract Spec., CADD Tech., Designer, Drafting, CA, ROW, Inspector)	\$ 150.00
Technical II (Contract Spec., CADD Tech., Designer, Drafting, CA, ROW, Inspector)	\$ 125.00
Technical I (Contract Spec., CADD Tech., Designer, Drafting, CA, ROW, Inspector)	\$ 100.00
Intern II (Architecture, Engineering, Survey, Interior Design, Environmental Sciences)	\$ 90.00
Intern I (Architecture, Engineering, Survey, Interior Design, Environmental Sciences)	\$ 75.00
Executive Administrative Assistant	\$ 120.00
Administrative Assistant II	\$ 100.00
Administrative Assistant I	\$ 80.00
Field Survey:	
Survey Crew (four-man survey crew)	\$ 350.00
Survey Crew (three-man survey crew)	\$ 280.00
Survey Crew (two-man survey crew)	\$ 210.00
Field Tech III	\$ 120.00
Field Tech II	\$ 95.00
Field Tech I	\$ 75.00

Reimbursable Expenses

Travel Expenses	
Vehicle Transport	\$0.70 per mile
Travel/ Meals/ Lodging	Cost
Other Out-of-Pocket Expenses	Cost plus ten percent
Sub-Consultant/ Sub-Contractors	Cost plus five percent
Sub-Consultant/Sub-Contractors reimbursable expenses	Cost plus five percent
Printing & Shipping	
Out of house reprographic services	Cost plus ten percent
In-House B&W reprographic services (small format)	\$0.10/ sheet (8.5 x 11)
	\$0.15/ sheet (11 x 17)
In-House Color reprographic services (small format)	\$0.10/ sheet (8.5 x 11)
	\$0.15/ sheet (11 x 17)
In-House B&W reprographic services (large format)	\$0.15/ sf
In-House Color reprographic services (large format)	\$0.20/ sf
GPS equipment	\$250.00 per day



**REGULAR COMMITTEE OF THE WHOLE MEETING
APRIL 15, 2025**

Departments: City Clerk

Description of Topic: Resolution authorizing the execution of a task order with Goodwyn, Mills & Cawood, Inc., to perform a Discharge Information Zone (DIZ) study for the Orange Beach Wastewater Treatment Plant in an amount not to exceed \$54,435. (KB/RS)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 05-06-25 25-xxx Authorize Task Order Goodwyn Mills Cawood GMC Utilities Discharge Information Zone Study WWTP
2. 2025.04.11 Task Order Goodwyn Mills Cawood GMC DIZ Study

RESOLUTION NO. 25-xxx

**A RESOLUTION AUTHORIZING THE EXECUTION OF A
TASK ORDER WITH GOODWYN, MILLS & CAWOOD, INC.,
TO PERFORM A DISCHARGE INFORMATION ZONE STUDY
FOR THE ORANGE BEACH WASTEWATER TREATMENT PLANT
IN AN AMOUNT NOT TO EXCEED \$54,435**

FINDINGS:

1. The Orange Beach City Council, by Resolution No. 25-xxx adopted May 6, 2025, approved a contract with Goodwyn, Mills & Cawood, Inc., to perform certain professional engineering and planning services ("the Contract").
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's Utilities Department has submitted a Task Order (attached Exhibit A) for Council approval.
4. The proposed Task Order requires Goodwyn, Mills & Cawood, Inc. to perform sampling and reporting services for a Discharge Information Zone (DIZ) study along the Intercoastal Waterways for the Orange Beach Wastewater Treatment Plant.
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 Goodwyn, Mills & Cawood, 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 \$54,435.00 to Goodwyn, Mills & Cawood, Inc., to complete the Task Order as presented; and
3. That this Resolution shall become effective immediately upon its adoption.

ADOPTED THIS 6th DAY OF MAY, 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 May 6, 2025.

City Clerk



April 4, 2025

Goodwyn Mills Cawood

11 North Water Street
Suite 15250
Mobile, AL 36602

T (251) 460-4006
F (251) 460-4423

www.gmcnetwork.com

Mr. Robert Stalcup
City of Orange Beach
Utilities Director
4099 Orange Beach Blvd.
Orange Beach, AL 36561

**RE: Discharge Information Zone Study
Orange Beach Wastewater Treatment Plant
Baldwin County, AL**

Dear Mr. Stalcup:

Goodwyn Mills Cawood LLC, (GMC) is pleased to have the opportunity to provide a proposal for the upcoming Discharge Information Zone (DIZ) study for the Orange Beach Wastewater Treatment Plant.

GMC is prepared to complete the DIZ Study along the Intercoastal Waterways (ICW). Representatives will perform five (5) tasks at the specified study areas to determine the extent of discharge impacts for this project area and provide a summary report of the findings.

These tasks include:

1. Study Area and Sampling/Monitoring Locations:

Eight biological monitoring stations will be established and distributed to the east and west of the Discharge Point. These stations are distributed in increments of 400 ft, 800 ft, and 1600 ft to the east and west of the Discharge Point, with one station located adjacent to the Discharge Point and another station located 6,000 ft southwest of the Discharge Point. At each station, hydrographic measurements, sediment samples, benthic samples, and phytoplankton samples will be collected.

2. Hydrography:

At each of the eight stations, 4 samples will be taken totaling 32 samples. Hydrographic samples will be taken near-surface, mid-depth, 5-foot, and near-bottom depths measuring temperature, conductivity, salinity, pH, and dissolved oxygen (DO). Surface water clarity will be measured at each station using a Secchi disk reading. Additionally, due to the sensitivity of phytoplankton, we will be sampling the presence of them at each station for water quality.

3. Benthic Macroinfaunal sampling:

Five benthic macroinfaunal samples will be collected at each of the eight sampling stations with a sediment probe from an anchored survey vessel. Each replicate sample will be field-sieved with a 0.5-mm mesh sieve bucket, transferred into labeled sample bags and preserved with 10% formalin solution. Once identified, total Taxa data, diversity, and percentages will be calculated and added to the report.



4. Sediment characteristic samples:

Two sediment samples will be collected at each of the eight macroinfaunal stations for duplicate textural and total organic carbon (TOC) analysis. Percentages of sediments will be calculated with these samples also. Sediment descriptions include: gravel, sand, silt and clay, and mean particle size.

5. Heavy Metal Analysis sediment samples:

An additional sediment sample will be collected at each of the eight stations to analyze heavy metal compound presence. Heavy metals that will be tested for mg/Kg include: Aluminum, Arsenic, Cadmium, Chromium, Copper, Iron, Lead, Manganese, Mercury, Nickel, Silver, Tin, and Zinc. To preserve, each of the sediment samples will be labeled and placed on ice in a cooler.

According to ADEM guidelines, DIZ monitoring should be conducted in late Summer/early Fall months. The 2016 monitoring field work was completed in September and the 2020 monitoring field work was completed in October (due to poor weather conditions in September). Therefore, GMC proposes to complete this 2025 monitoring field work in September, weather permitting. It is expected that the DIZ study report can be completed within 60 days of completion of the field work. The DIZ study field work and reporting can be completed for a lump sum fee of **\$54,435**.

Work Not Included:

1. Specialized services, unless specifically stated in the established Project Scope, such as laboratory testing of materials, subsurface borings and activities of a similar nature, which require specialized equipment and technicians are not part of this Agreement. It should be noted this scope only covers work related to the DIZ Study and not NPDES permit renewal/application.

GMC looks forward to working with the City of Orange Beach in bringing the referenced study to successful completion. If you have any questions or need any additional information, please contact me at (334)201-1985. If this proposal meets your approval, please sign and return to us this *Notice to Proceed*. For your convenience in returning the *Notice to Proceed*, it can be e-mailed to april.henley@gmcnetwork.com.

Sincerely,

April Henley, PWS
Environmental Department Head

Notice to Proceed

Approved

Date



**REGULAR COMMITTEE OF THE WHOLE MEETING
APRIL 15, 2025**

Departments: Community Development

Description of Topic: Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0401-RZ-25, Twilley Property Rezoning. (Suggested date 5/6/2025) (GP)

Background/Description: Ron Twilley Builders, on behalf of Ron & Darlene Twilley, requests approval of the Rezoning of Lot 44 of Emma Burkart Subdivision from General Business (GB) to Single-Family Residential (RS-1). The property is located at 28226 Canal Road.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
APRIL 15, 2025**

Departments: Community Development

Description of Topic: Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0409-ZT-25, Zoning Text Amendment, Article 8, Parking Requirements for Automotive Repair and Service Center. (Suggested date 5/6/2025) (GP)

Background/Description: The Community Development Department requests approval of Zoning Text Amendment to amend Section 8.01 of the Orange Beach Zoning Ordinance with regard to the parking requirements for automotive repair and service centers and car wash establishments.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
APRIL 15, 2025**

Departments: Community Development

Description of Topic: Set a public hearing date for an ordinance amending Ordinance No. 172, the Zoning Ordinance, Case No. 0410-ZT-25, Zoning Text Amendment, Article 4, Density and Wetlands and Wetland Setbacks. (Suggested date 5/6/2025) (GP)

Background/Description: The Community Development Department requests approval of Zoning Text Amendment to Article 4 of the Orange Beach Zoning Ordinance with regard to density calculations and wetlands and wetland setbacks.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
APRIL 15, 2025**

Departments: Community Development

Description of Topic: Set a public hearing date for consideration of Conditional Use Approval for Case No. 0502-CU-25, Bayside Garages at Orange Beach. (Suggested date 5/20/2025) (GP)

Background/Description: Lucido Engineering & Surveying LLC, on behalf of Steven Carter, requests Conditional Use Approval to construct an enclosed storage facility consisting of two buildings covering 28,600 total square feet and containing 26 total units. The property is Lot 1 of Mango Place Subdivision on Pelican Place in the General Business (GB) zoning district.

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

None



**REGULAR COMMITTEE OF THE WHOLE MEETING
APRIL 15, 2025**

Departments: City Clerk

Description of Topic: Ordinance declaring City-owned real property as unneeded for municipal purposes and authorizing the execution of a ground lease agreement with the Solid Waste Disposal Authority of Baldwin County, Alabama, Inc. (JL)

Background/Description:

Action Options/Recommendation:

Source of Funding (if applicable):

ATTACHMENTS:

1. 2025-xxxx Declare Surplus Real Property Ground Lease Solid Waste Disposal Authority Baldwin County CHaRM Recycling Center
2. 2025.04.11 Ground Lease Agreement Solid Waste Authority Baldwin County CHaRM Recycling Center

ORDINANCE NO. 2025-xxxx

**AN ORDINANCE DECLARING CITY-OWNED REAL PROPERTY AS UNNEEDED
FOR MUNICIPAL PURPOSES AND AUTHORIZING THE EXECUTION OF A
GROUND LEASE AGREEMENT WITH THE
SOLID WASTE DISPOSAL AUTHORITY OF BALDWIN COUNTY, ALABAMA, INC.**

FINDINGS:

1. Section 11-43-56 *Code of Alabama* (1975), provides that the City Council shall have the management and control of the finances and all of the property, real and personal, belonging to the City.
2. Section 11-47-21 *Code of Alabama* (1975) provides that the City Council may, by ordinance to be entered in its minutes, direct the leasing of any real property not needed for public or municipal purposes and direct the Mayor to enter into such an agreement not to exceed 99 years.
3. The City has determined that real property described in Exhibit A of the attached Ground Lease Agreement, owned by the City of Orange Beach, Alabama, is no longer needed for public or municipal purposes.
4. The Solid Waste Disposal Authority of Baldwin County, Alabama, Inc., (hereinafter the "Disposal Authority") is establishing recycling convenience centers for conventionally hard to recycle materials ("CHaRM" facilities) throughout Baldwin County and has expressed their interest in building and operating one in Orange Beach, Alabama.
5. The City and the Disposal Authority have reached an agreement (attached) wherein the Disposal Authority shall lease the above-described property under such provisions as listed within the attached agreement for the purposes of building and operating a CHaRM facility.
6. Having reviewed the attached Ground Lease Agreement, the City Council has determined that it is in the best interests of the City of Orange Beach, Alabama.

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

1. That it is hereby established and declared that the Subject Parcel as described in Exhibit A is not needed for public or municipal purposes;
2. That the Mayor is hereby authorized to execute the agreement in substantially the form and of substantially the content now before the City Council between the City of Orange Beach and Solid Waste Authority of Baldwin County, Alabama, Inc., as an act for and on behalf of the City of Orange Beach, subject to final approval by the City Attorney;
3. That the proceeds derived from such lease shall be deposited in the General Fund of the City of Orange Beach;
4. That determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section, or part of this Ordinance shall not affect the validity of the remaining parts of this Ordinance;
5. That all ordinances or parts of ordinances in conflict are, to the extent of such conflict, repealed; and
6. That this Ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED THIS 6th DAY OF MAY, 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

REAL ESTATE LEASE

THIS AGREEMENT is made by and between **THE SOLID WASTE DISPOSAL AUTHORITY OF BALDWIN COUNTY, ALABAMA, INC.** ("Lessee") and the **CITY OF ORANGE BEACH, ALABAMA** ("the Lessor").

WITNESSETH:

WHEREAS, Lessee is a solid waste disposal authority formed pursuant to § 11-89A-1, et seq., *Code of Alabama* (1975) to provide solid waste services, including recycling, to citizens of Baldwin County;

WHEREAS, Lessee is establishing recycling convenience centers for conventionally hard to recycle materials (a "CHaRM") throughout Baldwin County;

WHEREAS, pursuant to § 11-89A-15(a)(1), *Code of Alabama* (1975), Lessee may enter into such leases as may be necessary or convenient to accomplish any purpose for which Lessee was organized;

WHEREAS, Lessor is the owner of certain real property and facilities located on Russian Road, Orange Beach, Alabama 36567, comprising 1.65 acres and reflected on Exhibit A, attached hereto ("Leased Premises");

WHEREAS, § 11-89A-15(a)(1), *Code of Alabama* (1975), authorizes any municipality to lease to any authority any property of any kind;

WHEREAS, pursuant to § 11-47-21, *Code of Alabama* (1975), the governing body of any municipality may, by ordinance, lease real property that is not needed for public or municipal purposes;

WHEREAS, by Ordinance No., the City Council of Orange Beach, the governing body of Lessor, determined that the Leased Premises is not needed for public or municipal purposes;

WHEREAS, Lessee desires to construct and operate one such CHaRM at the Leased Premises pursuant to the terms of this real estate lease agreement (the "Lease");

WHEREAS, Lessor desires to let the Leased Premises for a CHaRM pursuant to the provisions of this Lease; and,

WHEREAS, Lessor and Lessee have determined that it is desirable and that a public purpose will be served by leasing the Leased Premises to the Lessee pursuant to this Lease.

NOW, THEREFORE, for and in consideration of the covenants and conditions herein to be kept, performed and observed, the parties agree as follows:

ARTICLE 1. DEMISE OF LEASED PREMISES

Description of Leased Premises

1.01 Lessor leases to Lessee, and Lessee rents and accepts from Lessor, the real property located on Russian Road, Orange Beach, Alabama 36567, comprising 1.65 acres, more particularly identified on Exhibit A attached hereto and incorporated herein by reference (“Leased Premises”).

Land Subject to Liens, Encumbrances, and Other Conditions

1.02 This Lease and the Leased Premises are subject to all present and future leases, liens, encumbrances, conditions, rights, easements, restrictions, rights of way, covenants, other matters of record, and zoning and building laws, ordinances, regulations, and codes affecting or governing the Leased Premises or that may affect and govern the Leased Premises after the execution of this Lease, and all matters that may be disclosed by inspection or survey.

ARTICLE 2. TERM AND RENT

Term of Lease

2.01 This Lease shall be for an initial term of ten (10) years, commencing on the 1st day of May 2025, and ending on the 30th day of April, 2035, unless terminated at an earlier date for any reason set forth in this Lease.

Renewal

2.02

(a) Subject to Section 2.02(b), upon the expiration of the initial term, this Lease shall automatically renew for an additional ten (10) year term on all the terms and conditions as set forth in this Lease. Thereafter, this Lease shall automatically renew at the conclusion of each successive term on all the terms and conditions as set forth herein. However, consistent with the ninety-nine-year limitation in § 11-27-21, *Code of Alabama* (1975), the tenth successive term shall be a term of nine (9) years and will not be automatically renewable.

(b) Lessee and Lessor have the option not to renew the Lease at the conclusion of the initial term and of any term thereafter. In order to exercise this right, Lessee or Lessor must notify the other party of its election not to renew the Lease. Such notice must be in writing and delivered no less than six (6) months before the conclusion of the then-current term.

Consideration

2.03 Lessee's consideration to Lessor for this Lease shall be:

(a) the payment of the amount of One Dollar (\$1.00) per year, with the first payment being due on or before May 30, 2024 and each successive payment being due on the same date each year; and,

(b) the operation, by Lessee or agent, of a recycling center for conventionally hard to recycle materials upon the Leased Premises.

(c) The City of Orange Beach and its citizens shall be entitled to utilize the recycling services of Lessee on the premises at no cost to the City or citizens.

ARTICLE 3. USE AND CONSTRUCTION OF IMPROVEMENTS

Primary Use

3.01 Lessee shall have the exclusive right to use the Leased Premises for the purpose of constructing and operating a recycling center for conventionally hard to recycle materials during the term of this Lease. . Lessee shall maintain the premises in a neat, clean and sanitary condition.

Construction of Buildings and Other Improvements

3.02 Lessee shall have the right to construct improvements or modifications ("Improvements") on the Leased Premises at Lessee's sole cost and expense, subject to required approvals by the City and its relevant Boards, Commissions, and/or departments. All improvements will become property of Lessor.

ARTICLE 4. OPERATING COSTS AND IMPOSITIONS

Operating Costs

4.01 Lessee shall be responsible for the maintenance, repair and replacement of any improvements on the leased premises and shall directly pay all "Operating Costs" and "Impositions" defined in Paragraphs 4.02 and 4.03, below, in connection with the Leased Premises whether structural or otherwise.

Definition of Operating Costs

4.02 "Operating Costs" shall include, but shall not be limited to, all expenses in connection with the following activities:

- (1) Water, sewer, gas, electricity, fuel oil, and other utilities.
- (2) Landscaping. Insurance.
- (3) Rubbish removal.
- (4) Supplies and sundries.
- (5) Insurance premiums.
- (6) Maintenance.
- (7) Staffing.
- (8) Any and all expenses related to the construction, maintenance, repair, and replacement of improvements on the Leased premises.
- (9) All other expenses, whether or not mentioned in this Lease, that are incurred with regard to operation of the Leased Premises, including any replacements if necessary for repairs and maintenance or

otherwise.

Definition of Impositions

4.03 "Impositions" shall include all fines and levies that result from Lessee's activities on the Leased Premises, all real estate property taxes, assessments, and other governmental charges that are laid, assessed, levied, or imposed on the Leased Premises and become due and payable during the Term of this Lease, or any lien that arises during the time of this Lease on the Leased Premises and Improvements, any portion of these, or the sidewalks or streets in front of or adjoining the Leased Premises and Improvements.

ARTICLE 5. LAWS AND GOVERNMENTAL REGULATIONS

Compliance With Legal Requirements

5.01 The parties acknowledge that Lessee will operate a recycling center on the Leased Premises, which usage will implicate state and federal law related to recycling and solid waste operations, as well as regulations and oversight from the Environmental Protection Agency and the Alabama Department of Environmental Management. Lessee shall promptly comply with all applicable laws, ordinances, orders, rules, regulations, and requirements of federal, state, and municipal governments and appropriate departments, commissions, boards, and officers of these governments ("Legal Requirements") throughout the duration of this Lease, and without cost to Lessor. Lessee shall promptly comply with these Legal Requirements whether they are foreseen or unforeseen, or ordinary or extraordinary. To the extent Lessee's compliance with Legal Requirements requires cooperation from Lessor as owner of the Leased Premises, Lessor agrees to reasonably cooperate with Lessee in complying with the same.

ARTICLE 6. LIENS AND ENCUMBRANCES

Creation Not Allowed

6.01 Lessee shall not create, permit, or suffer any mechanics' or other liens or encumbrances on or affecting the Leased Premises or the fee estate or reversion of Lessor.

Lessor Not Liable for Labor, Services, or Materials Furnished to Lessee

6.02 Lessor shall not be liable for any labor, services, or materials furnished or to be furnished to Lessee in connection with any work performed on or at the Leased Premises.

ARTICLE 7. INSURANCE

Types of Insurance

7.01 Lessee shall maintain, at its sole cost and expense, but for the mutual benefit of Lessor and Lessee, the following insurance:

(a) Throughout the duration of this Lease, comprehensive broad-form general public liability insurance against claims and liability for personal injury, death, and property or environmental damage arising from the use, occupancy, disuse, or condition of the Leased Premises;

(b) During construction, demolition, or excavation and to the extent reasonably procurable, construction liability insurance, against all liability for injury or damage to any person or property in any way arising out of demolition, excavation, or construction work on the premises; and,

(c) Upon completion of any constructed improvements, insurance covering the Improvements that may be erected on the Leased Land, against loss or damage by fire, vandalism, malicious mischief, windstorm, hail, smoke, explosion, riot, civil commotion, vehicles, aircraft, flood, or earthquake.

The insurance policy or policies shall name both Lessor and Lessee as insureds. Any insurance shall be carried by insurance companies authorized to transact business in Alabama. Lessee is responsible for casualty insurance covering any fixtures, furniture, or equipment as well as environmental damages.

Certificates of Insurance

7.02 Lessee shall furnish Lessor with certificates of all insurance required by this Article 7. Insurance required by Section 7.01 shall not be terminated without at least thirty (30) days notice to Lessor.

Indemnification of Lessor

7.03 Lessor, its elected officials, employees and officers shall not be liable for any loss, damage, injury, or death of any kind or character to any person or property arising from any use of the Leased Premises or Improvements, or caused by any defect in any building, structure, equipment, facility, or other improvement on the Leased Premises, or caused by or arising from any act or omission of Lessee, or any of its agents, employees, licensees, or invitees, or by or from any accident, fire, acts of God, or other casualty on the land, or occasioned by the failure of Lessee to maintain the premises in safe condition. Lessee waives all claims and demands on its behalf against Lessor, its elected officials, employees, and officers for any loss, damage, or injury, and agrees to indemnify and hold Lessor entirely free and harmless from all liability arising from this lease, use of premises or activities on premises for any loss, damage, costs, injury, or death of other persons, and from all costs and expenses arising from any claims or demands of other persons concerning any loss, damage, injury, or death caused other than by the gross negligence or willful misconduct of Lessor.

ARTICLE 8. LEASE HOLD MORTGAGES

Leasehold Mortgages Not Permitted

8.01 Lessee shall not be permitted to mortgage Lessee's leasehold interest in the Leased Premises. Lessee agrees to subordinate any interest created by this lease to any indebtedness of the Lessor presently or hereinafter existing. This includes, without limitation, bond financing.

ARTICLE 9. DEFAULT

Events of Default

9.01 Lessee's failure to observe or perform or cause to be observed or performed any term, covenant, or agreement under this Lease shall constitute a default under this Lease.

Notice of Election to Terminate Lessee's Possession

9.02 If any event creating default occurs, Lessor may notify Lessee of the event of default in writing. If the event of default is curable, Lessee shall have thirty (30) days to cure the event of default. Lessee's failure to cure such a default within thirty (30) days shall be grounds for termination of this Lease. In the event the default cannot be cured, Lessor may elect to terminate this Lease. Lessee shall be responsible for any and all costs incurred by Lessor due to an incurable default resulting from Lessee's actions under or in opposition of the provisions of this Lease. Upon termination, all of Lessee's rights, title, and interest in the Leased Premises shall expire completely and Lessee shall, within a reasonable time, quit and surrender the Leased Premises. Any improvements erected on the subject leased premises shall revert back to the Lessor, however, Lessee shall have a reasonable time not to exceed ninety (90) days for removal of any such improvements that can be removed without causing damage to the Leased Premises.

Lessor's Entry After Termination of Lessee's Possession

9.03 At any time after the termination of Lessee's right of possession under this Lease pursuant to Paragraph 9.02 of this Lease, Lessor may enter and possess the Leased Premises by summary proceedings, ejectment, or otherwise, and Lessor may remove Lessee and all other persons and property from the Leased Premises.

ARTICLE 10. EXPIRATION OF TERM

Lessee's Delivery of Possession After Termination or Expiration

10.01 On the expiration date of this Lease, either after the initial term or any successive term, or the termination of Lessee's possession under this Lease pursuant to Paragraph 9.03, or any entry or possession of the Leased Premises by Lessor pursuant to Paragraph 9.03 (collectively referred to as the "Expiration Date"), Lessee shall promptly quit and surrender the Leased Premises, and deliver to Lessor actual possession and ownership of the Leased Premises, less improvements, which the Lessee shall have a right to remove within ninety (90) days pursuant to Paragraph 9.02 but shall otherwise return the premises without improvements in good condition, wear and tear, construction and site work excepted.

Lessee's Removal of Movable Objects

10.02 Lessee shall have the right to remove from the Leased Premises and Improvements all movable fixtures, movable equipment, and articles of personal property used or procured for use in connection with the use of the Leased Premises within ninety (90) days after the Expiration Date. Any fixtures, equipment, or articles of personal property of Lessee that remain at or on the Leased Premises thereafter shall be deemed to have been abandoned by Lessee, and may either be retained by Lessor as its property or disposed of by Lessor without accountability to Lessee

for the value of these fixtures, equipment, or articles of personal property, or any proceeds derived from the sale of these items.

ARTICLE 11. GENERAL PROVISIONS

No Waiver of Breach by Lessor's Actions

11.01 The failure of Lessor to seek redress for violation of, or to insist on the strict performance of any covenant, agreement, term, provision, or condition of this Lease shall not constitute a waiver of the covenant, agreement, term, provision, or condition. The receipt by Lessor of rent with knowledge of the breach of any covenant, agreement, term, provision, or condition of this Lease shall not be deemed a waiver of that breach.

Waiver of Any Provision Must Be Written

11.02 No provision of this Lease shall be deemed to have been waived, unless the waiver is in writing and signed by the party against whom enforcement is sought. Each right and remedy of Lessor provided for in this Lease shall be cumulative and in addition to every other right or remedy provided for in this Lease, or now or later existing at law, in equity, by statute, or otherwise.

Assignment

11.03 Lessor shall not transfer or assign this Lease Agreement or any of the rights or privileges granted herein without the prior written consent of the City. Consent shall be granted or denied solely at the City's discretion.

Entire Agreement

11.04 This Lease and the Exhibits annexed to this Lease contain the entire agreement between Lessor and Lessee, and any agreement made after the execution of this Lease between Lessor and Lessee shall be ineffective to change, modify, waive, release, discharge, terminate, or effect a surrender or abandonment of this Lease, in whole or in part, unless that agreement is in writing and signed by the party against whom enforcement is sought.

Notices

11.05 All notices and demands of any kind that either party may be required or may desire to give to the other in connection with this Lease must be given by registered or certified mail, return receipt requested, with postage fully prepaid, and addressed to the party to be served at the party's address as set forth below. Any notice shall be deemed received on first attempted delivery. Any party may change the address to which notices to that party are to be directed by notice given in the manner provided in this Paragraph 11.04.

Lessor: Hon. Tony Kennon
 Mayor of Orange Beach, Alabama
 P.O. Box 458
 4099 Orange Beach Blvd.
 Orange Beach, Alabama 36561

Copy to City Clerk and City attorney at the same address

Lessee: Terri Graham
Chief Executive Officer
The Solid Waste Disposal Authority of
Baldwin County, Alabama, Inc.
15093 Landfill Dr.
Summerdale, Alabama 36580

Lessor's Entry and Inspection of Premises

11.06 Lessor, or its agents or designees, following reasonable notice to Lessee, shall have the right to enter the Leased Premises during reasonable business hours for inspection, or to complete any work that may be necessary because of Lessee's default under any of the terms, covenants, and conditions of this Lease continuing beyond the applicable periods of grace, or to exhibit the Leased Premises. The Leased Premises will house a CHaRM and could, from time to time, involve potentially dangerous activities. Lessor and its agents, employees, and invitees agree to follow necessary safety precautions and not to inspect the Leased Premises without providing reasonable notice.

Partial Invalidity or Unenforceability

11.07 If any term, covenant, or condition of this Lease shall be invalid or unenforceable to any extent, the remainder of the terms, covenants, and conditions of this Lease shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

Individuals Benefitted by Lease

11.08 This Lease shall inure to the benefit of and be binding on Lessor and Lessee and their respective successors and assigns except as otherwise provided in this Lease.

No Agency

11.09 Nothing contained in this Lease shall be deemed or construed by the parties or by any third person to create a relationship of principal and agent or of partnership or of joint venture or of any association between Lessee and Lessor, and neither the provisions contained in this Lease or any acts of the parties shall be deemed to create any relationship between Lessee and Lessor, other than the relationship of Lessor and Lessee.

ARTICLE 12. DISCLAIMER OF WARRANTIES

12.01 The execution by the Lessor and Lessee of this Lease shall not be construed as a warranty or representation by the Lessor or by Lessee that the premises are fit and suitable for the use which Lessee intends to make or may make of the premises or for the installation of the proposed improvements. The Lessor hereby specifically disclaims any and all warranties whether express or implied.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Lease this day and year first above written.

Signed in the Presence of: _____ Notary	<u>LESSOR:</u> The City of Orange Beach, Alabama, By: _____ Tony Kennon – Mayor
--	--

Signed in the Presence of: _____ Notary	<u>LESSEE:</u> The Solid Waste Disposal Authority of Baldwin County, Alabama, Inc., By: _____ Jason Padgett – Chairman
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EXHIBIT A

LEGAL DESCRIPTION

Begin at the northeast corner of Baldwin County Parcel Number 05-61-06-23-0-000-011.006, Thence run in a southerly direction along the eastern boundary of said parcel for a distance of 380 feet to a point on the eastern boundary of said parcel, Thence turn an angle of 90 degrees right and run in a westerly direction a distance of 190 feet, Thence turn an angle of 90 degrees right and run in a northerly direction a distance of 380 feet to a point on the northern boundary of said parcel, Thence run in a easterly direction along the northern boundary of said parcel for a distance of approximately 190 feet to the Point of Beginning.