

RESOLUTION AND ORDER NO. 2017-112

A RESOLUTION AND ORDER PURSUANT TO AMENDMENT NO. 750 OF THE ALABAMA CONSTITUTION OF 1901, AS AMENDED, CONDUCTING A PUBLIC HEARING, MAKING CERTAIN DETERMINATIONS TO PROMOTE THE ECONOMIC DEVELOPMENT OF THE COUNTY, AND APPROVING A LEASE AGREEMENT AND MANAGEMENT AGREEMENT WITH WILDNATIVE LOL, LLC

Whereas, Baldwin County (the "County") has heretofore issued its \$600,000 principal amount General Obligation Taxable Warrant, Series 2016-A, dated the date of delivery (the "Warrant"), in order to finance the purchase, acquisition, construction, and equipment of the public recreational boat launch and campground area known as "Live Oak Landing."

Whereas, the County has, since said purchase, operated Live Oak Landing with County employees.

Whereas, the County has, since said purchase, determined that it is in the County's better public and economic interest to contract with a private third party for the operation of Live Oak Landing.

Whereas, WildNative LOL, LLC, an Alabama limited liability company ("WildNative"), has requested that the County consider approving a Lease Agreement for Store and Management Agreement for Campground Located at Live Oak Landing (the "Lease") with WildNative, whereunder, WildNative will (1) lease from the County and operate a retail sales and rental store for services related to the operation of the campground, boat launch, kayak rentals, and other services provided at Live Oak Landing, and (2) manage and operate the Live Oak Landing Campground on behalf of the County.

Whereas, the County will lease the on-site store to WildNative in exchange for the collection of boat launch fees and other fees or payments required by the Lease to be paid to the County. In addition, WildNative will provide management and maintenance services related to the store as set forth in the Lease. WildNative will in return otherwise operate the store for its own profit and operate the campground on behalf of the County. The various other duties, obligations, risks and requirements of the County and WildNative with respect to the operation of the Campground are more particularly described in the Lease.

Whereas, a substantial form of the Lease is attached hereto as Exhibit A and incorporated herein by reference. Said Lease has been available for public inspection as described in the Notice of Public Hearing described below.

Whereas, having heretofore issued the Warrant and by the authority granted hereunder entering into the Lease, the County will have therefore lent its credit, granted aid and things of value, and expended public funds for the benefit of WildNative.

Whereas, pursuant to Amendment No. 750 of the Alabama Constitution of 1901, as amended ("Amendment 750"), the County published a Notice of Public Hearing on June 14, 2017 in the Mobile-Press Register, the paper with the largest circulation in the County, as well as in the Gulf Coast Newspapers.

Whereas, affidavits of publication from the *Mobile-Press Register* and the *Gulf Coast Newspapers*, which respectively include the Notice of Public Hearing, are attached hereto as Exhibit B and incorporated herein by reference.

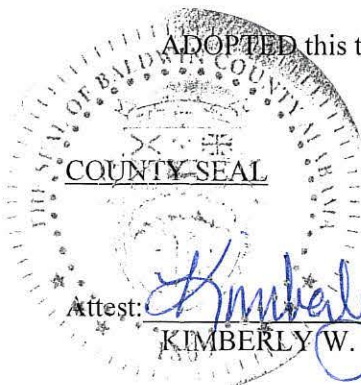
Whereas, said Notice of Public Hearing advertised the date, time, and place for interested citizens to hear and be heard prior to the County's determination to enter into the Lease.

Whereas, the Chairman announced that this was in fact the date, time, and place for interested persons to hear and be heard regarding the County's proposed expenditure of public funds for the incidental benefit of WildNative.

NOW THEREFORE, BE IT RESOLVED AND ORDERED BY THE COUNTY COMMISSION OF BALDWIN COUNTY AS FOLLOWS:

1. The foregoing "Whereas" clauses are incorporated herein by reference.
2. The County hereby finds and determines that the issuance of the Warrant and the execution of the Lease will promote the economic development of the County and benefit the citizens of the County by improving the amenities, efficiencies, services, operations, and overall quality of Live Oak Landing.
3. Following the Chairman's announcement, and having heard and received any and all comments from all interested persons, the County hereby further finds and determines that the prior issuance of the Warrant and the execution of the Lease will serve the valid and sufficient public purposes described in the preceding paragraph, notwithstanding any incidental benefit accruing to WildNative or any other private party, or the receipt by WildNative or any other private party of the credit, aid, or things of value, of the County.
4. The Lease is hereby ratified, adopted and confirmed, and the Chairman and County Administrator are hereby authorized and directed to execute, attest, seal, and deliver the same.
5. The Chairman and the County Administrator are hereby further authorized and directed to take such other action as may be necessary to effect the foregoing. All prior action heretofore taken by the County in connection with the Warrant, WildNative, Amendment 750, and any other matters herein referred to, are hereby further ratified, adopted, and confirmed.
6. This resolution shall take effect immediately.

ADOPTED this the 22nd day of June, 2017.



Attest:

Kimberly W. Creech
KIMBERLY W. CREECH, County Clerk/Treasurer

T. Christopher Elliott
T. CHRISTOPHER ELLIOTT, Chairman

LEASE AGREEMENT FOR STORE AND
MANAGEMENT AGREEMENT FOR CAMPGROUND
LOCATED AT LIVE OAK LANDING

This Lease Agreement for Store and Management Agreement for Campground Located at Live Oak Landing (the "Agreement") is entered into by and between BALDWIN COUNTY, ALABAMA, by and through the BALDWIN COUNTY COMMISSION, a political subdivision of the State of Alabama (hereinafter referred to as "County"), and WildNative LOL LLC, an Alabama limited liability company (hereinafter referred to as "Tenant" or "WildNative").

1. LEASE AGREEMENT FOR STORE

WITNESSETH:

For and in consideration of the respective covenants and agreement of the parties contained herein, County does hereby lease and demise unto WildNative for and during the term of the Agreement the following described Leased Premises located in Baldwin County, Alabama, to wit:

That portion of the property described as Live Oak Landing, Parcel 1 in that certain Statutory Warranty Deed recorded as Instrument Number 1355257 in the Office of the Judge of Probate of Baldwin County, Alabama, which contains a retail store as outlined and depicted on the attached Exhibit A (the County reserves the right to substitute or add a legal description for the Leased Premises).

WildNative shall be entitled to use that portion of the Premises described above and as outlined and depicted on the attached Exhibit A for the operation of a retail sales store for services related to the operation of the campground and boat launch. The County reserves the right, in its sole discretion, to subdivide the premises and the surrounding property in order to create two or more lots or parcels. In that event, the parties agree that the legal description of the property outlined and depicted in Exhibit A may be substituted based on the subdivision by an addendum executed by the parties, if deemed necessary by the County.

1. USE OF LEASED PREMISES

1.1 The Leased Premises are to be used by WildNative for the sole purpose of operating a retail sales and rental store for services related to the operation of the campground, boat launch, kayak rentals and other services provided at Live Oak Landing. (WildNative shall be entitled sell alcohol for off-premise consumption only, subject all applicable laws, rules and regulations and any rules and regulations adopted by the County regarding the same, and WildNative shall obtain all required licenses.) Any other activity is expressly prohibited. WildNative shall, at all times, in connection with its operations, fully and promptly comply with all laws, ordinances, orders, rules and regulations of any lawful authority having jurisdiction over said Leased Premises, including, but not limited to, those relating to cleanliness, safety,

occupation and use of said Leased Premises and the nature, character and manner of the operation of the business conducted in or at said Leased Premises. WildNative shall, at all times, in connection with its operations, fully and promptly comply with all laws, ordinances, orders, rules and regulations pertaining to environmental protection, either through the EPA, ADEM (Alabama Department of Environmental Management) or other regulatory bodies.

1.2 WildNative is solely responsible for the safety of all employees, invitees, customers and guests relative to the Leased Premises.

1.3 County agrees that, if WildNative shall perform all of the covenants and agreements herein required to be performed by WildNative, WildNative shall, subject to the terms of this Agreement, have the peaceable and quiet enjoyment and possession of the Leased Premises.

2. DURATION OF LEASE TERM

2.1 Provided that WildNative has remitted unto County all rental payments, boat launch fees and all payments required to be paid to the County, the term ("Term") covered by this Lease Agreement shall be for a term of three years and shall commence thirty (30) days prior to the County's estimated completion date of the RV park and bath house being constructed by the County at Live Oak Landing, and shall terminate at 11:59 p.m. Central Time three years from the commencement date. This Agreement shall automatically renew for two additional three year terms, unless either party elects to terminate the Agreement by giving not less than sixty (60) days written notice prior to the end of the respective term or renewal term.

2.2 Either party may terminate this Agreement for cause by giving ninety (90) days written notice of such termination for cause. WildNative shall be responsible for making all payments required pursuant to the Lease Agreement through the date of termination and surrender of possession.

3. CONSIDERATION

3.1 In consideration of this Agreement, WildNative agrees to collect the money for boat launch fees and pavilion rental, and WildNative agrees to pay 100% of the funds collected to the County, less a maximum fee of two percent (2%) of the credit card transactions for any credit card fees, banking fees or financial transaction fees directly attributable to such credit card transactions, in exchange for the rent of the store for the Term of the Lease. WildNative shall provide documentation and records outlining all such credit card fees, banking fees or financial transaction fees directly attributable to such credit card transactions for boat launch fees and pavilion rental as deemed necessary by the County.

3.2 All scheduled rent payments, boat launch fees and other required payments shall be paid to the County on or before the first (1st) day of each month, and the first such monthly payment under this Agreement shall be due on the first day of the month following the commencement date of the Agreement. In the event the payments are not received by the

10th of each month, a late fee in the amount of 10% of the previous month's payment or \$150.00, whichever is greater, shall be paid to the County.

3.3 Payment of said rent shall be made by mailing or otherwise delivering a check or money order payable to at the following address:

For Standard Delivery: Baldwin County Commission
312 Courthouse Square, Suite 12
Bay Minette, Alabama 36507

For Overnight Delivery: Baldwin County Commission
312 Courthouse Square, Suite 12
Bay Minette, Alabama 36507

3.4 Said payments shall be made as indicated herein until such time as County may subsequently designate another place of payment.

3.5 Prior to the commencement of the lease, WildNative shall pay a security deposit in the amount of Ten Thousand Dollars (\$10,000.00) to secure the performance by WildNative of all terms and conditions of the Agreement and to secure payment to the County for (1) any losses or damages incurred by the County as a result of WildNative's failure to comply with the terms of this Agreement and (2) any losses, damages or reimbursements incurred by the County as a result of County's efforts to enforce the terms of this Agreement, including, but not limited to, reasonable attorney's fees and costs.

4. MAINTENANCE AND REPAIR

4.1 WildNative has inspected the Leased Premises prior to the execution of this Lease, and agrees to accept the same in its present condition. WildNative is taking the Leased Premises in "as is" condition. WildNative shall maintain and keep in a good state of repair all improvements situated on the Leased Premises, including, without limitation, windows, interior of the building, heating and air conditioning unit(s) and routine maintenance. WildNative shall be solely responsible for the maintenance of any additional improvements constructed by WildNative, as approved by the County, including, without limitation, renovations and any additional heating and air conditioning units, electrical wiring and plumbing. Subject to the limitations set forth below, WildNative shall be solely responsible for maintaining and keeping the Premises in a good state of repair, free from refuse and rubbish, and yards maintained, and shall return and surrender possession of the same at the expiration or termination of this lease in like good order as at the commencement of said Term, natural wear and tear excepted. Provided, however, that County shall be responsible for the maintenance and repair of the exterior, electrical wiring and plumbing in the building existing at the time of commencement of the Agreement, and the County shall provide grass mowing and landscaping, as deemed necessary by the County, in its sole discretion.

4.2 It is expressly understood and agreed between the parties hereto that the County shall not be responsible for the maintenance or repair to any of the items described herein which said maintenance or repair is necessitated by any act of WildNative or WildNative's invitees or licensees, it being expressly agreed by the parties hereto that such maintenance and repair shall be the obligation of WildNative, including any repair to the electrical wiring, plumbing and heating and air conditioning unit(s), provided, however, that WildNative shall not be responsible for any repairs necessitated as a result of negligence or intentional acts of County or its employees or agents.

4.3 WildNative may, at WildNative's expense, make such alterations in, or additions to, the building or Leased Premises, as WildNative may deem necessary to fit the same for the business of WildNative, upon first obtaining written approval of County, in County's sole discretion. It is understood that any and all improvements shall become property of the County, with the exception of fixtures purchased by WildNative which can be removed without damage to the Leased Premises.

4.4 County shall not be required to do any repairs upon the Leased Premises or building thereon other than those agreed upon by the County in writing at the commencement of the Lease, if any, and the County shall not be liable for any damage caused by or growing out of any breakage, leakage, getting out of order, or defective condition of said roof, plumbing, gas, electrical, water, steam or other sewerage, or the bursting, leaking or running of any cistern tank, wash pan, water closet, or waste pipe, in, above or upon said building, premise or appliances located therein.

4.5 It is further understood and agreed by the parties hereto that nothing herein shall be construed as denying the County the right to make any repairs which are deemed necessary during the Term of this Lease, such right being expressly reserved unto the County.

4.6 WildNative shall also be responsible for the maintenance of fire extinguishers and pest control.

4.7 The cost of all utilities related to the Leased Premises and the operation of the retail store, including, but not limited to, electricity, water, sewer, telephone, internet or gas, if available, shall be the sole responsibility of WildNative.

II. MANAGEMENT AGREEMENT FOR CAMPGROUND

5. MANAGEMENT AND OPERATION OF THE CAMPGROUND

5.1 WildNative shall be responsible for the management and operation of the campground, including the RV sites, primitive sites and bath house, subject to any rules, regulations or procedures adopted by the County, in its discretion. Attached as Exhibit B is a drawing of the campground and bath house as it will exist on the date of commencement, subject to any changes or modifications deemed necessary by the County, in its discretion.

5.2 As set forth in Section 5.1 and as depicted in Exhibit B, the County has installed or will install twenty-eight (28) RV sites, and County reserves the right to install additional RV sites, in its sole discretion. WildNative shall be responsible for installing the primitive camp sites, with an initial twenty (20) primitive camp sites to be installed on a location to be determined by the County. The installation of any further primitive camp sites may be approved by the County, in its discretion. WildNative may seek grant funding or assistance from other agencies, subject to the approval of the County, in its discretion.

5.3 WildNative shall be responsible for managing the campground, collecting all rental fees, maintaining the campground facilities, mowing grass, collecting trash and debris, cleaning the campground and providing adequate staff for the campground operations.

5.4 WildNative shall be entitled to charge an appropriate variable rent of not less than ten dollars (\$10.00) and not more than thirty dollars (\$30.00) per day for primitive campsites and not less than thirty-five dollars (\$35.00) and not more than sixty-five dollars (\$65.00) per day for RV sites, unless the County approves an increase or decrease, in its discretion. WildNative shall be required to publish a rate schedule outlining the rental rates to be charged during the year, including any discounts that may apply, which shall be provided to the County. The County reserves the right to authorize or require discounts for Baldwin County residents, in its discretion. The County reserves the right, in its discretion, to allow non-profit groups (for example, the Boy Scouts or Girl Scouts) to use the campground and facilities rent free.

5.5 (a) No camper or guests shall be allowed to stay in the same campsite for more than twenty-one (21) days, and no camper or guest shall be allowed to stay longer than twenty-one (21) consecutive days in the campground, unless otherwise approved or authorized by the rules and regulations adopted by the County. Campers and guests must leave the campground for a minimum of one (1) week. (b) Beginning on November 1 and ending seven days prior to the week of Spring Break as determined by the Baldwin County Board of Education for each year of the term (which shall be no later than April 1), WildNative may offer an extended stay option, subject to any policies, rules or regulations adopted by the County in its discretion. Subject to site availability and the policies, rules and regulations adopted by the County, WildNative may allow extended stay guest to utilize up to fourteen (14) sites for extended stay, provided, however, that no extended stay guests shall be allowed to stay in the same campsite for more than five (5) weeks, and extended stay guests must leave the campground for a minimum of three (3) weeks before returning to the campground. The initial policies, rules and regulations approved by the County shall be subject to amendment at any time, are attached hereto as Exhibit C.

5.6 Access to the campground may be restricted subject to rules and regulations approved by the County.

5.7 The cost of all utilities related to the campground only, including, but not limited to, electricity, water, sewer, telephone, internet or gas, if available, are to be deducted from the gross rent revenue collected from the RV and primitive campsites each month, and the

net rent revenue collected after the such deduction for utilities shall be subject to the payment of the management fees to WildNative as set forth in Section 5.8.

5.8 County shall pay WildNative a management fee based on the following schedule:

- A. WildNative shall be entitled to receive a management fee for the RV sites based on the number of RV sites constructed subject to the following schedule:
 - 1. Twenty-eight (28) to fifty-nine (59) RV sites constructed; forty-two percent (42%) of net rent revenue for the rental of RV sites and primitive campsites each month as described in Section 5.7.
 - 2. Sixty (60) to eighty-nine (89) RV sites constructed; twenty-six percent (26%) of net rent revenue for the rental of RV sites and primitive campsites each month as described in Section 5.7.
 - 3. Ninety (90) to One Hundred Twenty-four (124) RV sites constructed; nineteen percent (19%) of net rent revenue for the rental of RV sites and primitive campsites each month as described in Section 5.7.
 - 4. One Hundred Twenty-five or more RV sites constructed; fourteen percent (14) of net rent revenue for the rental of the RV sites and primitive campsites each month as described in Section 5.7.
- B. WildNative shall collect all campground rental fees, and after the deduction of the cost of the utilities as set forth in Section 5.7, WildNative shall remit all amounts collected to the County, less the management fees based on the net rent revenues as set forth above.

5.9 The term of the management agreement term shall coincide with the term of the lease and shall be subject to termination in the same manner as the lease.

III. REMAINING PROVISIONS APPLICABLE TO THE LEASE AGREEMENT FOR STORE AND MANAGEMENT AGREEMENT FOR CAMPGROUND

6. UTILITIES AND CARE OF PREMISES

6.1 Except as expressly set forth in this Agreement, WildNative agrees to pay all bills, cost of installation or maintenance incurred for electricity, water, gas, sewer, telephone, internet services, garbage or other utilities of whatsoever kind used on the Premises during the term of this Agreement; to keep all electrical apparatus in good order; to permit no waste of the property, or allow the same to be done, but to take good care of the same; and upon the termination of this Agreement, to surrender quiet and peaceable possession of the said Premises in like good order as at the commencement of said term, natural wear and tear excepted. Utilities will be transferred from County to WildNative upon commencement of the Agreement, and any charges for services through that date will be prorated between the parties.

**7. INDEMNITY, PUBLIC LIABILITY INSURANCE AND FIRE
EXTENDED COVERAGE INSURANCE**

7.1 Indemnity. County shall not be liable to WildNative or to WildNative's employees, agents, licensees, guests or visitors, or to any other person or entity, whomsoever, for any injury to person or damage to or loss of property on or about the Premises caused by the negligence or misconduct of WildNative, its employees, subtenants, licensees, guests, visitors or concessionaires, or of any other person entering the Premises under the express or implied invitation of WildNative, or arising out of the use of the Premises by WildNative and the conduct of its business therein, or arising out of any breach or default by WildNative in the performance of its obligations hereunder or resulting from any other cause. **TO THE FULLEST EXTENT ALLOWED BY LAW, WILDNATIVE SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS COUNTY AND ANY COMMISSIONER, OFFICER, DIRECTOR, AGENT, EMPLOYEE, REPRESENTATIVE, TRUSTEE, BENEFICIARY, INSURER OR EMPLOYEE OF COUNTY (HEREIN COLLECTIVELY CALLED A "COUNTY RELATED PARTY") FROM AND AGAINST ANY AND ALL LIABILITIES, OBLIGATIONS, DAMAGES, CLAIMS, SUITS, LOSSES, CAUSES OF ACTION, LIENS, JUDGMENTS AND EXPENSES (INCLUDING COURT COSTS, ATTORNEY'S FEES AND COSTS OF INVESTIGATION) OF ANY KIND, NATURE OR DESCRIPTION RESULTING FROM ANY INJURIES TO OR DEATH OF ANY PERSON OR ANY DAMAGE TO PROPERTY WHICH ARISES, OR IS CLAIMED TO ARISE FROM (I) AN INCIDENT OR EVENT WHICH OCCURRED WITHIN OR ON THE PREMISES; OR (II) THE OPERATION OR CONDUCT OF WILDNATIVE'S BUSINESS WITHIN THE PREMISES (COLLECTIVELY, THE "CLAIMS"), UNLESS SUCH CLAIM IS THE CAUSED SOLELY BY THE NEGLIGENT ACTS OR OMISSIONS OF ANY COUNTY RELATED PARTY. WILDNATIVE SHALL, AT WILDNATIVE'S SOLE COST AND EXPENSE, DEFEND SUCH CLAIM BY OR THROUGH ATTORNEYS REASONABLY ACCEPTABLE TO COUNTY.**

WildNative shall not cause or permit hazardous materials to be brought upon, kept or used in or about the Premises other than as is necessary or useful to WildNative's business. Any such hazardous material shall be used, kept and stored in a manner that complies with all laws regulating any such hazardous material. **TO THE FULLEST EXTENT ALLOWED BY LAW, WILDNATIVE AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS COUNTY AND COUNTY RELATED PARTIES FROM ANY AND ALL CLAIMS, JUDGMENTS, DAMAGES, PENALTIES, FINES, COSTS, LIABILITIES OR LOSSES AS A RESULT OF THE CONTAMINATION OF THE PREMISES BY ANY SUCH HAZARDOUS MATERIALS OF WILDNATIVE. THIS INDEMNIFICATION OF COUNTY AND COUNTY RELATED PARTIES BY WILDNATIVE INCLUDES, WITHOUT LIMITATION, COSTS INCURRED IN CONNECTION WITH ANY INVESTIGATION OF SITE CONDITIONS OR ANY CLEANUP, REMEDIAL REMOVAL OR RESTORATION WORK REQUIRED BY ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL AGENCY OR POLITICAL SUBDIVISION BECAUSE OF HAZARDOUS MATERIAL OF WILDNATIVE. THIS INDEMNIFICATION OF COUNTY AND COUNTY RELATED PARTIES BY WILDNATIVE INCLUDES**

WITHOUT LIMITATION COSTS INCURRED IN CONNECTION WITH ANY INVESTIGATION OF SITE CONDITIONS OR ANY CLEANUP, REMEDIAL REMOVAL OR RESTORATION WORK REQUIRED BY ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL AGENCY OR POLITICAL SUBDIVISION BECAUSE OF HAZARDOUS MATERIAL OF WILDNATIVE PRESENT IN THE SOIL OR GROUNDWATER OR UNDER THE PREMISES AS A RESULT OF WILDNATIVE'S ACTIONS. WITHOUT LIMITING THE FOREGOING, IF THE PRESENCE OF ANY HAZARDOUS MATERIAL ON THE PREMISES CAUSED OR PERMITTED BY WILDNATIVE RESULTS IN ANY CONTAMINATION OF THE PREMISES, WILDNATIVE SHALL PROMPTLY TAKE ALL ACTIONS, AT ITS SOLE EXPENSE, AS ARE NECESSARY TO RETURN THE PREMISES TO THE CONDITION EXISTING PRIOR TO THE INTRODUCTION OF ANY SUCH HAZARDOUS MATERIAL TO THE PREMISES. "HAZARDOUS MATERIAL" SHALL MEAN ANY HAZARDOUS OR TOXIC SUBSTANCE, MATERIAL OR WASTE WHICH IS OR BECOMES REGULATED BY ANY LOCAL GOVERNMENTAL AUTHORITY, THE STATE OF ALABAMA OR THE UNITED STATES GOVERNMENT.

7.2 Responsibility for Insurance Coverage:

(a) WildNative shall, during the Term, at its sole expense, obtain and keep in force, the following types of insurance insuring the WildNative and County and County Related Parties (County and County Related Parties shall at all times be named as an additional insured), as their respective interests may appear, (i) comprehensive general liability insurance coverage, personal injury, bodily injury, broad form property damage, operations hazard, owner's protective coverage, contractual liability and products and completed operations liability with limits of not less than One Million Dollars (\$1,000,000.00) (the aggregate limits of such insurance to apply specifically to the Premises and not to multiple locations); (ii) "All Risk" Physical Damage insurance for WildNative's property (personal property, fixtures and leasehold improvements) in or on the Premises, providing protection against perils that are covered under standard insurance industry practices within the classification of all risk insurance, including, but not limited to, loss or damage from fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke, domestic water damage, collapse, sprinkler damage, vandalism, malicious mischief, earthquake and flood, for the full insurable value thereof, including an endorsement provided for "loss of income" coverage; and (iii) All Risk Property Damage Insurance covering any building or improvements constructed by WildNative on the Premises (including exterior walls, downspouts, gutter and roof), in an amount not less than ninety (90%) percent of full replacement cost (exclusive of the cost of excavations, foundations, and footings), and with such retention and amounts deductible as County may in its discretion permit, providing protection against perils that are covered under standard insurance industry practices within the classification of all risk insurance, including, but not limited to, loss or damage from fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke, domestic water damage, collapse, sprinkler damage, vandalism, malicious mischief, earthquake and flood, and such other risks as County may from time to time determine and with any such deductibles as County may from time to time require. All such policies shall name County and County Related Parties as additional insureds.

(b) WildNative shall furnish evidence satisfactory to County of the existence of and maintenance of such insurance prior to or contemporaneous with the commencement of the Term and thereafter at least fifteen (15) days prior to any date on which such policy is required to be renewed. WildNative shall obtain a written obligation on the part of each insurance company to notify County at least thirty (30) days prior to the cancellation of such insurance.

7.3 Non-Liability for Certain Damages: NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, TO THE FULLEST EXTENT ALLOWED BY LAW, NEITHER COUNTY NOR ANY COUNTY RELATED PARTY SHALL BE LIABLE FOR DAMAGES TO WILDNATIVE OR ANY PARTY CLAIMING THROUGH WILDNATIVE FOR ANY INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO PROPERTY OR FOR INTERRUPTION OR DAMAGE TO BUSINESS RESULTING FROM ANY OF THE FOLLOWING REASONS: (A) ANY ACT, OMISSION OR NEGLIGENCE OF WILDNATIVE OR WILDNATIVE'S EMPLOYEES, AGENTS, CONTRACTORS, OFFICERS, SUBTENANTS, ASSIGNEES, LICENSEES, INVITEES OR CUSTOMERS; (B) ANY ACT, OMISSION OR NEGLIGENCE OF ANY OTHER TENANT WITHIN THE BUILDING, OR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, CONTRACTORS, TENANTS, ASSIGNEES, LICENSEES, INVITEES OR CUSTOMERS; (C) THE REPAIR, ALTERATION, MAINTENANCE, DAMAGE OR DESTRUCTION OF THE PREMISES OR ANY OTHER PORTION OF THE PREMISES (INCLUDING THE CONSTRUCTION OF LEASEHOLD IMPROVEMENTS FOR OTHER TENANTS OF THE PREMISES); (D) VANDALISM, THEFT, BURGLARY AND OTHER CRIMINAL ACTS (OTHER THAN THOSE COMMITTED BY COUNTY'S EMPLOYEES); (E) ANY DEFECT IN OR FAILURE OF IMPROVEMENTS, EQUIPMENT, PIPES, WIRING, HEATING OR AIR CONDITIONING EQUIPMENT, STAIRS, ELEVATORS, OR SIDEWALKS; THE BURSTING OF ANY PIPES OR THE LEAKING, ESCAPING OR FLOWING OF GAS, WATER, STEAM, ELECTRICITY, OR OIL; BROKEN GLASS; OR THE BACKING UP OF ANY DRAINS, EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF COUNTY OR ANY COUNTY RELATED PARTY; (F) INJURY DONE OR OCCASIONED BY WIND, SNOW, RAIN OR ICE, FIRE, ACT OF GOD, PUBLIC ENEMY, INJUNCTION, RIOT, STRIKE, INSURRECTION, WAR, COURT ORDER, REQUISITION, ORDER OF ANY GOVERNMENTAL BODY OR AUTHORITY, OR ANY OTHER CAUSE BEYOND THE REASONABLE CONTROL OF COUNTY. UNDER NO CIRCUMSTANCES SHALL COUNTY BE LIABLE FOR DAMAGES RELATED TO BUSINESS INTERRUPTION, CONSEQUENTIAL DAMAGES, PUNITIVE DAMAGES OR LOSS OF PROFITS.

8. LOSS OF BUILDING

8.1 If the buildings located on the Premises are totally or partially damaged or destroyed by fire, or other cause, so as to be partially or totally unfit for the use or purpose for which the same is hereby let, the County may elect to repair or rebuild same within ninety (90)

days after receiving written notice from WildNative of such destruction. If such election is made, the County shall proceed to rebuild or repair the said building with due diligence. The rent during said time of reconstruction shall be reduced in the proportion that said Leased Premises in the untenable or unfit condition bears to the condition of the said Leased Premises immediately prior to said damage; provided, however, that in the event County fails to make such election to repair or rebuild within the aforesaid ninety (90) days after WildNative properly notifies the County of such damage, this Agreement may be terminated by WildNative by written notice to the County at any time after the expiration of said ninety (90) day period. Such notice must be given prior to the commencement of reconstruction by the County, and in the event that reconstruction is begun by the County subsequent to said ninety (90) day period and prior to notification by WildNative of its intent to terminate this Agreement, then WildNative will be deemed to have waived the right to so terminate.

9. EMINENT DOMAIN

9.1 In the event the whole of the Premises shall be taken by federal, state, county, city, public utility or other authority for public use or under any statute, or by right of eminent domain, then when possession shall be taken thereunder of said Premises, the Term hereby granted and all rights of WildNative hereunder shall immediately cease and terminate, and the rent herein provided for shall be adjusted as of the date of such termination of this Agreement.

9.2 In the event that a portion of the Premises be taken by such authority, this Agreement shall continue in full force and effect as to the property remaining, provided, however, that said property remaining is capable of a continued enjoyment by WildNative for the uses and purposes provided herein.

10. DEFINITION OF DEFAULT

10.1 The happening of any one or more of the following events shall constitute events of default hereunder:

- (a) The levy of execution or other legal process upon the interest of WildNative in the leasehold estate herein created on in this Agreement, or upon any property of WildNative located upon the Leased Premises that remain in effect for thirty (30) days from such levy.
- (b) The adjudication of WildNative to be bankrupt, or the approval of a petition for a reorganization of WildNative filed in good faith, in proceedings instituted under the bankruptcy laws, which remain in effect for thirty (30) or more days from such adjudication.
- (c) The making of an assignment by WildNative for the benefit of creditors with respect to all or substantially all of the WildNative's property.

- (d) The appointment of a receiver of WildNative or of WildNative's property by a court of competent jurisdiction which remains in effect for thirty (30) or more days from such appointment.
- (e) The failure of WildNative to pay any installment of rent, boat launch fees or any other payments hereunder at the maturity thereof and the continuance of such failure for a period of thirty (30) days after such maturity. It is understood and agreed between the parties hereto that it shall not be necessary for the County to give notice of rents, boat launch fees or other payments to become due or being unpaid, or to make any demand for same, the execution of this Agreement, signed by WildNative, which execution is hereby acknowledged, being sufficient notice of the rents, boat launch fees and other payments being due and the demand for the same, and shall be so construed, any law, usage or custom to the contrary notwithstanding.
- (f) The failure of WildNative to perform any duty or obligation herein imposed upon WildNative at the time when this Agreement requires said duty or obligation to be performed and the continuance of such failure for a period of thirty (30) days after County provides written notice to WildNative of such failure.
- (g) The vacation of said Premises or abandonment of possession of the same by WildNative, or the use by WildNative of said Premises for purpose other than those for which the same are hereby let which is not cured within thirty (30) days after County provides written notice to WildNative of such act in violation of this Agreement.
- (h) Violation by WildNative of any laws, rules or regulations regarding the use of the Premises.

11. REMEDIES UPON DEFAULT

11.1 In the event of default by WildNative as provided in paragraph 10 hereof which is not cured within the cure periods provided, County shall have the right, at County's option:

- (a) To declare the remaining balance of rent for the entire term of this Agreement immediately due and payable and proceed by attachment, suit or otherwise to collect the whole amount for the entire Agreement term;
- (b) To charge interest on the balance at the rate of eighteen percent (18%) per annum or the highest rate allowed by the laws of the State of Alabama, whichever is less.

- (c) To cancel, terminate and annul this Agreement and immediately re-enter and repossess the let Premises;
- (d) To demand immediate possession of the Premises without annulling this Agreement; and
- (e) In the event this Agreement is in default by WildNative, County has the right to place "For Rent" signs on the building while such event of default is in existence and has not been cured. WildNative agrees to allow County, or parties authorized by County, to visit and inspect the building or show for view for buying or renting the same immediately upon default of the Agreement.

11.2 In the event of the action referred to in paragraph 10.1(c) above, WildNative shall immediately surrender possession of the Premises, and the County shall have the right, but not the obligation, at County's option, for the balance of the Agreement term, to rent the Premises, and WildNative shall pay to the County the difference between the rent reserved in this Agreement and any lesser amount of rent which the County may procure by renting the Premises to such other party.

11.3 The exercise by County of the right to declare the entire rent due for the entire term, and subsequent proceedings by the County to collect said rent, shall not affect County's right to exercise the privileges granted County in paragraph 10.1 above. The acceptance of rent by County after a violation of a duty or obligation of WildNative or breach by WildNative of a condition to this Agreement shall not be deemed a waiver of any default that may exist hereunder. The remedies provided for herein shall be cumulative and nothing contained herein shall be construed as restricting or limiting any right which the County may have, to recover damages, or other remedy provided by law, from WildNative for a breach of this Agreement.

12. ATTORNEY'S FEES

12.1 If an event of default by WildNative hereunder occurs, and in the event of the subsequent employment by the County of an attorney for the collection of any amount due hereunder, or for the institution of any suit for possession of the Premises, or on account of bankruptcy proceedings by or against WildNative, or legal process being issued against the leasehold interest of WildNative in the let Premises, or against any property of WildNative located upon the Premises, or upon the necessity of the County employing an attorney on account of any violation of the conditions of this Agreement by WildNative, in such event, WildNative hereby agrees to pay and shall be taxed with a reasonable attorney's fee and related costs for the services of such attorney on behalf of the County and any County Related Party.

13. TAXES

13.1 WildNative shall promptly pay all taxes and assessments of whatsoever kind and nature which are now or which may be imposed or assessed upon (i) the land and improvements hereby leased; and (ii) any fixtures, equipment, merchandise or other personal property of any kind installed upon the Premises or brought thereto by County. WildNative shall promptly pay all taxes and assessments of whatsoever kind and nature which are now or which may be imposed or assessed upon any fixtures, equipment, merchandise or other personal property of any kind installed upon the Premises or brought thereto by WildNative. WildNative shall, within fifteen (15) days of receiving notification of same, pay all property taxes assessed against the property, provided however that WildNative shall pay only the prorated portion of such taxes accruing during WildNative's occupancy of the Premises.

14. ACCESS TO RECORDS

14.1 Upon request, WildNative shall respond to requests for information and/or provide reports regarding the Agreement and the condition of the building to the County Commission or the County Administrator. WildNative shall maintain an accounting system and records to evidence or prove all required payments pursuant to this Agreement, and these records shall be kept for a minimum of three (3) years or as otherwise required by any applicable laws, rules and regulations.

15. ASSIGNMENT

15.1 WildNative shall not have the right to assign, sublease or transfer this Agreement without the prior written consent of County, which consent may be withheld, in the sole discretion of the County.

16. NOTICES

16.1 All notices given hereunder shall be made by either (1) delivery by hand to the address of WildNative or in person to WildNative, or posted at the entrance of the Leased Premises of WildNative for a period of twenty-four (24) hours; or (2) to WildNative or County in writing and sent by U.S. Registered or U.S. Certified Mail, postage prepaid, addressed as follows:

County: BALDWIN COUNTY COMMISSION
Attn.: Chairman of the Baldwin County Commission
312 Courthouse Square, Suite 12
Bay Minette, Alabama 36507

WildNative: WILDNATIVE LOL LLC.
C/O Druhan & Tyler, L.L.C.
Attorneys at Law
1106 Dauphin Street
Mobile, Alabama 36604

Mailing Address:
P.O. Box 6
Mobile, Alabama 36601

Each party may, by like notice, from time to time, designate any further or different address to which subsequent notices shall be sent.

17. HOLDING OVER

17.1 In the event that WildNative remains in possession of the Leased Premises or any part thereof after the expiration of said lease term, WildNative shall be a tenant at will of the County, and upon demand, WildNative shall surrender peaceable possession of said Premises to the County. In such event, all of the terms, conditions and covenants of this Agreement shall remain in full force and effect, and WildNative shall furnish written notice to the County of WildNative's intention to terminate said Agreement sixty (60) days prior to such termination, and failure to so notify the County shall render WildNative liable for the rents due under the terms of this lease for a period of two (2) months following the vacation of the premises, in addition to any other damage of whatsoever kind suffered by the County as a result of the failure of WildNative to so notify. County expressly reserves the right to exercise or pursue any and all remedies available at law or in equity.

18. SURRENDER OF POSSESSION

18.1 WildNative agrees that, upon the expiration of the lease term herein, WildNative will surrender quiet and peaceable possession of said Leased Premises in like good order as at the commencement of said term, reasonable wear and tear excepted. WildNative further agrees that WildNative shall be liable unto the County for the restoration of the Leased Premises to the same good condition that the said property was in as of the commencement date of the lease term herein, reasonable wear and tear excepted, and provided that such restoration is made necessary by damages caused to the leased property by WildNative through WildNative's negligence, willful act, abuse or other misuse of the leased property, reasonable wear and tear excepted.

19. SUCCESSIVE INTEREST

19.1 This Agreement shall be binding upon and inure to the benefit of the successors and permitted assignees of each of the parties hereto.

20. EQUIPMENT AND FURNISHINGS / INTERNET SERVICES

20.1 The County, in its sole discretion, may allow for the use or purchase or lease of certain equipment, furnishings or internet services. If the County so elects and WildNative agrees, the parties may enter into a separate agreement or addendum to this Agreement outlining such terms and conditions.

21. LIEN ON LEASEHOLD

21.1 As further consideration of the Agreement and to secure the prompt payments of the rents due hereunder, a first lien is hereby expressly reserved by the County and granted by WildNative upon the terms of this Agreement and upon all interest of WildNative in this Agreement for the payment of rent and also for the satisfaction of any cause of action which may accrue to the County by provisions of this instrument. A first lien is expressly reserved by the County and granted by WildNative upon all buildings, improvements, fixtures, water fixtures, gas fixtures and any other fixtures of whatsoever kind erected or put in place or that may be erected or put in place upon the Leased Premises by or through WildNative for the payment of rent, and also for the satisfaction of any cause of action which may accrue to the County by the provisions of this Agreement.

22. SIGNAGE

22.1 All signage on the Premises shall be in compliance with all applicable laws, ordinances, rules and regulations, and shall be subject to the approval of the County, in its sole discretion. No political signs or advertisements shall be placed on the Premises.

23. NO THIRD PARTY BENEFICIARIES

23.1 This Agreement is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and permitted assigns, and no other person or entity shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise. **[NOTE: Discuss Rental Agreements.]**

24. ENTIRE AGREEMENT

24.1 This instrument constitutes the entire Agreement and understanding of the parties hereto of the subject hereof and supersedes all prior agreements and understandings relating to the subject matter hereof. There are no agreements, understandings, restrictions, warranties, or representations between or among the parties hereto other than those set forth herein.

25. GOVERNING LAW

25.1 This Agreement shall be deemed to have been made within the State of Alabama and shall be governed by and construed in accordance with the laws of the State of Alabama, without giving effect to any choice of law provisions arising thereunder.

IN WITNESS WHEREOF, the County and WildNative, by and through their duly authorized representatives, have signed duplicate originals of this Agreement on this the 1st day of August, 2017.

COUNTY

BALDWIN COUNTY COMMISSION


Attest:

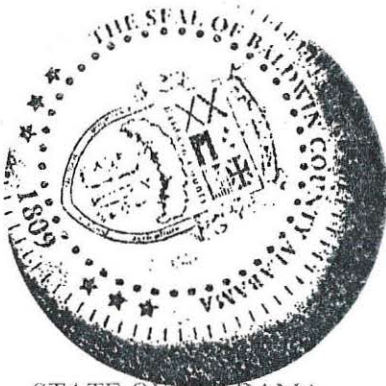

RONALD J. CINK
County Administrator/Budget Director

By: 
T. CHRISTOPHER ELLIOTT
Its Chairman

WILDNATIVE

WILDNATIVE LOL LLC
An Alabama limited liability company

By: 
Michael Dorie
Its Director




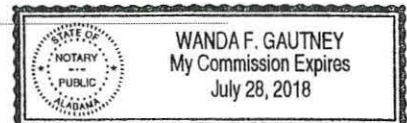
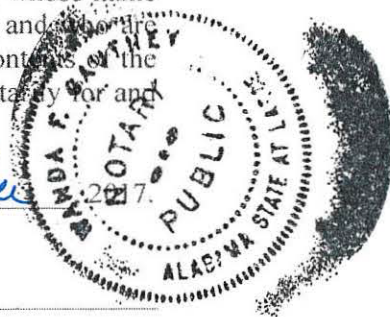
STATE OF ALABAMA

COUNTY OF BALDWIN

I, Wanda Gautney, a Notary Public, in and for said County in said State, hereby certify that T. CHRISTOPHER ELLIOTT, whose name as Chairman of the BALDWIN COUNTY COMMISSION, and RONALD J. CINK, whose name as County Administrator/Budget Director, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said county commission.

Given under my hand and seal this 14th day of September, 2017.


Notary Public, Baldwin County, Alabama
My Commission Expires:

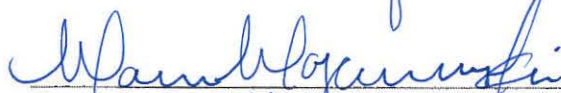


STATE OF ALABAMA

COUNTY OF Baldwin

I, Maria Wojciechowski, a Notary Public, in and for said County in said State, hereby certify that Michael Dore, whose name as Director of WILDNATIVE LOL LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this 1st day of August, 2017.



Notary Public, Baldwin County, Alabama

My Commission Expires: 12/14/2020

This instrument prepared by:
DAVID J. CONNER of
BLACKBURN & CONNER, P.C.
Attorneys at Law
Post Office Box 458
Bay Minette, Alabama 36507



Baldwin County Parcel Viewer

Find address or place

Navigation Tools

Search Tools

Map Tools

+

-

10m

40ft

Parcels

Zoom Clear

Parcel Number

Pin

Owner

Address

Address2

Address3

City

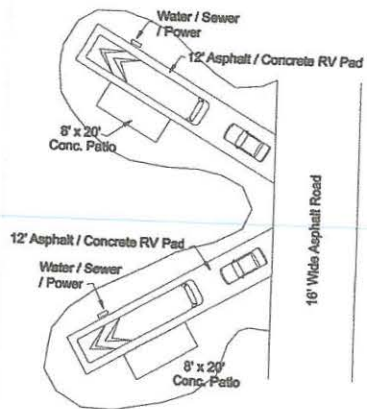
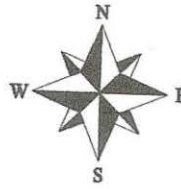
State

Zip

Prop

The map shows a coastal area with a blue line running diagonally from the top left towards the bottom right. A black rectangle is drawn on the map, and a blue arrow points to it from the text 'Leased Premises' below. The map is overlaid with a grid.

EXHIBIT A



TYPICAL R.V. LOT

PHASE ONE
5.73 AC. +/-
28 SPACES
1,895 L.F.

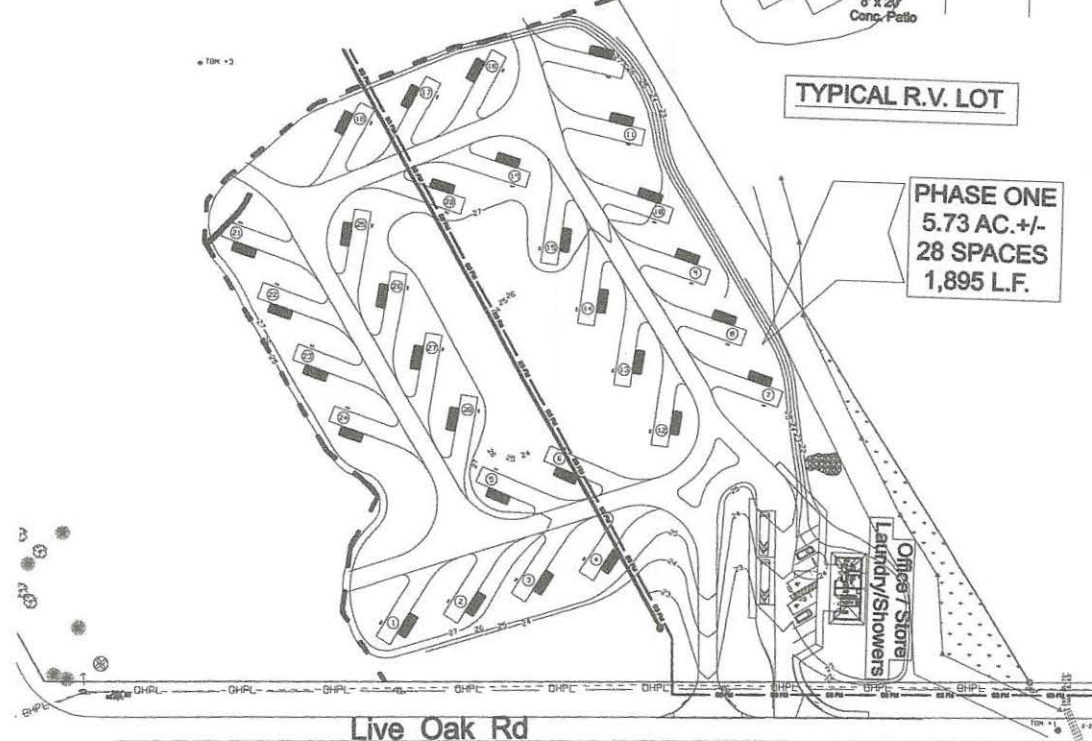


EXHIBIT C

LIVE OAK LANDING CAMPGROUND EXTENDED STAY POLICIES, RULES AND REGULATIONS

1. Extended stay lots shall be subject to the published weekly rates. No monthly or longer-term rates shall be allowed.
2. Guest with motorhomes, fifth wheels and travel trailers only shall be allowed to utilize the extended stay option. No pop-up or tent campers shall be allowed to utilize the extended stay option.
3. No subletting of sites will be allowed.
4. No indoor furniture or appliances are allowed outside of camping unit.
5. Only one camping unit is allowed per site.
6. Campsites must be clean and well-kept at all times.
7. Only two vehicles are allowed per site.
8. No external propane tanks are allowed to be installed on the ground.
9. No permanent clothes lines are allowed.
10. Any lots or campers that are not kept clean may be subject to cleaning by management, and a charge for such services will be imposed.
11. No storage sheds or any permanent structures are allowed.
12. No ATV's, 3 wheelers, 4 wheelers, motorized scooters or go-carts will be allowed in the campground. Motorcycles are to be used only for transportation in and out of the park. Battery powered golf carts and scooters are allowed.
13. There shall be a limit of two pets per site, and campers must clean up after their pets.
14. Pets must be kept on a leash at all times and shall not to be left outside overnight.
15. Nuisance pets, including, but not limited to, excessive barking, aggression, failure to police feces, wandering cats, etc., as determined by the management or the County, will not be allowed.
16. No fences or cages for pets shall be allowed outside. Portable pet play pens are allowed during the day.
17. Only four adults shall be allowed to camp or stay overnight on each site.
18. Quiet time shall be from 10p.m. till 7 a.m.
19. No electric water heaters shall be installed outside of the camper.
20. No disfiguring of trees or shrubs, including, but not limited to, nails and other hardware, cutting, girdling with rope, or removal, is allowed.
21. The number of sites available for extended stay may be amended or changed by the County, in its discretion.

NOTE: These policies, rules and regulations may be amended by the County at any time in its discretion.



05-19-07-43-0-000-006.001

Store Subject to Lease



Live Oak Store

Interstate
Roads



0 130 260 520
Feet

The information contained in this representation of digital data was provided by the Baldwin County Commission's GIS Department, derived from a variety of public and private sources, and is considered to be dependable. However, the accuracy, completeness, and currency thereof are not guaranteed. The Baldwin County Commission makes no warranty, expressed or implied, as to the accuracy, completeness, currency, reliability, or suitability of the information of data contained in the Baldwin County Geographic Database for any particular purpose. Additionally, the Baldwin County Commission or any agent, servant, or employee thereof assumes no liability for errors or omissions in this data, and assumes no responsibility to maintain it in any particular form. For more information concerning this map, call 251-360-2345.



NOTICE OF PUBLIC HEARING

Pursuant to Amendment No. 750 of the Alabama Constitution of 1901, as amended

Where: Baldwin County Commission Chambers
When: June 22, 2017 at 9:00 a.m.
What: Live Oak Campground – Proposed Lease Agreement for Store and Management Agreement for Campground Located at Live Oak Landing between the County Commission and WildNative LOL, LLC, an Alabama limited liability company

Pursuant to Amendment No. 750 of the Alabama Constitution of 1901, as amended, (“Amendment No. 750”), the County Commission (the “Commission”) of Baldwin County (the “County”) hereby provides notice to the public that the Commission will conduct an open public hearing during its regularly scheduled meeting on June 22, 2017 at 9:00 a.m. (the “Hearing”) in the Baldwin County Commission Chambers at 322 Courthouse Square in Bay Minette, Alabama in order to give interested citizens the opportunity to hear and be heard on the following matter to be considered by the Commission on such date:

Background

The County has heretofore issued its \$600,000 principal amount of General Obligation Taxable Warrant, Series 2016-A, dated the date of delivery (the “Warrant”), in order to finance the purchase, acquisition, construction and equipment of the public recreational boat launch and campground area known as “Live Oak Landing.” The County has since operated Live Oak Landing but considers that the arrangement described below may be in its better interest, despite the benefits that WildNative will realize from the expenditure of the County’s funds.

Proposed Lease Agreement and Management Agreement

WildNative LOL, LLC, an Alabama limited liability company (“WildNative”), has requested that the County consider entering into a “Lease Agreement for Store and Management Agreement for Campground Located at Live Oak Landing” (the “Agreement”), subject to any terms or conditions deemed necessary by the Commission, whereby WildNative will (1) lease from the County and operate a retail sales and rental store for services related to the operation of the campground, boat launch, kayak rentals, and other services provided at Live Oak Landing, and (2) manage and operate the Live Oak Landing Campground on behalf of the County.

Financial Considerations

The County will lease the on-site store to WildNative in exchange for the collection of boat launch fees and other fees or payments required by the Agreement to be paid to the County. In addition, WildNative will provide management and maintenance services related to the store as set forth in the Agreement.

WildNative will in return otherwise operate the store for its own profit and operate the campground on behalf of the County. The various other duties, obligations, risks and requirements of the County and WildNative with respect to the operation of the Campground are more particularly described in the Agreement.

Term of Agreement

The initial term of the Agreement will be 3 years, but said Agreement will automatically renew for 2 additional 3 year terms (a total of 6 years) unless earlier terminated or not renewed by either party at their option upon 90 days' notice, or as otherwise terminated as set forth in the Agreement. If neither party terminates, the Agreement it will last for a total of 9 years.

Other Considerations

The Commission will consider whether the expenditure of public funds in the form of the Warrant for Live Oak Landing and the execution of the Agreement will serve a valid and sufficient public purpose despite the financial benefits realized by WildNative, as presently contemplated by the Agreement. The County believes that the public will benefit from this arrangement, because it is believed that the operation of Live Oak Landing pursuant to this arrangement will be improved resulting in more and better amenities and services.

This notice will be published in the *Mobile Press-Register* and the *Gulf Coast Newspapers* not less than 7 days prior to the date of the Hearing. Interested citizens are encouraged to attend the meeting and be heard. Interested citizens may also submit prior written comments to the Clerk/Treasurer's office. A copy of the Agreement is also available for further public inspection and comment at the Clerk/Treasurer's office.