



COUNTY COMMISSION

BALDWIN COUNTY
312 Courthouse Square, Suite 12
Bay Minette, Alabama 36507
(251) 580-2564
(251) 580-2500 Fax
agary@baldwincountyal.gov
www.baldwincountyal.gov

ANU GARY
Records Manager

MONICA E. TAYLOR
Assistant Records Manager

November 7, 2013

Mr. Jack Phillips
Bay Area Radio Control Society
Post Office Box 297
Robertsdale, Alabama 36567

**RE: Authorization of a Lease Agreement with Bay Area Radio Control Society
Regarding the Baldwin County Magnolia Landfill – Amendment No. 750 to
the Constitution of Alabama 1901**

Dear Mr. Phillips:

Enclosed, for your file, is a **fully executed copy** of the *Lease Agreement* approved during the October 1, 2013, Baldwin County Commission meeting, between the Commission and Bay Area Radio Control Society for 4.59 acres more or less of County property at Magnolia Landfill for a flying field for radio-controlled model aircraft, at a lease price of \$1.00 per year. The *Lease Agreement* commenced on October 5, 2013 and will terminate on October 4, 2016, unless sooner terminated as set forth by the *Lease Agreement*.

If you have any questions or need further assistance, please do not hesitate to contact Terri Graham, Development and Environmental Director, at (251) 972-6978.

Sincerely,

MONICA E. TAYLOR, Assistant Records Manager
Baldwin County Commission

/met Item GB1

cc: Terri Graham

ENCLOSURE

Physical Location: 15498 Lillie Lane
Summerdale, Alabama

Area: 4.59 acres (approx.)

Legal Description:

Commencing at the Northwest Corner of Section 10, Township 7 South, Range 3 East, Baldwin County, Alabama; thence run North 89 degrees, 42 minutes, 27 seconds East, 2661.16 feet to a point; thence run South 00 degrees, 14 minutes, 05 seconds East 2,652.16 feet to a 4-inch diameter concrete monument with a ½ inch capped steel rod; thence run North 89 degrees, 34 minutes, 14 seconds East 1,345.83 feet to a capped rod for the Point of Beginning; Thence run South 00 degrees, 13 minutes, 10 seconds East 376 feet to a point; thence run South 89 degrees, 42 minutes, 27 seconds West, 532 feet to a point; thence run North 00 degrees, 13 minutes, 10 seconds West, 376 feet to a point; thence run North 89 degrees, 42 minutes, 27 seconds East, 532 feet to the Point of Beginning. Containing 4.5921 acres, more or less.

This property is also described in the attached aerial photograph and is referred to as Exhibit "A."

2. **Term of Lease:** The term of this LEASE shall be from October 5, 2013, and expiring on October 4, 2016, unless sooner terminated; however, this LEASE shall automatically renew on October 5 of subsequent years unless either party provides written notice to the other expressing the intent not to renew said LEASE. Notwithstanding this provision, in no event shall this LEASE extend beyond a total of three (3) years including the initial term. Either party may terminate this LEASE at any time, with or without cause or hearing, upon thirty (30) days written notice.
3. **Rent:** The LESSEE shall pay to the LESSOR as rental hereunder the sum of ONE DOLLAR (\$1.00) per year, to be payable on the 5th day of October of each year during the term of the LEASE. Notwithstanding this provision, the LEASE amount provided for herein may be renegotiated by the parties for hold over periods, if any.
4. **Insurance.** Prior to performing any activities pursuant to this LEASE, LESSEE shall carry, with insurers satisfactory to County, throughout the term hereof, Commercial General Liability Insurance, including all contractual liability hereunder, with limits not less than \$1,000,000.00 combined single limit, for both bodily injury liability and property damage liability each occurrence. All liability insurance shall name County as an additional insured. Prior to commencing activities hereunder, a Certificate of Insurance evidencing such coverage, satisfactory to County, shall be furnished to County, which shall specifically state that such insurance shall provide for at least ten (10) days' notice to County in the event of cancellation, termination or any change in such insurance policies. Should LESSEE fail to furnish current evidence upon demand of any insurance required hereunder, or in the event of cancellation, termination or change in any

such insurance, the County may, at its option, suspend this LEASE until insurance is obtained or terminate this LEASE immediately without further action.

5. Notice: Notice required herein shall be in writing, unless otherwise allowed, and said notice shall be deemed effective when received at the following addresses:

LESSOR: Baldwin County Commission
c/o Chairman
312 Courthouse Square, Suite 12
Bay Minette, AL 36507

LESSEE: Bay Area Radio Control Society
Mr. John D. Phillips
Post Office Box 297
Robertsdale, Alabama 36567

6. Relationship: Nothing contained in this Lease shall be deemed or construed by the LESSOR and LESSEE hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or joint venture between the parties hereto, it being understood that neither the provisions contained herein nor acts of the LESSOR and LESSEE hereto, shall be deemed to create a relationship other than that of Landlord and Tenant.
7. Subordination: The LESSEE's rights under this lease shall remain subordinate to any bona fide mortgage or deed to secure debt which is now, or may hereafter be placed upon the premises; provided that the LESSEE's tenancy shall not be disturbed, nor shall the covenants and conditions of this lease be invalidated or changed.
8. Holdover Term: If the Lessee remains in possession beyond the expiration of the lease Agreement, or any extension or renewal hereof, such holding over shall be deemed a month-to-month tenancy at the same rental and terms as were in effect at the time such holding over takes place.
9. Failure to Strictly Enforce Performance: Failure of the LESSOR to insist upon a strict performance of the terms, conditions and covenants herein contained shall not be deemed to be a waiver of any of the rights and remedies that the LESSOR may have, and shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants to be observed by the LESSEE herein.
10. Indemnification: LESSOR shall not be responsible or liable for any activities performed by LESSEE, its agents, servants or employees during the term of the said LEASE, and LESSOR shall not be responsible or liable to any person for any accident or injury incurred by the LESSEE's Radio-Controlled Aircraft operations on said property. The LESSEE hereby agrees to indemnify and hold the LESSOR, its Commissioners, agents, servants, representatives and employees

(hereafter referred to collectively in this Section as "LESSOR") harmless from any and all liability for any property damage and/or personal injury which may occur at any time upon the leased premises or as a result of the activities of the LESSEE or LESEE'S members, agents, representatives, servants, employees, guests, or invitees (hereafter collectively referred to in this section as "LESSEE") on the leased premises. Further, said indemnification shall be extended to hold the LESSOR harmless from any and all liability for any property damage and or personal injury which may occur at any time should a model aircraft stray from the said property as a result of the activities of the LESSEE. Said indemnification shall also include any, but not be limited to, all court costs and/or attorney's fees incurred by the LESSOR, or its insurer and agents in defense of any claim against it which may be based upon any occurrence on the leased premises or action of the LESSEE in the usage of said premises.

11. No Assignment: LESSEE shall not sublet the premises nor any portion thereof for the whole or any part of the term of this LEASE nor assign the LEASE or any rights hereunder, except upon the prior written consent of the LESSOR. LESSOR shall not be bound by any involuntary transfer of any interest or right of LESSEE hereunder, but it expressly reserves hereby the right to cancel and annul this LEASE upon the claim of any such transfer.
12. Miscellaneous:
 - a. The premises are leased "as is" as LESSEE acknowledges that it has inspected and is satisfied with the same. LESSOR shall not be required to make any alterations or improvements upon the premises.
 - b. LESSEE shall maintain the premises in as good a condition as the same are upon the inception of this LEASE, normal wear and tear expected. LESSEE shall make no alterations or changes of or upon the premises without the prior written consent of the LESSOR. LESSEE shall not commit waste upon the premises.
 - c. The LESSEE shall not use or permit the premises to be used for any purpose other than the providing of a flying field for Radio-Controlled Aircraft to members, guests, and spectators of the Bay Area Radio Control Society (BARCS).
 - d. The LESSOR shall be entitled to enter upon and inspect the leased premises at any and all reasonable times.
 - e. Should the LESSEE fail to perform or satisfy any of the terms and conditions hereunder, the same shall be deemed to be a default under the terms of this LEASE. Upon the occurrence of any such default, the LESSOR shall be entitled to immediately re-enter and re-take possession of the premises and to declare the LEASE terminated without providing LESSEE any notice thereof. Upon such default, LESSEE agrees to immediately deliver up possession of the premises upon the request of the LESSOR.

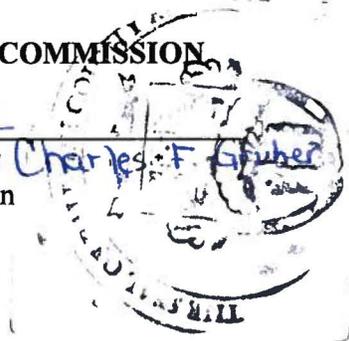
- f. In the event that any paragraph contained herein is deemed to be invalid for any reason whatsoever, the same shall be severed here from, and the remaining portions of this LEASE shall remain in full force and effect.
- g. This LEASE shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, it being understood that the LESSEE shall not assign its rights hereunder without the prior written consent of LESSOR as hereinabove set forth.

- 13. Entire Understanding: This Lease shall supersede and take the place of all previous agreements and leases and shall constitute the entire understanding of the parties hereto with respect to the subject matter hereof, and no amendment, modification, or alteration of the terms hereof shall be binding unless the same be in writing, dated subsequent to the date hereof, and duly executed by the parties hereto.
- 14. Amendments: This Agreement may be amended, modified or altered in any respect so long as such amendment, modification or alteration is in writing, dated subsequent to the date hereof and duly executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this LEASE AGREEMENT in two (2) duplicate originals, with each copy hereof to have the same force and effect as an original, on the day and year first written above.

BALDWIN COUNTY COMMISSION

By: Charles F. Gruber
 J. Tucker Dorsey
 As Its: Chairman



ATTEST:
David A. Z. Brewer
 David A. Z. Brewer
 As Its: Administrator

BAY AREA RADIO CONTROL SOCIETY

By: [Signature]
 As Its: PRESIDENT

***NOTARY PAGE TO FOLLOW**

STATE OF ALABAMA)

COUNTY OF BALDWIN)

I, the undersigned authority, a Notary Public, in and for Baldwin County and the State of Alabama, hereby certify that J. Tucker Dorsey, as Chairman of the Baldwin County Commission, whose name 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 said instrument, he, as such Chairman of the Baldwin County Commission, executed the same voluntarily for and as the act of said Baldwin County Commission on this the day the same bears date.

GIVEN, under my hand and seal this the 5th ^{November} day of ~~October~~, 2013.



Monica E Taylor

Notary Public

My Commission expires: My Commission Expires 09/05/2016

COUNTY OF BALDWIN

I, the undersigned authority, a Notary Public, in and for Baldwin County and the State of Alabama, hereby certify that John D Phillips, as President of the Bay Area Radio Control Society, whose name 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 said instrument, he, as such officer, and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said Bay Area Radio Control Society, on this the day the same bears date.

GIVEN, under my hand and seal this the 31 day of October, 2013.



Paige Howard

Notary Public

My Commission expires: MY COMMISSION EXPIRES SEPT. 29, 2015