

**SPECIAL CALLED
CITY COUNCIL MEETING AGENDA
1705 MAIN STREET, DAPHNE, AL
MAY 11, 2014
BUSINESS MEETING
6:00 P.M.**

1. CALL TO ORDER

2. ROLL CALL/INVOCATION / PLEDGE OF ALLEGIANCE

3. CONSIDER:

**1. Ordinance 2015-27 / 2nd Read.Updating the Job Description
and Compensation for the
Finance Director Position**

**2. Lake Forest Property Owners Association Lease Agreement for the
“Back Nine Golf Course” Amendments / Jay Ross, City Attorney**

4. ANY OTHER BUSINESS DEEMED NECESSARY

5. ADJOURN

**CITY OF DAPHNE
CITY COUNCIL**

ROLL CALL

CITY COUNCIL:

COUNCILMAN RUDICELL	PRESENT ____	ABSENT ____
COUNCILMAN LAKE	PRESENT ____	ABSENT ____
COUNCILMAN FRY	PRESENT ____	ABSENT ____
COUNCILMAN SCOTT	PRESENT ____	ABSENT ____
COUNCILMAN LEJEUNE	PRESENT ____	ABSENT ____
COUNCILMAN DAVIS	PRESENT ____	ABSENT ____
COUNCIL PRESIDENT CONAWAY	PRESENT ____	ABSENT ____

MAYOR:

MAYOR HAYGOOD	PRESENT ____	ABSENT ____
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CITY CLERK:

REBECCA HAYES	PRESENT ____	ABSENT ____
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CITY ATTORNEY:

JAY ROSS	PRESENT ____	ABSENT ____
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ORDINANCE 2015-27

JOB CLASSIFICATION: FINANCE DIRECTOR

An Ordinance Updating the Job Description and Compensation for the Finance Director Position

WHEREAS, Ordinance 2004-52 as adopted January 3, 2005 established the City of Daphne Job Classification Schedule; and

WHEREAS, Ordinance 2015-09, as adopted February 2, 2015 refined the compensation available for the Finance Director position; and

WHEREAS, the City of Daphne has previously recognized the need for modifications to the compensation package for the position of Finance Director and in Ordinance 2014-49 allowed for advertising of the position of Finance Director beyond the normally prescribed manner; and

WHEREAS, Ordinance 2014-44 approved and adopted the Fiscal Year 2015 Budget on September 23, 2014 which funded the position of the Finance Director; and

WHEREAS, after further review, the City Council recognizes the importance of the Certified Public Accountant designation and recommends that the job description for the Finance Director position should be updated within the existing Job Classification Schedule.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that:

SECTION I: GENERAL CONDITIONS

- 1) The attached Job Description for the position of Finance Director is hereby adopted and incorporated into the City of Daphne Job Classification Schedule
- 2) The position of Finance Director shall be compensated as laid out in Ordinance 2014-49 and clarified in Ordinance 2015-09. In addition to said compensation the Finance Director shall be compensated an additional \$12,000 per year for obtaining and maintaining the professional achievement of a Certified Public Accountant licensed in the State of Alabama. The City Council hereby authorizes the Mayor to fill the Finance Director position at the salary level listed in Ordinance 2015-09 subject to the conditions herein stated. Ordinance 2015-09 is hereby amended to include said conditional compensation.

ORDINANCE 2014-49

JOB CLASSIFICATION: FINANCE DIRECTOR

**An Ordinance Approving the Job Classification of
the Finance Director Position**

WHEREAS, Ordinance 2004-52 as adopted January 3, 2005 established the City of Daphne Job Classification Schedule; and

WHEREAS, Ordinance 2014-44 approved and adopted the Fiscal Year 2015 Budget on September 23, 2014 which funded the position of the Finance Director; and

WHEREAS, after further review, the City Council recommends that the Finance Director position should be reclassified within the existing Job Classification Schedule.

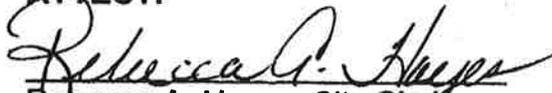
NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Daphne, Alabama, that:

- 1) The authorized position of the Finance Director be a Grade 36, and
- 2) The Mayor is hereby authorized to advertise for the position of Finance Director at Steps 1 through 25.

APPROVED AND ADOPTED by the City Council of the City of Daphne, Alabama, this 3rd day of November, 2014.


Dane Haygood, Mayor

ATTEST:


Rebecca A. Hayes, City Clerk

**CITY OF DAPHNE
ORDINANCE NO. 2015-09**

**AN ORDINANCE TO TRANSITION THE POSITION OF TREASURER TO THE
FINANCE DIRECTOR**

WHEREAS, there exist certain overlapping duties and functions between the Office of the Treasurer and the Finance Director; and

WHEREAS, the position of Finance Director is currently vacant; and

WHEREAS, the Office of the Treasurer is currently filled by the senior accountant who has performed admirably to service the needs of the City; and

WHEREAS, the current Treasurer has agreed to voluntarily resign from the position of Treasurer to be effective upon the commencement date of the new Finance Director; and

WHEREAS, the position of Treasurer has heretofore been uncompensated; and

WHEREAS, City Council of the City of Daphne, after due consideration believes the duties and liabilities of the Office of the Treasurer demand that the position of Treasurer be compensated; said funding will enable the Treasurer of the City to confidently serve the City;

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

SECTION I: GENERAL PROVISIONS

A. Treasurer's Salary

The position of Treasurer of the City of Daphne as shall be compensated in the amount of \$12,000 per year for serving as Treasurer. Treasurer compensation shall be paid in the same manner and method of any other City employee as determined by the policies and procedures of the City of Daphne.

B. Current Treasurer

The current appointed Treasurer has tendered her resignation as Treasurer of the City of Daphne effective upon the start date of the Finance Director. Outgoing Treasurer shall remain as the Senior Accountant with the City of Daphne and shall be awarded a one-step pay raise effective as of the date of the authorization of this Ordinance.

C. Proposed Treasurer

The City Council hereby authorizes the Mayor to fill the Finance Director position at a salary level not to exceed Grade 36 Step 16. The City Council hereby appoints the new Finance Director of the City of Daphne as Treasurer effective upon the start date of employment as Finance Director. The Finance Director shall serve as Treasurer as long as the Financial Director is employed with the City of Daphne as the Finance Director.

CITY OF DAPHNE, ALABAMA CLASSIFICATION DESCRIPTION

CLASSIFICATION TITLE: DIRECTOR, FINANCE

PURPOSE OF CLASSIFICATION

The purpose of this classification is to serve as the financial officer of the city and to manage the city's accounting, budgeting, and purchasing functions to ensure compliance with applicable laws, policies and regulations.

ESSENTIAL FUNCTIONS

The following duties are normal for this position. These are not to be construed as exclusive or all-inclusive. Other duties may be required and assigned.

Supervises, directs, and evaluates assigned staff, processing employee concerns and problems, directing work, counseling, disciplining, and completing employee performance appraisals.

Plans, directs and manages the accounting, budgeting, and purchasing functions of the city; develops and manages the implementation of the city's financial policies and procedures; supervises daily operations to ensure compliance with applicable laws, policies, standards and regulations.

Advises the Mayor and Council, the Finance Committee, department directors, and others regarding pertinent financial issues and policies relating to city operations and services.

Interacts with city staff, local and state officials, vendors, attorneys, bankers, auditors, insurance agents, and the general public regarding department operations.

Directs the development of the annual operating budget; accumulates data from department directors; organizes data into comprehensive departmental and fund budgets; composes budget narrative and budget tables.

Reviews and/or approves invoices, general ledger reports, check registers, contracts, budget reports, purchase orders, check requests, and other financial reports and transactions to ensure completeness and accuracy; reconciles and balances general ledger accounts and funds.

Reviews and approves various financial, personnel, purchasing and administrative forms and documents.

Ensures that financial statements accurately reflect the financial position of the city in accordance with governmental accounting standards.

Prepares general ledger account use analysis reports, balance sheets, monthly and year-end financial statements, inventory reports, budget summaries and grant reports.

Directs the development of tax rates, financial fees and charges, budget projections and other financial data.

Monitors city-wide budget expenditures and revenue collections; develops budget projections; approves amendments to budget; reviews and approves transfers of funds to finance city operations.

Manages the investment of public funds; ensures that funds are properly deposited, invested and secured in accordance with local and state laws.

Oversees issuance and retirement of debt; prepares information for use by Underwriters and Bond Counsel for issuance of debt; prepares and reports continuing disclosure requirements to Nationally Recognized Municipal Securities Information Repositories Service (NRMSIRS) for purpose of updating financial information used by investors and rating agencies.

Consults with insurance agent to evaluate annual liability and property insurance renewals and coverage requirements.

Oversees the administration of federal and state grants; prepares progress reports for grants funded by federal/state agencies and evaluates compliance with OMB costing and contractual requirements; establishes grant/project time tables.

Prepares and reviews audit proposals; provides technical assistance to external auditors; provides necessary financial reports, statements and documents for the completion of the city's annual audit.

Reconciles payroll tax reports to verify accuracy of reporting; advises payroll staff of any required reporting corrections.

Oversees annual preparation of W-2 forms and 1099 forms; verifies accuracy before reports are provided to employees, vendors, and government agencies.

Researches and compiles financial information as required by Mayor and Council.

Represents the city before the Finance Committee and provides technical assistance and administrative support needed to conduct committee business.

Composes ordinances, resolutions, correspondence, memos, financial reports and tables.

Maintains a comprehensive, current knowledge of applicable laws/regulations; maintains an awareness of new trends and advances in the profession; reads professional literature; maintains professional affiliations; attends conferences, workshops, and training sessions as appropriate.

ADDITIONAL FUNCTIONS

Performs other related duties as required.

MINIMUM QUALIFICATIONS

Minimum Bachelor's degree in accounting or business administration with Master's level course work in the field; Master's degree strongly preferred; supplemented by ten (10) to fifteen (15) years previous experience that includes progressively responsible financial management (preferably in the public sector), governmental accounting, general accounting, budget development and administration, purchasing, management/supervision, and personal computer operations; or any equivalent combination of education, training, and experience which provides the requisite knowledge, skills, and abilities for this job. **Certified Public Accountant (CPA) is preferred.** Must be able to be bonded and insured by the City's insurance carrier.

ADDITIONAL PAY FACTORS

An employee who holds an active designation as a Certified Public Accountant (CPA) shall receive additional compensation in the salary amount of twelve thousand dollars (\$12,000) per year.

PERFORMANCE APTITUDES

Data Utilization: Requires the ability to synthesize, hypothesize, and/or theorize concerning data involving modification of existing policies, strategies and/or methods to meet unique or unusual conditions. Requires the ability to do so within the context of existing organizational theories and management principles.

Human Interaction: Requires the ability to function in a managerial capacity for a division or organizational unit. Includes the ability to make decisions on procedural and technical levels.

Equipment, Machinery, Tools, and Materials Utilization: Requires the ability to operate, maneuver and/or control the actions of equipment, machinery, tools, and/or materials used in performing essential functions.

Verbal Aptitude: Requires the ability to utilize a wide variety of reference, descriptive, advisory and/or design data and information.

Mathematical Aptitude: Requires the ability to perform addition, subtraction, multiplication and division; ability to calculate decimals and percentages; may include ability to perform mathematical operations involving basic algebraic principles and formulas, and basic geometric principles and calculations.

Functional Reasoning: Requires the ability to apply principles of influence systems, such as motivation, incentive, and leadership, and to exercise independent judgment to apply facts and principles for developing approaches and techniques to resolve problems.

Situational Reasoning: Requires the ability to exercise judgment, decisiveness and creativity in situations involving the direction, control and planning of an entire program or set of programs.

ADA COMPLIANCE

Physical Ability: Tasks require the ability to exert very light physical effort in sedentary to light work, involving some reaching, handling, fingering and/or feeling of objects and materials.

Sensory Requirements: Some tasks require the ability to perceive and discriminate visual cues or signals. Some tasks require the ability to communicate orally.

Environmental Factors: Essential functions are regularly performed without exposure to adverse environmental conditions.

The City of Daphne, Alabama, is an Equal Opportunity Employer. In compliance with the Americans with Disabilities Act, the City will provide reasonable accommodations to qualified individuals with disabilities and encourages both prospective and current employees to discuss potential accommodations with the employer.

SECTION II: REPEALER

That any Ordinance, or parts thereof, heretofore adopted by the City Council of Daphne, Alabama, which is in conflict with this Ordinance be and is hereby repealed to the extent of such conflict.

SECTION III: SEVERABILITY

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

SECTION IV: EFFECTIVE DATE.

This Ordinance shall take effect and be in force from and after the date of its approval by the City Council of the City of Daphne and publication as required by law.

ADOPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS _____ DAY OF _____, 2015.

**DANE HAYGOOD,
MAYOR**

ATTEST:

**REBECCA A. HAYES,
CITY CLERK, CITY OF DAPHNE**

GROUND LEASE

THIS AGREEMENT is made by and between the **CITY OF DAPHNE, ALABAMA**, An Alabama Municipal Corporation, ("CITY" or "LESSEE") and the **LAKE FOREST PROPERTY OWNERS' ASSOCIATION, INC.**, An Alabama Corporation ("LFPOA or LESSOR").

WITNESSETH:

WHEREAS, the Lessor is the owner of certain real property commonly known as "the [BaekLake](#) Nine", being that parcel or parcels of land formerly used as a nine-hole golf course by the Lessor and its members, more particularly described in Exhibit "A" to this Lease Agreement which is attached hereto and incorporated herein; and

WHEREAS, Lessee recognizes the importance of recreational activities to youth and adult citizens of the City of Daphne and believes it to be in the best interest of the health, safety, and welfare of its citizens to promote recreational activities and provide facilities therefor; and

WHEREAS, Lessee desires to utilize the Leased Land for walking and fitness trails, non-spectator sports, storm water control, spoil site detention for the Lake Forest Lake, if needed, and any other activities deemed appropriate in the ~~sole~~ opinion of the Lessee ~~so long, subject to approval of Lessor as said activities are no more invasive than a golf course adjacent to occupied residential homes; set out in Article 3,~~ and

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 LAND**

Description of Leased Land

1.01 Lessor leases to Lessee, and Lessee rents and accepts from Lessor, a parcel of land ("Leased Land") situated in Baldwin County, Alabama, commonly referred to as "The [BaekLake](#) Nine" and more particularly described in Exhibit "A" which is attached hereto and incorporated herein by reference. Tax parcel 66950 shall be leased to Lessee in its entirety, tax parcel 24754 shall be leased in part. The Lessor shall bear the responsibility to subdivide tax parcel 24754. Until such time as said subdivision is completed, Lessee shall not pay any taxes related to parcel 24754.

Land Subject to Liens, Encumbrances, and Other Conditions

1.02 This Lease and the Leased Land 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 Land or that may affect and govern the Leased Land 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 a term of thirty (30) years ("Term"), commencing on the ____ day of _____, 20____, and ending on the ____ day of _____, 20____, unless terminated at an earlier date for any reason set forth in this Lease.

Holdover

2.02 If Lessee holds over after the expiration of the initial term of this lease agreement or any extensions thereof, then Lessee's tenancy shall be from year to year on all the terms and conditions as set forth in this Lease.

Consideration

2.03 Lessee shall pay to the Lessor the fixed rent amount of THIRTY AND 00/100 DOLLARS (\$30.00) for the whole term of the Lease Agreement. Said sum is payable in the amount of ONE AND 00/100 (\$1.00) DOLLARS per year with first year due upon execution of this Lease Agreement and each subsequent year due on or before January 1 of each year, plus an amount equal to any and all ad valorem taxes on the property, which shall be reimbursed to the Lessor by Lessee on an annual basis. Said ad valorem tax amount shall be provided to the Lessee in the form of a tax assessment from the Baldwin County Revenue Commission as to the parcel of property described in Exhibit "A" and shall be presented to the Lessee no later than October 15 of each year.

2.04 Both the Lessee and Lessor shall have the right and privilege to terminate this lease agreement at any time without cause, provided that the terminating party must provide the other party with written notice no less than 180 calendar days prior to said termination. Should the Lessor terminate this Lease Agreement pursuant to this section the Lessor shall ~~be responsible and shall~~ owe to the Lessee the amount of any pre-approved capital expenditure improvements made by the Lessee ~~onto the Leased Land~~ leased premises, less depreciation of the same. Pre-approved capital improvements projects shall be defined, for purposes of this section 2.04, as those improvements that will last for more than one year, that increase the value of the leased property, and which were approved by Lessor as set out defined in Section 3.01(d). Upon termination of this Lease by Lessor under this section, Lessor shall not owe to the Lessee the amount of any projects or improvements made by the Lessee to the leased premises except for pre-approved capital improvements projects as defined in this section 2.04.

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ARTICLE 3

USE AND CONSTRUCTION OF IMPROVEMENTS

Primary Use

3.01 Lessee shall have the right to use the Leased Land for the following lawful purposes:

- (a) Subject to Article 3.01(d), Lessee shall have the right to use the premises solely and exclusively for municipal active and/or passive recreational purposes to include but not be limited to disc golf, walking and fitness trails, non-~~spectator~~spectator sports, storm water control, spoil site detention for the Lake Forest Lake, if needed, and any other activities deemed appropriate in the sole opinion of the Lessee so long as said activities are no more invasive than a golf course adjacent to occupied residential homes by the lessee.
- ~~(b) At all times, Lessee shall provide that such municipal recreational activities shall be under the direction, supervision and control of agents and employees of Lessee so as to insure safe and appropriate use.~~
- ~~(b) This section intentionally deleted~~
- (c) During the term of this Lease, Lessee at its own expense, shall keep and maintain the ~~Leased Land~~leased premises by grass cutting and such other typical lawn care maintenance. Lessor acknowledges that the property at issue will be maintained to a standard that is consistent with the aforesaid uses. This standard will necessarily be different than use as a golf course would demand.
- ~~(d) The Lessor shall approve, in writing, any projects to be made by the Lessee which shall cost \$50,000.00 or more, and any projects less than \$50,000.00 shall not require Lessor's approval. In the event such approval is required for projects costing \$50,000.00 or more such approval shall be granted or denied by the Lessor within forty-five (45) calendar days of the Lessee submitting a written request for approval to Lessor. Said request shall include reasonably suitable drawings, cost estimates and information necessary to allow Lessor to make a reasonable decision. Lessor's failure to respond within forty-five (45) calendar days shall act as an approval. Lessor may request additional information and extend the deadline by an additional thirty (30) calendar days. "Projects" subject to approval which shall include, but are not limited to, capital improvements, non-capital improvements, spoil sites, drainage alterations and improvements, installation or relocation of utilities, and installation or modification of recreational improvements. "Projects," however as used in this Article, shall not include normal maintenance and repairs and shall otherwise be projects which costs \$50,000.00 or more.~~

**ARTICLE 4
OPERATING COSTS AND IMPOSITIONS**

Operating Costs

4.01 Lessee shall pay all "Operating Costs" and "Impositions" defined in Paragraphs 4.02 and 4.03, below, in connection with the Leased Land.

Definition of Operating Costs

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

- a. Repairs and maintenance
- b. Landscaping
- c. Insurance
- d. Utilities, as necessary
- e. ~~Rubissh removal~~
- e. Rubbish Removal
- f. Ad valorem taxes due on the Leased Property
- g. All other expenses, whether or not mentioned in this Lease, that are incurred with regard to operation of the Leased Land, 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 construction activities or the normal operation of the premises on the Leased Land, all real estate property taxes, assessments, and other governmental charges that are laid, assessed, levied, or imposed on the Leased Land 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 Land and Improvements.

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ARTICLE 5- LAWS AND GOVERNMENTAL REGULATIONS
LAWS AND GOVERNMENTAL REGULATIONS

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Compliance With Legal Requirements

5.01- Lessee shall promptly comply with all laws and ordinances, and all 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 Term of this Lease, and without cost to Lessor. Lessee shall promptly comply with these Legal Requirements legal requirements whether they are foreseen or unforeseen, or ordinary or extraordinary.

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 Land or the fee estate or reversion of Lessor.

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Discharge After Filing or Imposition

6.02- If any lien or encumbrance shall at any time be filed or imposed against the Leased Land or the fee estate or reversion of Lessor, Lessee shall cause the lien or encumbrance to be discharged of record within fifteen (15) days after notice of the filing or imposition by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Lessee shall fail to cause the lien or encumbrance to be discharged within the fifteen (15) day period, then in addition to any other right or remedy of Lessor, Lessor shall be entitled, but not obligated to discharge the lien or encumbrance either by paying the amount claimed to be due or by procuring the discharge by deposit or by bonding proceedings. In any event, Lessor shall be entitled to compel the prosecution of an action for the foreclosure of any lien or encumbrance by the lienor and to pay the amount of the judgment for and in favor of the lienor with interest, costs, and allowances if Lessor elects to take this action. All amounts paid by Lessor and all of its costs and expenses in connection with the actions taken by Lessor, including court costs, reasonable attorneys' fees, and interest at the highest legal rate in effect at the time these moneys are due, shall be deemed to be additional rent under this Lease and shall be paid by Lessee to Lessor promptly on demand by Lessor.

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

6.03- 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 Land.

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ARTICLE 7. ~~INSURANCE AND INDEMNITY~~
INSURANCE AND INDEMNITY

Fire and Extended Coverage

7.01- At all times during the Term of this Lease, Lessee shall maintain, at its sole cost, insurance covering any ~~improvements~~ improvements including, without limitation, all ~~improvements~~ improvements now located on the Leased Land or 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, together with any other insurance that Lessor may require from time to time. The insurance shall be carried by

insurance companies authorized to transact business in Alabama, selected by Lessee and approved by Lessor. In addition, the following conditions shall be met:

- a. ~~(a)~~—The insurance shall be in amounts no less than one hundred (100%) percent of the replacement cost of the buildings and other improvements, exclusive of foundations and below-ground improvements (but sufficient to satisfy the requirements of any coinsurance clause).
- b. ~~(b)~~—The insurance shall be maintained for the mutual benefit of Lessor and Lessee, any succeeding owners of the fee title in the Leased Land, and any successors and assigns of this Lease. The insurance policy or policies shall name both Lessor and Lessee as insureds.
- c. ~~(c)~~—Any and all fire or other insurance proceeds that become payable at any time during the Term of this Lease because of damage to or destruction of any ~~Improvements~~improvements on the Leased Land shall be paid to Lessee and applied by Lessee toward the cost of repairing, restoring, and replacing the damaged or destroyed ~~Improvements~~improvements in the manner required by Article 8 of this Lease.

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Property and Personal Injury Liability Insurance

7.02- At all times during the ~~Term~~term of this Lease, Lessee shall maintain, at its sole cost, comprehensive broad-form general public liability insurance against claims and liability for personal injury, death, and property damage arising from the use, occupancy, disuse, or condition of the Leased Land and Improvements, and adjoining areas. The insurance shall be carried by insurance companies authorized to transact business in the State of Alabama, selected by Lessee and approved by Lessor. In addition, the following conditions shall be met:

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- a. ~~(a)~~—The insurance provided pursuant to this Paragraph 7.02 shall be in an amount no less than \$1,000,000 for property damage, and in an amount no less than \$1,000,000 for one person and \$1,000,000 for one accident for personal injury.
- ~~(b)~~
- b. The insurance shall be maintained for the mutual benefit of Lessor and Lessee, any succeeding owners of the fee title in the Leased Land, and any successors and assigns of this Lease. The insurance

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policy or policies shall name both Lessor and Lessee as insureds.

~~c.~~ (e) —The amount of liability insurance shall be subject to determination by the City of Daphne with any increases that may be reasonably required by Lessor from time-to-time to account for inflation or other market conditions shall be made in cooperation between Lessor and Lessee. Notwithstanding the foregoing, the amount of liability insurance shall not be decreased without the prior written authorization of the Lessor.

Certificates of Insurance

7.03- Lessee shall furnish Lessor with certificates of all insurance required by this Article 7. Lessee agrees that if it does not keep this insurance in full force and effect, Lessor may notify Lessee of this failure, and if Lessee does not deliver to Lessor certificates showing all of the required insurance to be in full force and effect within ten (10) days after this notice, Lessor may, at its option, take out and pay the premiums on the insurance needed to fulfill Lessee's obligations under the provisions of this Article 7. On demand from Lessor, Lessee shall reimburse Lessor the full amount of any insurance premiums paid by Lessor, with interest at the rate of ten percent (10%) per annum from the date of Lessor's demand until reimbursement by Lessee.

~~Indemnification~~ Hold Harmless of Lessor

7.04- Lessor shall not be liable for any loss, damage, or injury of any kind or character to any person or property arising from any use of the Leased Land or Improvements, or caused by any defect in any building, structure, equipment, facility, or other improvement on the Leased Land, 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, 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 for any loss, damage, or injury, and agrees to ~~indemnify and~~ hold Lessor entirely free and harmless from all liability for any loss, damage, costs, or injury of other persons, ~~and from all costs and expenses arising from any claims or demands of other persons concerning any loss, damage, or injury,~~ caused other than by the negligent or intentional act or omission of Lessor.

ARTICLE 8. DAMAGE OR DESTRUCTION OF IMPROVEMENTS

Damage or Destruction; Option to Terminate or Repair

8.01- In the event that the Leased Land, the Improvements, or any part of them are damaged or destroyed by any cause whatsoever, Lessee may elect either of the following

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options:

a. ~~(a)~~—Within one hundred twenty (120) days, Lessee shall commence and diligently pursue to completion the repair, restoration, or replacement of the damaged or destroyed Leased Land and Improvement, and this Lease shall remain in full force and effect.

b. ~~(b)~~—Lessee may terminate this Lease with one hundred twenty (120) days written notice to Lessor and shall return the Leased Land to the condition existing at the time of the commencement of this Lease except for completed improvements constructed by Lessee which Lessee may leave or may remove at its sole discretion, normal wear and tear excepted.

ARTICLE 9. ~~CONDEMNATION~~ CONDEMNATION

Interests of Parties

9.01- ~~If the Leased Land and Improvements or any part of these premises is taken for public or quasi-public purposes by condemnation in any action or proceeding in eminent domain, or is transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of Lessor and Lessee in the award or consideration for the taking or transfer and the effect of the taking shall be governed by Article 9.02, 9.03 and 9.04 as follows: Lessor shall retain all proceeds less the value of capital improvements – as defined in Article 2.04 - constructed by Lessee, less depreciation, which shall be retained by Lessee.~~

Termination on Total Taking

9.02- ~~If all or substantially all of the Leased Land and Improvements are taken or transferred as described in Paragraph 9.01, this Lease and all of the rights, title, and interest under this Lease shall cease on the date that title to the Leased Land and Improvements vests in the condemning authority, and the proceeds of the condemnation shall be paid pursuant to the provisions of Paragraph 9.01.~~

Termination on Partial Taking

9.03- ~~If less than all or less than substantially all of the Leased Land and Improvements is taken or transferred as described in Paragraph 9.01, and, if the remainder of the Leased Land and Improvements is in a location, or in a form, shape, or reduced size that makes it impossible for Lessee to effectively and practicably use the remaining Leased Land and Improvements as set forth herein, then this Lease shall terminate on the date title to the portion of the Leased Land and Improvements taken or transferred vests in the condemning authority. The proceeds of the condemnation shall be paid pursuant to the provisions of 9.01.~~

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Voluntary Conveyance

9.04- Nothing in this Article 9 prohibits Lessor from voluntarily conveying all or ~~part~~ of the Leased Land and Improvements to a public utility, agency, or authority under threat of a taking under the power of eminent domain. Any voluntary conveyance shall be treated as a taking within the meaning of this Article and compensation and proceeds therefrom shall be paid to the Lessor and Lessee pursuant to provisions of 9.01.

ARTICLE 10. ~~LEASE HOLD MORTGAGES~~ LEASE HOLD MORTGAGES

Leasehold Mortgages Not Permitted

10.01- Lessee shall not be permitted to mortgage Lessee's leasehold interest in the Leased Land. 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 11. ~~DEFAULT~~ DEFAULT

Events of Default

11.01- Any one or more of the events listed in Subparagraphs (a) through (b) of this Paragraph 11.01 shall constitute a default under this Lease.

- (a) Lessee's failure to observe or perform or cause to be observed or performed any other term, covenant, or agreement under this Lease shall constitute a default under this Lease.
- (b) Lessee's assignment of the leasehold interest under this Lease without the prior written consent of Lessor shall constitute a default under this Lease.

Notice of Election to Terminate Lessee's Possession

11.02 ~~If any event creating default occurs~~Should Lessor determine a default has occurred, Lessor shall provide written notification to the Lessee, listing the reasons for default with specificity. Lessee shall have ninety (90) days to cure default. If no efforts to cure default have begun prior to the 91st day and the default continues, Lessor may elect to terminate Lessee's right of possession under this Lease. Upon termination, all of Lessee's rights, title, and interest in the Leased Land shall expire completely and Lessee shall, within a reasonable time, quit and surrender the Leased Land. Any Improvements erected on the subject leased premises shall revert back to the Lessor subject to Sections 2.04 and 11.04 of this Agreement, however, Lessee shall have a reasonable time not to exceed one hundred eighty (180) days for removal of any such improvements or equipment and/or may leave the same for the benefit of Lessor, such

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to be determined at Lessee's option.

Lessor's Entry After Termination of Lessee's Possession

11.03 At any time after the termination of Lessee's right of possession under this Lease pursuant to Paragraph 11.02 or Paragraph ~~43~~12.01 of this Lease, Lessor may enter and possess the Leased Land and Improvements by summary proceedings, ejectment, or otherwise, and Lessor may remove Lessee and all other persons and property from the Leased Land and Improvements. If Lessor takes the actions described in this Paragraph 11.03, Lessor may then possess the Leased Land and Improvements and Lessor may also sell any of the Improvements.

Costs Incurred Due to Breach

~~11.04 Lessee expressly agrees to pay all expenses that Lessor may incur for reasonable attorneys' fees, and all other costs paid or incurred by Lessor for enforcing the terms and provisions of this Lease, restoring the Leased Land and Improvements to good order and condition, and for maintaining the Leased Land and Improvements.~~

11.04 Should Section 11.02 be invoked by Lessor, Lessor shall have the duty to reimburse Lessee for capital improvements to the property less depreciation prior to the beginning of the cure period under the terms set out in Section 2.04. No termination shall be effective until an amount for reimbursement under Section 2.04 is agreed upon by both parties and said amount is paid to Lessee. Lessee shall have the duty to provide to Lessor an accounting on capital expenditures without unreasonable delay.

ARTICLE 12: EXPIRATION OF TERM

Lessee's Delivery of Possession After Termination or Expiration

12.01 On the expiration date of this Lease as set forth in Paragraph 2.04 ~~of~~1 of this Lease, or the termination of Lessee's possession under this Lease pursuant to Paragraph 11.03, or any entry or possession of the Leased Land and Improvements by Lessor pursuant to Paragraph 11.03 (collectively referred to as the "Expiration Date"), Lessee shall promptly quit and surrender the Leased Land and Improvements, and deliver to Lessor actual possession and ownership of the Leased Land, less improvements, which the Lessee shall have a right to remove pursuant to paragraph 11.02 but shall otherwise return the premises without improvements in good condition, wear and tear excepted.

Lessee's Removal of Movable Objects

12.02 If at time of termination, Lessee shall have the sole right to remove from the Leased Land 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 Land on or before the Expiration Date, provided that Lessee shall promptly repair, or cause to be repaired, any damage resulting to the Leased Land or Improvements by reason of this removal. Any fixtures, equipment, or articles of personal property of Lessee that remain at or on the Leased Land after the Expiration Date shall be deemed to have disposed of by Lessor without accountability to Lessee for the value of these fixtures, equipment, or articles of personal property, or any proceeds denied from the sale of the items.

ARTICLE 13-
GENERAL PROVISIONS

No Waiver of Breach by Lessor's Actions

13.01 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

13.02 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.

Entire Agreement

13.03- 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

13.04 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 above. 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 13.04.

To Lessor:

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Lake Forest Property Owners' Association, Inc.
1 Golf Terrace
Daphne, AL 36526

To Lessee:

City of Daphne
Office of the Mayor
Post Office Box 400
Daphne, AL 36526

With a copy to:

Adams and Reese
Attn. Jay Ross
11 North Water St.
Suite 23200
Mobile Alabama 36602

Lessor's Entry and Inspection of Premises

13.05 Lessor, or its agents or designees, shall have the right to enter the Leased Land and Improvements 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 Land and Improvements to potential buyers and agents.

Partial Invalidity or Unenforceability

13.06 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 Benefited by Lease

13.07- This Lease shall inure to the benefit of and be binding on Lessor and Lessee and their respective distributees, personal representatives, executors, successors, and assigns except as otherwise provided in this Lease.

Assignment and Subletting

13.08- This Lease and the Term and estate granted by this Lease, or any part of this Lease or that Term and estate, may not be subleased or assigned, without Lessor's written consent.

13.09 Nothing contained in this Agreement 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 Agreement 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 14. ~~DISCLAIMER OF WARRANTIES~~
DISCLAIMER OF WARRANTIES**

14.01- The execution by the Lessor and Lessee of this Agreement 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.

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IN WITNESS WHEREOF, Lessor and Lessee have executed and signed this Lease or have caused this Lease to be executed and signed on this the ____ day of _____, 2015.

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LAKE FOREST PROPERTY OWNERS' ASSOCIATION, INC.

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BY: _____

AS IT'S: _____

BY: _____
AS ITS: _____

ATTEST:

CITY OF DAPHNE, ALABAMA

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BY: _____

AS ITS: _____

(An Alabama municipal corporation)

BY: _____

AS ITS: Mayor

ATTEST:

REBECCA A. HAYES, CITY CLERK

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GROUND LEASE

THIS AGREEMENT is made by and between the **CITY OF DAPHNE, ALABAMA**, An Alabama Municipal Corporation, ("CITY" or "LESSEE") and the **LAKE FOREST PROPERTY OWNERS' ASSOCIATION, INC.**, An Alabama Corporation ("LFPOA or LESSOR").

WITNESSETH:

WHEREAS, the Lessor is the owner of certain real property commonly known as "the Lake Nine", being that parcel or parcels of land formerly used as a nine-hole golf course by the Lessor and its members, more particularly described in Exhibit "A" to this Lease Agreement which is attached hereto and incorporated herein; and

WHEREAS, Lessee recognizes the importance of recreational activities to youth and adult citizens of the City of Daphne and believes it to be in the best interest of the health, safety, and welfare of its citizens to promote recreational activities and provide facilities therefor; and

WHEREAS, Lessee desires to utilize the Leased Land for walking and fitness trails, non-spectator sports, storm water control, spoil site detention for the Lake Forest Lake, if needed, and any other activities deemed appropriate in the opinion of the Lessee, subject to approval of Lessor as set out in Article 3, and

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 LAND

Description of Leased Land

1.01 Lessor leases to Lessee, and Lessee rents and accepts from Lessor, a parcel of land ("Leased Land") situated in Baldwin County, Alabama, commonly referred to as "The Lake Nine" and more particularly described in Exhibit "A" which is attached hereto and incorporated herein by reference. Tax parcel 66950 shall be leased to Lessee in its entirety, tax parcel 24754 shall be leased in part. The Lessor shall bear the responsibility to subdivide tax parcel 24754. Until such time as said subdivision is completed, Lessee shall not pay any taxes related to parcel 24754.

Land Subject to Liens, Encumbrances, and Other Conditions

1.02 This Lease and the Leased Land 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 Land or that may affect and govern the Leased Land 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 a term of thirty (30) years ("Term"), commencing on the ____ day of _____, 20____, and ending on the ____ day of _____, 20____, unless terminated at an earlier date for any reason set forth in this Lease.

Holdover

2.02 If Lessee holds over after the expiration of the initial term of this lease agreement or any extensions thereof, then Lessee's tenancy shall be from year to year on all the terms and conditions as set forth in this Lease.

Consideration

2.03 Lessee shall pay to the Lessor the fixed rent amount of THIRTY AND 00/100 DOLLARS (\$30.00) for the whole term of the Lease Agreement. Said sum is payable in the amount of ONE AND 00/100 (\$1.00) DOLLARS per year with first year due upon execution of this Lease Agreement and each subsequent year due on or before January 1 of each year, plus an amount equal to any and all ad valorem taxes on the property, which shall be reimbursed to the Lessor by Lessee on an annual basis. Said ad valorem tax amount shall be provided to the Lessee in the form of a tax assessment from the Baldwin County Revenue Commission as to the parcel of property described in Exhibit "A" and shall be presented to the Lessee no later than October 15 of each year.

2.04 Both the Lessee and Lessor shall have the right and privilege to terminate this lease agreement at any time without cause, provided that the terminating party must provide the other party with written notice no less than 180 calendar days prior to said termination. Should the Lessor terminate this Lease Agreement pursuant to this section the Lessor shall owe to the Lessee the amount of any pre-approved projects made by the Lessee to the leased premises, less depreciation of the same. Pre-approved projects shall be defined, for purposes of this section 2.04, as those improvements that will last for more than one year, that increase the value of the leased property, and which were approved by Lessor as defined in Section 3.01(d). Upon termination of this Lease by Lessor under this section, Lessor shall not owe to the Lessee the amount of any projects or improvements made by the Lessee to the leased premises except for pre-approved projects as defined in this section 2.04.

**ARTICLE 3
USE AND CONSTRUCTION OF IMPROVEMENTS**

Primary Use

3.01 Lessee shall have the right to use the Leased Land for the following lawful purposes:

- (a) Subject to Article 3.01(d), Lessee shall have the right to use the premises solely and exclusively for active and/or passive recreational purposes to include but not be limited to disc golf, walking and fitness trails, non-spectator sports, storm water control, spoil site detention for the Lake Forest Lake, if needed, and any other activities deemed appropriate by the lessee.
- (b) This section intentionally deleted
- (c) During the term of this Lease, Lessee at its own expense, shall keep and maintain the leased premises by grass cutting and such other typical lawn care maintenance. Lessor acknowledges that the property at issue will be maintained to a standard that is consistent with the aforesaid uses. This standard will necessarily be different than use as a golf course would demand.
- (d) The Lessor shall approve, in writing, any projects to be made by the Lessee which shall cost \$50,000.00 or more, and any projects less than \$50,000.00 shall not require Lessor's approval. In the event such approval is required for projects costing \$50,000.00 or more such approval shall be granted or denied by the Lessor within forty-five (45) calendar days of the Lessee submitting a written request for approval to Lessor. Said request shall include reasonably suitable drawings, cost estimates and information necessary to allow Lessor to make a reasonable decision. Lessor's failure to respond within forty-five (45) calendar days shall act as an approval. Lessor may request additional information and extend the deadline by an additional thirty (30) calendar days. "Projects" subject to approval which shall include, but are not limited to, capital improvements, non-capital improvements, spoil sites, drainage alterations and improvements, installation or relocation of utilities, and installation or modification of recreational improvements. "Projects," however as used in this Article, shall not include normal maintenance and repairs and shall otherwise be projects which costs \$50,000.00 or more.

**ARTICLE 4
OPERATING COSTS AND IMPOSITIONS**

Operating Costs

4.01 Lessee shall pay all "Operating Costs" and "Impositions" defined in Paragraphs 4.02 and 4.03, below, in connection with the Leased Land.

Definition of Operating Costs

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

- a. Repairs and maintenance
- b. Landscaping
- c. Insurance
- d. Utilities, as necessary
- e. Rubbish Removal
- f. Ad valorem taxes due on the Leased Property
- g. All other expenses, whether or not mentioned in this Lease, that are incurred with regard to operation of the Leased Land, 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 construction activities or the normal operation of the premises on the Leased Land, all real estate property taxes, assessments, and other governmental charges that are laid, assessed, levied, or imposed on the Leased Land 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 Land and Improvements.

**ARTICLE 5
LAWS AND GOVERNMENTAL REGULATIONS**

Compliance With Legal Requirements

5.01 Lessee shall promptly comply with all laws and ordinances, and all 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 term 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.

**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 Land or the fee estate or reversion of Lessor.

Discharge After Filing or Imposition

6.02 If any lien or encumbrance shall at any time be filed or imposed against the Leased Land or the fee estate or reversion of Lessor, Lessee shall cause the lien or encumbrance to be discharged of record within fifteen (15) days after notice of the filing or imposition by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Lessee shall fail to cause the lien or encumbrance to be discharged within the fifteen (15) day period, then in addition to any other right or remedy of Lessor, Lessor shall be entitled, but not obligated to discharge the lien or encumbrance either by paying the amount claimed to be due or by procuring the discharge by deposit or by bonding proceedings. In any event, Lessor shall be entitled to compel the prosecution of an action for the foreclosure of any lien or encumbrance by the lienor and to pay the amount of the judgment for and in favor of the lienor with interest, costs, and allowances if Lessor elects to take this action. All amounts paid by Lessor and all of its costs and expenses in connection with the actions taken by Lessor, including court costs, reasonable attorneys' fees, and interest at the highest legal rate in effect at the time these moneys are due, shall be deemed to be additional rent under this Lease and shall be paid by Lessee to Lessor promptly on demand by Lessor.

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

6.03 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 Land.

**ARTICLE 7
INSURANCE AND INDEMNITY**

Fire and Extended Coverage

7.01 At all times during the Term of this Lease, Lessee shall maintain, at its sole cost, insurance covering any improvements including, without limitation, all improvements now located on the Leased Land or 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, together with any other insurance that Lessor may require from time to time. The insurance shall be carried by insurance companies authorized to transact business in Alabama, selected by Lessee and approved by Lessor. In addition, the following conditions shall be met:

- a. The insurance shall be in amounts no less than one hundred (100%) percent of the replacement cost of the buildings and other improvements, exclusive of foundations and below-ground improvements (but sufficient to satisfy the requirements of any coinsurance clause).
- b. The insurance shall be maintained for the mutual benefit of Lessor and Lessee, any succeeding owners of the fee title in the Leased Land, and any successors and assigns of this Lease. The insurance policy or policies shall name both Lessor and Lessee as insureds.
- c. Any and all fire or other insurance proceeds that become payable at any time during the Term of this Lease because of damage to or destruction of any improvements on the Leased Land shall be paid to Lessee and applied by Lessee toward the cost of repairing, restoring, and replacing the damaged or destroyed improvements in the manner required by Article 8 of this Lease.

Property and Personal Injury Liability Insurance

7.02 At all times during the term of this Lease, Lessee shall maintain, at its sole cost, comprehensive broad-form general public liability insurance against claims and liability for personal injury, death, and property damage arising from the use, occupancy, disuse, or condition of the Leased Land and Improvements, and adjoining areas. The insurance shall be carried by insurance companies authorized to transact business in the State of Alabama, selected by Lessee and approved by Lessor. In addition, the following conditions shall be met:

- a. The insurance provided pursuant to this Paragraph 7.02 shall be in an amount no less than \$1,000,000 for property damage, and in an amount no less than \$1,000,000 for one person and \$1,000,000 for one accident for personal injury.
- b. The insurance shall be maintained for the mutual benefit of Lessor and Lessee, any succeeding owners of the fee title in the Leased Land, and any successors and assigns of this Lease. The insurance policy or policies shall name both Lessor and Lessee as insureds.
- c. The amount of liability insurance shall be subject to

determination by the City of Daphne with any increases that may be reasonably required by Lessor from time-to-time to account for inflation or other market conditions shall be made in cooperation between Lessor and Lessee. Notwithstanding the foregoing, the amount of liability insurance shall not be decreased without the prior written authorization of the Lessor.

Certificates of Insurance

7.03 Lessee shall furnish Lessor with certificates of all insurance required by this Article 7. Lessee agrees that if it does not keep this insurance in full force and effect, Lessor may notify Lessee of this failure, and if Lessee does not deliver to Lessor certificates showing all of the required insurance to be in full force and effect within ten (10) days after this notice, Lessor may, at its option, take out and pay the premiums on the insurance needed to fulfill Lessee's obligations under the provisions of this Article 7. On demand from Lessor, Lessee shall reimburse Lessor the full amount of any insurance premiums paid by Lessor, with interest at the rate of ten percent (10%) per annum from the date of Lessor's demand until reimbursement by Lessee.

Hold Harmless of Lessor

7.04 Lessor shall not be liable for any loss, damage, or injury of any kind or character to any person or property arising from any use of the Leased Land or Improvements, or caused by any defect in any building, structure, equipment, facility, or other improvement on the Leased Land, 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, 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 for any loss, damage, or injury, and agrees to hold Lessor entirely free and harmless from all liability for any loss, damage, costs, or injury of other persons, caused other than by the negligent or intentional act or omission of Lessor.

ARTICLE 8

DAMAGE OR DESTRUCTION OF IMPROVEMENTS

Damage or Destruction; Option to Terminate or Repair

8.01 In the event that the Leased Land, the Improvements, or any part of them are damaged or destroyed by any cause whatsoever, Lessee may elect either of the following options:

- a. Within one hundred twenty (120) days, Lessee shall commence and diligently pursue to completion the repair, restoration, or replacement of the damaged or destroyed Leased Land and Improvement, and this Lease shall remain

in full force and effect.

- b. Lessee may terminate this Lease with one hundred twenty (120) days written notice to Lessor and shall return the Leased Land to the condition existing at the time of the commencement of this Lease except for completed improvements constructed by Lessee which Lessee may leave or may remove at its sole discretion, normal wear and tear excepted.

ARTICLE 9 CONDEMNATION

Interests of Parties

9.01 If the Leased Land and Improvements or any part of these premises is taken for public or quasi-public purposes by condemnation in any action or proceeding in eminent domain, or is transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of Lessor and Lessee in the award or consideration for the taking or transfer and the effect of the taking shall be governed as follows: Lessor shall retain all proceeds less the value of capital improvements – as defined in Article 2.04 - constructed by Lessee, less depreciation, which shall be retained by Lessee.

Termination on Total Taking

9.02 If all or substantially all of the Leased Land and Improvements are taken or transferred as described in Paragraph 9.01, this Lease and all of the rights, title, and interest under this Lease shall cease on the date that title to the Leased Land and Improvements vests in the condemning authority, and the proceeds of the condemnation shall be paid pursuant to the provisions of Paragraph 9.01.

Termination on Partial Taking

9.03 If less than all or less than substantially all of the Leased Land and Improvements is taken or transferred as described in Paragraph 9.01, and, if the remainder of the Leased Land and Improvements is in a location, or in a form, shape, or reduced size that makes it impossible for Lessee to effectively and practicably use the remaining Leased Land and Improvements as set forth herein, then this Lease shall terminate on the date title to the portion of the Leased Land and Improvements taken or transferred vests in the condemning authority. The proceeds of the condemnation shall be paid pursuant to the provisions of 9.01.

Voluntary Conveyance

9.04 Nothing in this Article 9 prohibits Lessor from voluntarily conveying all or part of the Leased Land and Improvements to a public utility, agency, or authority under threat of a taking under the power of eminent domain. Any voluntary conveyance shall be treated as a

taking within the meaning of this Article and compensation and proceeds therefrom shall be paid to the Lessor and Lessee pursuant to provisions of 9.01.

**ARTICLE 10
LEASE HOLD MORTGAGES**

Leasehold Mortgages Not Permitted

10.01 Lessee shall not be permitted to mortgage Lessee's leasehold interest in the Leased Land. 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 11
DEFAULT**

Events of Default

11.01 Any one or more of the events listed in Subparagraphs (a) through (b) of this Paragraph 11.01 shall constitute a default under this Lease.

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

- (b) Lessee's assignment of the leasehold interest under this Lease without the prior written consent of Lessor shall constitute a default under this Lease.

Notice of Election to Terminate Lessee's Possession

11.02 Should Lessor determine a default has occurred, Lessor shall provide written notification to the Lessee, listing the reasons for default with specificity. Lessee shall have ninety (90) days to cure default. If no efforts to cure default have begun prior to the 91st day and the default continues, Lessor may elect to terminate Lessee's right of possession under this Lease. Upon termination, all of Lessee's rights, title, and interest in the Leased Land shall expire completely and Lessee shall, within a reasonable time, quit and surrender the Leased Land. Any Improvements erected on the subject leased premises shall revert back to the Lessor subject to Sections 2.04 and 11.04 of this Agreement, however, Lessee shall have a reasonable time not to exceed one hundred eighty (180) days for removal of any such improvements or equipment and/or may leave the same for the benefit of Lessor, such to be determined at Lessee's option.

Lessor's Entry After Termination of Lessee's Possession

11.03 At any time after the termination of Lessee's right of possession under this Lease pursuant to Paragraph 11.02 or Paragraph 12.01 of this Lease, Lessor may enter and possess the

Leased Land and Improvements by summary proceedings, ejectment, or otherwise, and Lessor may remove Lessee and all other persons and property from the Leased Land and Improvements. If Lessor takes the actions described in this Paragraph 11.03, Lessor may then possess the Leased Land and Improvements and Lessor may also sell any of the Improvements.

Costs Incurred Due to Breach

11.04 Should Section 11.02 be invoked by Lessor, Lessor shall have the duty to reimburse Lessee for pre-approved projects to the property less depreciation prior to the beginning of the cure period under the terms set out in Section 2.04. No termination shall be effective until an amount for reimbursement under Section 2.04 is agreed upon by both parties and said amount is paid to Lessee. Lessee shall have the duty to provide to Lessor an accounting on capital expenditures without unreasonable delay.

ARTICLE 12 EXPIRATION OF TERM

Lessee's Delivery of Possession After Termination or Expiration

12.01 On the expiration date of this Lease as set forth in Paragraph 2.01 of this Lease, or the termination of Lessee's possession under this Lease pursuant to Paragraph 11.03, or any entry or possession of the Leased Land and Improvements by Lessor pursuant to Paragraph 11.03 (collectively referred to as the "Expiration Date"), Lessee shall promptly quit and surrender the Leased Land and Improvements, and deliver to Lessor actual possession and ownership of the Leased Land, less improvements, which the Lessee shall have a right to remove pursuant to paragraph 11.02 but shall otherwise return the premises without improvements in good condition, wear and tear excepted.

Lessee's Removal of Movable Objects

12.02 If at time of termination, Lessee shall have the sole right to remove from the Leased Land 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 Land on or before the Expiration Date, provided that Lessee shall promptly repair, or cause to be repaired, any damage resulting to the Leased Land or Improvements by reason of this removal. Any fixtures, equipment, or articles of personal property of Lessee that remain at or on the Leased Land after the Expiration Date shall be deemed to have disposed of by Lessor without accountability to Lessee for the value of these fixtures, equipment, or articles of personal property, or any proceeds denied from the sale of the items.

**ARTICLE 13
GENERAL PROVISIONS**

No Waiver of Breach by Lessor's Actions

13.01 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

13.02 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.

Entire Agreement

13.03 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

13.04 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 above. 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 13.04.

Lake Forest Property Owners' Association, Inc.
1 Golf Terrace
Daphne, AL 36526

City of Daphne
Office of the Mayor
Post Office Box 400
Daphne, AL 36526

Adams and Reese
Attn. Jay Ross
11 North Water St.
Suite 23200
Mobile Alabama 36602

Lessor's Entry and Inspection of Premises

13.05 Lessor, or its agents or designees, shall have the right to enter the Leased Land and Improvements 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 Land and Improvements to potential buyers and agents.

Partial Invalidity or Unenforceability

13.06 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 Benefited by Lease

13.07 This Lease shall inure to the benefit of and be binding on Lessor and Lessee and their respective distributees, personal representatives, executors, successors, and assigns except as otherwise provided in this Lease.

Assignment and Subletting

13.08 This Lease and the Term and estate granted by this Lease, or any part of this Lease or that Term and estate, may not be subleased or assigned, without Lessor's written consent.

13.09 Nothing contained in this Agreement 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 Agreement 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 14 DISCLAIMER OF WARRANTIES

14.01 The execution by the Lessor and Lessee of this Agreement 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.

IN WITNESS WHEREOF, Lessor and Lessee have executed and signed this Lease or have caused this Lease to be executed and signed on this the ____ day of _____, 2015.

LAKE FOREST PROPERTY OWNERS' ASSOCIATION, INC.

BY: _____
AS ITS: _____

ATTEST:

CITY OF DAPHNE, ALABAMA
(An Alabama municipal corporation)

BY: _____
AS ITS: Mayor

ATTEST:

REBECCA A. HAYES, CITY CLERK

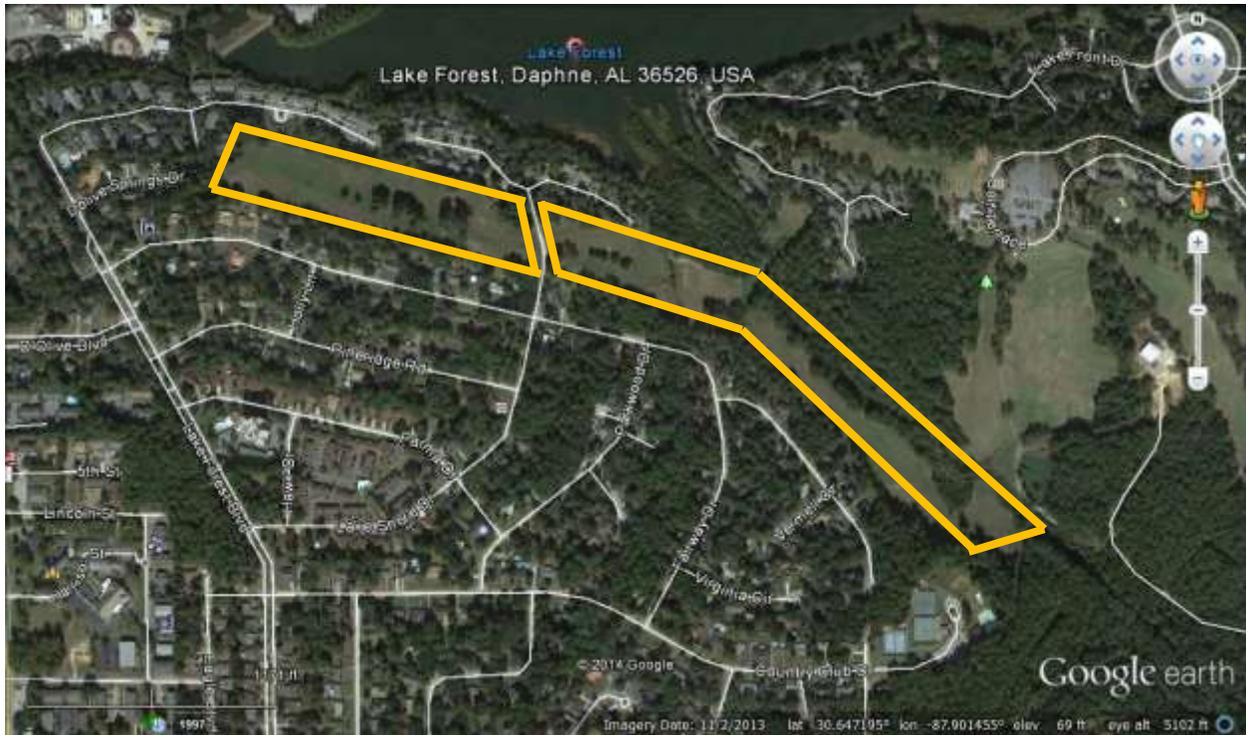


Exhibit A for Lease Agreement with City of Daphne for LF Lakeside 9

Aerial Map

East Side and West Side of Lake Shore Drive

Numbered Holes 1 (Green Area only) 2, 3, 4, 5, 6, 7 and 8 (Tee Box only)