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

June 23, 2014

Reverend Melvin E. Whitehurst, Ph.D.
President
Lillian Recreational Center, Inc.
32369 Highway 98
Lillian, Alabama 36549

RE: Lillian Recreational Center, Inc. Lease Agreement

Dear Reverend Whitehurst:

Enclosed for your file is a **fully executed copy** of the *Lease Agreement* approved by the Baldwin County Commission during its regularly scheduled meeting held on June 17, 2014, between the Commission and the Lillian Recreational Center, Inc., for the Lillian Recreational Center, Inc., to lease six (6) acres, more or less, of county property known as the Lillian Recreational Center Park in Lillian for the purposes of providing a public park and a recreational facility. The *Lease Agreement* commenced on June 19, 2014, and shall expire five (5) years thereafter, unless sooner terminated by either party according to the terms contained in the *Lease Agreement*.

If you have any questions or need further assistance, please do not hesitate to contact David Brewer, County Administrator, at (251) 580-2550.

Sincerely,

ANU GARY, Records Manager
Baldwin County Commission

AG/met Item BA6

cc: David Brewer
Madison Steele
Terri Graham
Cal Markert

ENCLOSURE

STATE OF ALABAMA)

BALDWIN COUNTY)

LEASE AGREEMENT REGARDING
LILLIAN RECREATIONAL CENTER, INC.

WHEREAS, this lease agreement is made and entered into, by and between the **BALDWIN COUNTY COMMISSION**, hereinafter called "LESSOR", and **LILLIAN RECREATIONAL CENTER, INC.**, hereinafter called "LESSEE;" and

WHEREAS, LESSOR owns certain property in and about Lillian, Alabama; and

WHEREAS, LESSEE has asked LESSOR to lease a certain portion of LESSOR'S property, as delineated herein, for the purposes of operating a public park and recreational facility; and

WHEREAS, LESSOR considers such usage to be beneficial to the general upkeep and maintenance of such property; and

WHEREAS, LESSEE has agreed to enter such agreement and to indemnify and hold the LESSOR harmless from liability and loss; now therefore

IN CONSIDERATION of the mutual covenants and agreements herein set forth and the benefits bestowed upon the general public by the operation and maintenance of the property, LESSOR does hereby LEASE to LESSEE, and LESSEE does hereby LEASE from LESSOR for the purpose of a public park and recreational facility, the following described property situated in Baldwin County, Alabama, to-wit:

Commencing at the Southwest corner of the Southwest Quarter of the Southeast Quarter, Section 21, Township 7 South, Range 6 East, Baldwin County, Alabama; thence run East for 33.0 feet, thence run North for 40.0 feet to North right of way line of U.S. Highway 98 and the POINT OF BEGINNING, thence run North parallel to West line of said Southwest Quarter for 960.50 feet, thence run East parallel to said North right of way line for 310.0 feet, thence run South parallel to West line of said Southwest Quarter for 700.50 feet, thence run West parallel to said north right of way line for 140.0 feet, thence run South parallel to said West line of the Southwest Quarter for 260.0 feet, thence run West along said North right of way line for 170.0 feet to the POINT OF BEGINNING, containing 6.00 acres, more or less.

; and

1. **TERM**: The term of this lease shall begin upon the date of full execution and expire five (years) thereafter, unless sooner terminated by either party according to the terms contained herein.

2. **CONSIDERATION/PAYMENTS**: The consideration for this lease shall be One Dollar ($1.00) per year for the five year lease term period and the covenants, agreements and obligations to be performed by the LESSEE. This annual rental payment shall be due in advance of the leased term and the 1st day of each succeeding year in this lease term. All lease payments shall be made payable to LESSOR with lawful funds of The United States of America at the following address: Baldwin County Commission, Attention: Accounting Department, 312 Courthouse Square, Suite 11, Bay Minette, Alabama 36507.

3. **USAGE**: For and during the term of this lease, LESSEE agrees to use the property for a public park and recreational facility only.

4. **COVENANTS OF LESSEE**: The LESSEE does hereby covenant with the LESSOR to perform the following:

(A) LESSEE designates Mr. Melvin E. Whitehurst, Ph.D. who shall serve as the sole designee for and on behalf of LESSEE to coordinate all activities, inquires and requests related to the property.

(B) The LESSEE will make the property available as a public park to the general public, including all the residents of the Lillian Community and to all residents of and visitors to Baldwin County, Alabama.

(C) The LESSEE will provide for a security watch over the premises. The LESSEE will clarify and explain LESSOR park rules to visitors and will notify the Baldwin County Sheriff's Office at any such time as visitors may violate said park rules or damage any park property.

(D) The LESSEE will manage the improvements and facilities on the premises and make them available to other groups of citizens.

(E) The LESSEE will maintain the premises free of litter and debris and will bring trash and garbage from the premises to the highway right-of-way each week on the regular garbage collection day for the premises.

(F) The LESSEE will operate the bright lights on the premises to make the park facilities available for night use within the constraints of the LESSEE's budget.

(G) The LESSEE will notify the LESSOR of any known safety hazards which may exist on the premises and fix the problem.

(H) The LESSEE shall be responsible for the cost of maintenance of the leased premises.

5. **COVENANTS OF THE COUNTY**: The LESSOR does hereby covenant with the LESSEE to perform the following:

(A) LESSOR shall coordinate all activities, inquires and requests related to the property with Mr. Melvin E. Whitehurst, Ph.D., who shall serve as the sole designee for and on behalf of LESSEE.

(B) The LESSOR will pay the LESSEE One Thousand and Two Hundred Dollars ($1,200.00) per year which shall be paid in advance in order to help offset the costs related to miscellaneous repairs to the premises required from time-to-time.

(C) The County Parks Division will mow the park property at least four (4) times per year.

(D) The County Parks Division will conduct a quarterly safety inspection of the premises and will repair or remove any equipment or feature which it deems to be hazardous.

(E) The LESSOR will place on the premises the Park Rules Sign which are erected at all County Parks, if any.

(F) The County Environmental/Solid Waste Department will pick-up trash and garbage from the premises where the LESSEE has placed it at the highway/right-of-way once each week at no cost to LESSEE.

6. **LIABILITY**: LESSOR shall not be responsible or liable for any work performed by the 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 reason of the LESSEE's use and operation of a public park and recreational facility on said property. The LESSEE hereby agrees to indemnify and hold the LESSOR harmless from any and all claims, damage or liability for any property damage and/or personal injury, including death, which may occur at any time upon the leased premises or as

a result of the activities of the LESSEE or its invitees on the leased premises. Said indemnification shall include any and all court costs and/or attorney's fees incurred by the LESSOR in defense of any claim made against it which may be based upon any occurrence on the leased premises or action of the LESSEE or its invitees in the usage of said leased premises.

7. **AUTHORITY OF THE LESSEE**: (A) The LESSEE may control the scheduling of the use of the facilities on the leased premises including the Community Center Building, the ball field and other Park facilities. (B) The LESSEE may construct additional public facilities and improvements on the premises after their design has been reviewed and approved by the LESSOR, in its discretion. The costs of any such improvement shall be borne and maintained by the LESSEE. The premises shall, at all times, be kept free of mechanics and materialmen's liens.

8. **TERMINATION**: This Lease may be terminated by the LESSEE upon one (1) month advanced notice in writing to the LESSOR. This Lease may be cancelled by the LESSOR, with or without cause or reason, upon one (1) month advance notice in writing to the LESSEE.

9. **TRESSPASSERS**: LESSEE shall have the right and authority to protect and control its interests in the said property and to keep trespassers therefrom.

10. **DUTY OF CARE AND PRESERVATION**: LESSEE agrees and covenants to operate the leased premises with care and not to permit waste of the said property nor destroy or remove the same without the consent of the LESSOR.

LESSEE shall remain compliant with all applicable Federal, State and Local Laws.

11. **DUTY TO DO NO HARM**: LESSEE shall do no harm to the premises including, without limitation, selling or removing from the leased premises any sand, gravel, rock, oil, coal, or other minerals, or any lumber, posts or wood.

12. **RIGHT OF ENTRY**: LESSOR or its authorized representatives shall have the right, at any reasonable time, to enter on the premises for any reasonable purpose to include, but not limited to, making any repairs, alterations or improvements deemed necessary by the LESSOR.

13. **NO AGENCY**: This lease shall not give rise to the creation of an agency relationship or a partnership relation between the parties hereto, and none of the parties shall have the authority to bind the others without written consent.

14. **NO ASSIGNMENT**: LESSEE may not assign this lease or sublease or encumber any portion of the land leased hereunder without the prior written consent of the LESSOR. Any attempt at assignment, sublease or other transfer, in violation of the provisions of this lease, shall at the option of the LESSOR be void.

15. **SUCCESSORS IN INTEREST**: Each and all the covenants, conditions and restrictions in the Lease shall inure to the benefit of and shall be binding upon the successors in interest of the parties hereto.

16. **PARTIAL INVALIDITY**: If any term, covenant, condition or provision of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

17. **BINDING**: This lease may be re-negotiated at the option of LESSOR'S successors in office.

18. **TAXES**: LESSOR agrees to pay all taxes levied and assessed against the premises.

19. **DEFAULT**: If LESSEE fails to carry out any provision of this lease, LESSOR shall have the right to terminate the lease on ten (10) days written notice of their intention to do so, and LESSOR shall have the right to proceed by all legal means to obtain possession of the leased premises. LESSEE agrees that if LESSOR employs an attorney to represent it in order to obtain possession of the leased premises, that it will pay a reasonable attorney's fee and court costs in connection therewith to include, but not limited to, fees and costs associated with LESSEE's failure to surrender possession properly, quietly and peaceably.

20. **LEASE RENEWAL/EXTENSIONS**: Should LESSEE comply with the terms of this lease and desire for the lease to be extended or renewed, and should there have been no threatened, pending or actual legal action between the parties during the term of this lease, then LESSEE may request in writing to LESSOR, prior to expiration of this lease, that the lease be extended or renewed. LESSOR, may agree to extend or renew this lease with LESSEE with similar, additional or different terms in its sole discretion, as it sees fit, or elect not to extend or renew this lease. Should LESSOR not approve of an extension or renewal of the lease prior to expiration of this lease, then all rights of LESSEE ends upon termination of this lease. Upon termination of the lease, LESSOR shall be under no obligation whatsoever to offer any new lease to LESSEE.

21. **MODIFICATION**: This Lease shall not be modified except by the written agreement of both parties hereto.

22. **ENTIRE UNDERSTANDING**: This lease shall constitute the entire understanding of the parties hereto with respect to the subject matter hereof, and no amendment, modification, or alternation 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.

23. **ACTS OF GOD**: Neither LESSOR nor LESSEE shall be required to perform any terms, condition, or covenant of this lease so long as performance is delayed or prevented by acts of God, drought, floods, material or labor restrictions by any governmental authority and any other cause not reasonably within the control of either party, and which, by the exercise of due diligence, LESSOR or LESSEE is unable, wholly or in part, to prevent or overcome.

24. **NON-WAIVER OF DEFAULT**: The failure of the LESSOR to insist upon the strict performance of any of the terms, covenants, agreements and conditions of this lease shall not constitute a default or be construed as a waiver or relinquishment of the right of the LESSOR to thereafter enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.

IN WITNESS WHEREOF, the undersigned LESSOR and LESSEE have hereunto signed and sealed this instrument as of the day and year first above written.

LESSOR

BALDWIN COUNTY COMMISSION

BY: _____ Date: 6/19/14
CHARLES F. GRUBER, Chairman

ATTEST:

BY: _____ Date: 6-19-2014
DAVID A. Z. BREWER, County Administrator

LESSEE

LILLIAN RECREATIONAL CENTER, INC.

BY Melvin E. Whitehurst 6/18/2014
MELVIN E. WHITEHURST, Ph.D.
As Its: President Date

***NOTARY PAGE TO FOLLOW**

STATE OF ALABAMA

COUNTY OF BALDWIN

I, Lisa O Sangster, a Notary Public, in and for said County in said State, do hereby certify that Charles F. Gruber, whose name as Chairman, and David A. Z. Brewer, whose name as County Administrator of Baldwin County, Alabama, a political subdivision of the State of Alabama, are signed to the foregoing instrument and who are known to me, acknowledged before me on this date, that being informed of the contents of said instrument, they, as such officers, and with full authority, voluntarily executed the same on the day the same bears date.

GIVEN under my hand and seal this the 19th day of June, 2014.

Lisa O Sangster
Notary Public
My Commission Expires: 6/9/14

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: July 9, 2014
BONDED THRU NOTARY PUBLIC UNDERWRITERS

NOTARY PUBLIC ALABAMA STATE AT LA

STATE OF ALABAMA

COUNTY OF BALDWIN

I, SHARON GRANT, a Notary Public, in and for said County in said State, do hereby certify that Melvin E. Whitehurst, Ph.D., whose name as President of the Lillian Recreational Center, Inc., a corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this date, that being informed of the contents of said instrument, he, as such officer, and with full authority, voluntarily executed the same on the day the same bears date for and as the act of said corporation.

GIVEN under my hand and seal this the 18TH day of JUNE, 2014.

Sharon Grant
Notary Public
My Commission Expires:_____

SHARON GRANT NOTARY PUBLIC

MY COMMISSION EXPIRES: February 25, 2018

MELVIN E. WHITEHURST 9/85
OR ELIZABETH E WHITEHURST
32369 US Hwy. 98 (251) 962-4340
Lillian, AL 36549

5980
[redacted]

5/18/14
DATE

PAY TO THE ORDER OF Baldwin County Alabama $ 600

Five xx/xx DOLLARS

Security Features Details on Back

REGIONS

FOR [redacted]

M E Whitehurst
MP

NOTES

RECEIPT

DATE 6·18 NO. 9256

RECEIVED FROM Melvin Whitehurst

ADDRESS

5 year Lease Agreement $ 5.00

FOR Lillian Rec Center

ACCOUNT			HOW PAID		
AMT. OF ACCOUNT			CASH		
AMT. PAID			CHECK	5	00
BALANCE DUE			MONEY ORDER		

✓#5980

BY CFC

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OFFICE OF TREASURER, BALDWIN COUNTY, ALABAMA

No 57781

Date JUNE 18, 2014

Received From MELVIN WHITEHURST

the sum of $ 5.00 , to be distributed to and for the benefit of the following:

	GENERAL FUND	144 FUND	FUND
LEASE OF COUNTY	$ 5.00	$	$
PARK - LILLIAN	$	$	$
REC. CTR.	$	$	$
	$	$	$
	$	$	$
	$	$	$
	$	$	$
	$	$	$
	$	$	$
TOTAL	$ 5.00	$	$

Kim Creech | Sec

As Treasurer, Baldwin County, Alabama

MELVIN E. WHITEHURST 9/85
OR ELIZABETH E WHITEHURST
32369 US Hwy. 98 (251) 962-4340
Lillian, AL 36549

5980 [redacted]

5/18/14
DATE

PAY TO THE ORDER OF Baldwin County Alabama $ 600

Five xx/xx DOLLARS

Security Features Details on Back.

REGIONS

FOR [redacted]

M E Whitehurst

MP

Harland Clarke

168024

BALDWIN COUNTY COMMISSION
DISBURSEMENT FUND 705
312 Courthouse square Suite 11
Bay Minette, AL 36507

BBVA COMPASS
1-800-COMPASS
BBVACOMPASS.COM
[redacted]

59336

Check No. - 168024

Check Date - 7/1/2014

PAY: AMOUNT $*****1,200.00

ONE THOUSAND TWO HUNDRED AND 00/100**********

VOID IF NOT CASHED IN 60 DAYS

TO THE ORDER OF:
LILLIAN RECREATIONAL CENTER
ATTN: MELVIN WHITEHURST
32369 US HWY 98
LILLIAN AL 36549

CHAIRMAN SIGNATURE

AUTHORIZED SIGNATURE

[redacted]

Stub 1

168024

For Check No. - 168024

INVOICE NUMBER	DATE	DESCRIPTION	AMOUNT PAID
[redacted]	6/17/2014	LEASE AGREEMENT	1200.00
		TOTAL	1200.00

[redacted]