

STATE OF ALABAMA:
COUNTY OF BALDWIN:

STATUTORY WARRANTY DEED
WITH RESERVATIONS AND VENDOR'S LIEN RETAINED

KNOW ALL MEN BY THESE PRESENTS, that CITY OF FOLEY, an Alabama municipal corporation (hereinafter referred to as the "Grantor"), for and in consideration of ONE MILLION THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,300,000.00) of which the sum of TWO HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$260,000.00) is hereby acknowledged to have been paid to said Grantor by WOLF BAY LODGE, INC., an Alabama corporation (hereinafter "Grantee"), does, subject to the provisions hereinafter contained, hereby GRANT, BARGAIN, SELL and CONVEY unto the said Grantee and to Grantee's successors and assigns, all that real property in the County of Baldwin, State of Alabama, described as follows:

Parcel 2 of the Wilson Pecan Property, a Minor Subdivision, as recorded at Instrument Number 1432847, Slide 0002497-F of the Probate Court Records of Baldwin County, Alabama.

Less and except all oil, gas and other mineral interests and all rights and privileges in connection therewith.

TO HAVE AND TO HOLD said property, together with all and singular, the rights, members, privileges, tenements, improvements, hereditaments, easements and appurtenances thereunto belonging or in anywise appertaining; subject, however, to the matters and exceptions to which reference is hereinbelow made, unto the said Grantee and Grantee's successors and assigns, forever.

The property is conveyed subject to the following:

1. Use Restriction. Grantee covenants and agrees for Grantee, and Grantee's successors and assigns, that the property shall be used and occupied only for a first class sit down family style restaurant serving a variety of foods commensurate with Grantee's current "Wolf Bay" restaurant operations and to sell apparel in a gift store relating to the restaurant's business and trade name, and for no other purpose. Sales by Grantee of alcoholic beverages shall only be made (i) when incidental to the sale of the aforesaid foods (subject to Grantee maintaining all applicable liquor licenses), and (ii) during the hours of full restaurant operation in the bar area as shown on Exhibit "A" attached hereto. Any other use of the property is and will be strictly prohibited. No bar (other than as permitted in the immediately preceding sentence), sports bar or similar business shall be operated on the property, notwithstanding the sale of food. Grantee acknowledges that the property is or may in the future be located within close proximity to residential dwellings or other business establishments, as well as the adjacent Farmer's and Fishermen's Market. Grantee shall operate its business in harmony with such residential dwellings, establishments and the Farmer's and Fishermen's Market and shall ensure that no undue noises, disruptions or odors are emitted from or about the property so as to disturb the residents of the residential dwellings or other business establishments or Farmer's and Fishermen's Market. Any such use by the Grantee shall be in compliance with and not in violation of any local zoning and/or applicable governmental rules,

regulations or use laws. Grantee shall promptly comply with all applicable laws, guidelines, rules, regulations and requirements whether of Federal, State or Local origin, applicable to the property, including those for the correction, prevention and abatement of nuisance, unsafe conditions, or other grievances arising from or pertaining to the use or occupancy of the property, and Grantee specifically agrees that Grantee shall not use the property in any way or manner that would violate any governmental and environmental rule, regulation, or law or that would cause any liability of any kind or nature to Grantor under any such rule, regulation or law, and Grantee does hereby agree to indemnify and hold harmless Grantor from any and all damages of every kind or nature arising out of the violation of the terms and provisions hereof, including attorneys' fees and costs at trial and on appeal.

2. Option to Repurchase. Grantor hereby reserves, and Grantee hereby grants to Grantor, an option to purchase the property on the following terms: In the event Grantee or its successors and assigns fail to utilize or cease utilizing the property as a restaurant commensurate with Grantee's current "Wolf Bay" restaurant operation or otherwise vacates the property for at least six (6) months out of any twelve (12) month period following the date of recording of this deed, then Grantor shall have the option to purchase the property, free and clear of any liens or encumbrances, upon payment or tender of payment to Grantee, or its successors and assigns as applicable, of an amount equal to the fair market value of the land and improvements as determined by a licensed Alabama M.A.I. appraiser employing the Marshall Valuation Service ("MVS")(or comparable generally accepted guide in the event MVS is discontinued), less any amounts remaining owed under the Note (as hereinafter defined). The Grantor's option to purchase (a) may be exercised within sixty (60) days following each anniversary of the recording of this deed in the event the Grantee or Grantee's successors and assigns fail to utilize or cease utilizing the property as set forth above, and (b) shall automatically terminate and be of no further force and effect ninety-nine (99) years from the date of recording of this deed.

3. Right of First Refusal. Grantor hereby reserves, and Grantee hereby grants to Grantor, a right of first refusal to purchase the property on the terms and conditions specified in any bona fide offer which the Grantee or its successors and assigns intends to accept. The Grantor shall have thirty (30) days after its receipt of the offer, including all terms and conditions thereof, to exercise its right of first refusal, in which event the sale of the property shall take place on the terms and conditions set forth in the offer notice. If the Grantor does not exercise its right of first refusal, (a) the Grantee or the Grantee's successors and assigns as applicable may sell the property to the prospective purchaser on the terms and conditions set forth in the offer, and (b) the Grantor's right of first refusal pursuant to this paragraph shall run with the land and apply to any subsequent sales of the property by the Grantee's successors and assigns including subsequent owners of the property. The Grantor's right of first refusal set forth herein shall automatically terminate and be of no further force and effect ninety-nine (99) years from the date of recording of this deed.

4. The property is further conveyed subject the vendor's lien retained herein; all existing easements, reservations, zoning restrictions and rights of way of any kind, type or nature; any and all outstanding or previously reserved oil, gas and other minerals and rights in connection therewith; all matters now of record in the Office of the Judge of Probate of Baldwin County, Alabama including those set forth on Exhibit "B" hereto and incorporated herein by reference; all matters which are visible or would be discovered upon an inspection and/or survey of the property; and any lien for current taxes or assessments which Grantee assumes and agrees to pay when due.

All recordations mentioned herein refer to the records in the Office of the Judge of Probate of Baldwin County, Alabama.

The unpaid balance of said purchase money, to-wit, the sum of ONE MILLION FORTY THOUSAND AND NO/100 DOLLARS (\$1,040,000.00), to secure the payment of which a lien upon the property described herein is hereby retained and reserved, is represented by a promissory note of even date herewith, in said principal sum, plus the interest thereon at the initial rate of 4.5% per annum (the "Note"), made by the Grantee payable to the Grantor or order, according to the tenor and effect of said Note.

By accepting this conveyance, the Grantee hereby agrees for Grantee, and Grantee's successors and assigns, so long as any part of said purchase money, or the interest thereon, remains unpaid, as follows:

1. **Payment of Note.** Grantee shall pay timely all installments and other amounts due under the Note.

2. **Alterations to Property.** Grantee shall not (i) initiate or support any zoning classification or reclassification of the property (if any) or seek any variance under existing zoning laws (if any) or use or permit the use of the property in a manner that would result in such use becoming a non-conforming use under, or otherwise violate, applicable zoning laws (if any); (ii) modify, amend, supplement, or permit any default or violation to occur with respect to any current agreement, covenant, encumbrance or restriction applicable to the property, or subject the property to any new agreements, covenants, encumbrances or restrictions, or take any other actions which would change or affect in any manner the status of title to or the permitted uses of the property; (iii) execute or file any subdivision plat affecting the property or consent to the annexation of the property to any municipality; or (iv) permit the property to be used by the public or any person in any manner that might make possible a claim of adverse possession or of any implied dedication easement or easement by prescription.

3. **Insurance.** Grantee shall keep any buildings or other improvements now or which may hereafter be erected upon said property in good repair and insured against fire and lightning and against hazards covered by the form of insurance contract generally known as "extended coverage", and also the form of coverage known as "all physical loss" if required by the Grantor and general liability by policies issued by good and solvent insurance companies approved by the Grantor which policies shall be deposited with the Grantor (or, at the Grantor's option, certificates satisfactory to the Grantor) and shall provide that loss, if any, shall be payable to the Grantor as the Grantor's interest may appear, such policies to be in such amounts as may be required by the Grantor. All such policies shall be subject to the Grantor's approval and shall name the Grantor as a named insured and provide that any losses payable thereunder shall (pursuant to loss payable clauses, in form and content acceptable to the Grantor, to be attached to each policy) be payable to the Grantor. If requested by the Grantor, the Grantee shall furnish to the Grantor evidence of the payment of the premiums for such policies. The Grantee shall cause each insurer under each of the policies to agree (either by endorsement upon such policy or by letter addressed to the Grantor) to give the Grantor at least 10 business days' prior written notice of the cancellation of such policies in whole or in part or the lapse of any coverage thereunder. The Grantee shall not take any action or fail to take any action that would result in the invalidation of any insurance policy required hereunder.

4. **Damage and Destruction; Grantor's Rights to Proceeds.** In the event of any damage to or loss or destruction of the property including any improvements now or hereafter located thereon, the Grantee shall (i) promptly notify the Grantor of such event and take such steps as shall be necessary to

preserve any undamaged portion of the property, and (ii) unless otherwise instructed by the Grantor, promptly commence and diligently pursue to completion the restoration, replacement or rebuilding of the property as nearly as possible to the value, condition and character thereof immediately prior to such damage, loss or destruction and in accordance with plans and specifications approved, and with other provisions for the preservation of the security hereunder established, by the Grantor (regardless whether any insurance proceeds are sufficient for the purposes thereof unless such insurance proceeds are otherwise applied by the Grantor as provided herein). If any portion of the property is so damaged, destroyed or lost, and such damage, destruction or loss is covered, in whole or in part, by insurance described in Paragraph 3, then (i) the Grantor may, but shall not be obligated to, make proof of loss, and may settle, adjust or compromise any claims thereunder, (ii) each insurance company concerned is hereby authorized and directed to make payment therefor directly to the Grantor, and (iii) the Grantor shall have the right to apply the insurance proceeds, first, to reimburse the Grantor for all reasonable costs and expenses, including all attorneys' fees and disbursements, incurred in connection with the collection of such proceeds, and second, the remainder of such proceeds shall be applied, at the Grantor's option, (a) in payment of all or any part of the indebtedness of Grantee to Grantor in the order and manner determined by the Grantor in its sole discretion (provided that the remainder of the indebtedness shall continue in full force and effect and the obligors who are obligated therefor shall not be excused from the payment thereof), (b) to the cure of any then-existing Event of Default, or (c) to the repair, restoration, or replacement, in whole or in part, of the property. The Grantee expressly assumes all risk of loss, including a decrease in the use, enjoyment or value, of the property from any casualty whatsoever, whether or not insurable or insured against. The Grantor shall not be liable for any failure to collect, or exercise any due diligence in the collection of, any insurance proceeds.

5. **Condemnation.** The Grantee, immediately upon obtaining knowledge thereof, shall notify the Grantor of any pending or threatened proceedings for the condemnation of any of the property or the exercise of any right of eminent domain with respect thereto, or of any other pending or threatened proceedings arising out of injury or damage to any of the property. The Grantor may participate in any such proceedings, and the Grantee from time to time shall execute and deliver to the Grantor all instruments requested by the Grantor to permit such participation. The Grantee shall, at the Grantee's expense, diligently prosecute any such proceedings, deliver to the Grantor copies of all papers served in connection therewith and consult and cooperate with the Grantor, its attorneys and agents, in carrying on and defending any such proceedings. No settlement of any such proceedings shall be made by the Grantee without the Grantor's consent, not to be unreasonably withheld. All proceeds of condemnation awards or proceeds of sale in lieu of condemnation, and all judgments, decrees and awards for injury or damage to the property shall be paid to the Grantor. The Grantee authorizes the Grantor to collect and receive the same, to give receipts and acquittances therefor, and to appeal from any such judgment, decree or award. The Grantor shall not be liable for any failure to collect, or exercise diligence in the collection of, any of the same. The Grantor shall have the right to apply any proceeds, judgments, decrees or awards referred to in this Paragraph, first, to reimburse the Grantor for all reasonable costs and expenses, including attorneys' fees and disbursements, incurred in connection with the proceeding in question or the collection of such amounts, and second, the remainder thereof in the same manner as provided in Paragraph 4 with respect to insurance proceeds.

6. **Waste; Operation of Property.** The Grantee shall neither commit, permit, consent to, nor otherwise allow the commission of waste to or upon any of said property, including any buildings or other improvements now, or which may hereafter be erected upon the same. The Grantee shall (i) not engage in any activity that would diminish the value of the property or decrease the income from the property (if any); (ii) pay or cause to be paid all bills for utilities and other materials and services used on

or in connection with the property; (iii) cause the property and every part thereof to be maintained and kept in good and safe repair, working order and condition; (iv) not remove, demolish or alter the design or structural character of any improvements now or hereafter erected on the property; and (v) make all necessary and proper repairs, renewals, additions and restorations thereto so that the value and efficient use thereof shall be fully preserved and maintained. The Grantee shall not remove from the property any of the fixtures or personal property (if any) unless the same are immediately replaced with like property of at least equal value and utility.

7. **Hazardous Substances.** That Grantee shall: (i) not permit any hazardous substances to be installed, used, generated, manufactured, treated, handled, refined, produced, processed, transported, stored or disposed of, or otherwise present in, on or under the property that would cause a violation of, or that would support a claim under any hazardous substance law; (ii) not permit any activity to be undertaken with respect to the property that would cause a violation of, or support a claim under any hazardous substance law; (iii) not permit any hazardous substance to be present in, on or under the property, and nor any activity to be undertaken with respect to the property, that would cause the property to become a hazardous waste treatment, storage or disposal facility within the meaning of any hazardous substance law; (iv) not release or threatened release of hazardous substance from the property within the meaning of any hazardous substance law; (v) not discharge hazardous substance into any watercourse, body or surface or subsurface water or wetland, or into the atmosphere, that would be prohibited by or require a permit under any hazardous substance law; (vi) not permit the property otherwise to be subject to special remediation, regulation, restriction or treatment under any hazardous substance law; (vii) not permit any underground storage tanks or underground deposits of any material to be located on the property; (viii) not permit the property to be used in any manner that would cause a violation of, or that would support a claim under any hazardous substance law; (ix) permit the Grantor from time to time to inspect the property and observe the operations thereon and to perform tests (including soil and ground water tests) for hazardous substances on the property; (x) undertake all preventive, investigatory and remedial action (including emergency response, removal, clean up, containment and other remedial action) that is required by any applicable hazardous substance law or necessary to prevent or minimize any property damage (including damage to any of the property), personal injury or harm to the environment, or the threat of any such damage or injury, by releases of or exposure to hazardous substances in connection with the property or the operations on the property; and (xi) deliver to the Grantor, at the Grantor's request, copies of any and all documents in the Grantee's possession or to which the Grantee has access relating to hazardous substances and the property, and the operations on the property, including laboratory analyses, site assessments or studies, environmental audit reports and other environmental studies and reports. If the Grantor at any time reasonably believes that the Grantee is not complying with all applicable hazardous substance laws applicable to the property or the requirements of this instrument regarding the same, or that a material spill, release or disposal of hazardous substances has occurred on or under the property, or if any other Event of Default exists, the Grantor may require the Grantee to furnish to the Grantor an environmental audit or site assessment reasonably satisfactory to the Grantor with respect to the matters of concern to the Grantor. Such audit or assessment shall be performed at the Grantee's expense by a qualified consultant approved by the Grantor. The Grantee shall immediately advise the Grantor in writing of any of the following of which the Grantor shall become aware: (i) any violation of any hazardous substance law with respect to the property or the operations at the property; or (ii) any spill, release, discharge, disposal of any hazardous substances, or imminent threat thereof, at the property. The Grantee shall immediately deliver to the Grantor any documentation or records that the Grantee may reasonably request in connection with any such notices, inquiries, and communications and shall advise the Grantor of any subsequent developments.

8. **Taxes, Assessments and Liens.** The Grantee shall pay promptly all taxes, assessments, liens or other charges which may hereafter become effective against said property, together with all penalties, costs and other expenses incurred, or which may accrue, in connection therewith, and in general, the Grantee shall do, or cause to be done, at the Grantee's sole cost and expense, everything necessary to fully preserve the lien and priority of this instrument. If requested by Grantor, Grantee shall deposit with Grantor, on a monthly basis, escrow amounts sufficient to pay the annual obligations of Grantee under this Paragraph 8. The Grantee shall not, without the Grantor's consent, create, place or permit to be created or placed, or allow to remain, any voluntary or involuntary lien or mortgage on any of the property, whether prior to, on a parity with or subordinate to the lien created hereby and retained by Grantor under this instrument. If any such lien is created or placed on the property without the Grantor's consent, the Grantee shall cause the same to be discharged, released or bonded off to the Grantor's satisfaction within 10 days after the filing thereof. Nothing in this instrument or in any other document shall be deemed or construed as constituting the consent or request by the Grantor, express or implied, to any contractor, subcontractor, laborer, mechanic or materialman for the performance of any labor or the furnishing of any material for any improvement, construction, renovation, alteration or repair of the property. The Grantee agrees that the Grantor does not stand in any fiduciary relationship to the Grantee by reason of the transactions relating to this instrument.

9. **Maintenance of Lien on Property.** The Grantee shall take all steps necessary to preserve and protect the perfection, validity and priority of the lien on the property created and retained by Grantor under this instrument. The Grantee shall execute, acknowledge, deliver, file and record such additional instruments as the Grantor may deem necessary in order to confirm, perfect, preserve, protect, continue, extend or maintain the lien created hereby and retained by Grantor as a first priority lien on the property, or to proceeds subject to such lien. If the lien, validity or priority of this instrument, or if title to any of the rights of the Grantee or Grantor in or to the property shall be endangered or questioned, or shall be attacked directly or indirectly, or if any action or proceeding is instituted against the Grantee or the Grantor with respect thereto, the Grantee shall promptly notify the Grantor thereof and shall diligently endeavor to cure any defect that may be claimed, and shall take all necessary and proper steps for the defense of such action or proceeding, including the employment of counsel, the prosecution or defense of the litigation, and subject to the Grantor's approval, the compromise, release or discharge of any and all adverse claims. The Grantor (whether or not named as a party to such actions or proceedings) is authorized and empowered (but shall not be obligated) to take such additional steps as it may reasonably deem necessary or proper for the defense of any such action or proceeding or the protection of the lien, validity or priority of this instrument, including the employment of counsel, the prosecution or defense of litigation, the compromise, release or discharge of adverse claims, and the removal of prior liens. The Grantee shall, on demand, reimburse the Grantor for all expenses (including attorneys' fees and disbursements) reasonably incurred by the Grantor in connection with any of the foregoing matters.

10. **Default.**

A. **Events of Default.** The occurrence of any of the following events shall constitute an Event of Default (an "Event of Default") under this instrument (whatever the reason for such event and whether or not it shall be voluntary or involuntary or be effected by operation of law or pursuant to any governmental requirement):

- (a) default shall be made in the due observance or performance of any of the obligations, including, without limitation, any covenant, condition or agreement on the part of the Grantee to be observed or performed pursuant to the terms of this instrument;

or

(b) any default or Event of Default, as herein defined, shall occur under any other documents or instruments executed in connection with the transaction evidenced by this instrument, including but not limited to, under the Note;

(c) provided, however, except for any payment default for which there is no cure right or grace period, any default or non-compliance hereunder shall not constitute an Event of Default unless and until Grantee has failed to cure the same within 30 days after receipt of written notice from Grantor of the existence of such default or non-compliance.

B. Possession and Operation of Property. If an Event of Default exists, in addition to all other rights herein conferred on the Grantor, the Grantor (or any person designated by the Grantor) may, but will not be obligated to, (a) enter upon the property and take possession of any or all of the property without being guilty of trespass or conversion, exclude the Grantee therefrom, and hold, use, administer, manage and operate the same to the extent that the Grantee could do so, without any liability to the Grantee resulting therefrom; (b) collect, receive and receipt for all proceeds accruing from the operation and management of the property; (c) make repairs and purchase needed additional property; (d) insure or reinsure the property; (e) maintain and restore the property; (f) prepare the property for resale, lease or other disposition; (g) have furnished to the property utilities and other materials and services used on or in connection with the property; and (h) exercise every power, right and privilege of the Grantee with respect to the property.

C. Judicial Proceedings; Right to Receiver. If an Event of Default exists, the Grantor, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit to foreclose its lien on the property, to sue the Grantee for damages on account of said default, for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy. The Grantor shall be entitled, as a matter of right (upon bill filed or other proper legal proceedings being commenced for the foreclosure of this instrument, to the extent required by law), to the appointment by any competent court or tribunal, without notice to the Grantee or any other party, of a receiver of the rents, issues, profits and revenues of the property, with power to lease and control the property and with such other powers as may be deemed necessary.

D. Power of Sale. If an Event of Default exists, this instrument shall be subject to foreclosure and may be foreclosed as now provided by law in case of past-due mortgages or vendor's liens, and the Grantor shall be authorized, at its option, whether or not possession of the property is taken, to sell the property (or such part or parts thereof as the Grantor may from time to time elect to sell) under the power of sale which is hereby given to the Grantor, at public outcry, to the highest bidder for cash, at the front or main door of the courthouse of the county in which the property to be sold, or a substantial and material part thereof, is located, after first giving notice by publication once a week for three successive weeks of the time, place and terms of such sale, together with a description of the property to be sold, by publication in some newspaper published in the county or counties in which the property to be sold is located. If there is property to be sold in more than one county, publication shall be made in all counties where the property to be sold is located, but if no newspaper is published in any such county, the notice shall be published in a newspaper published in an adjoining county for three successive weeks. The sale shall be held between the hours of 11:00 a.m. and 4:00 p.m. on the day designated for the exercise of the power of sale hereunder. The Grantor may bid at any sale held under this instrument and may purchase the property, or any part thereof, like a stranger hereto if the highest bidder therefor. The

purchaser at any such sale shall be under no obligation to see to the proper application of the purchase money. At any sale all or any part of the property, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, and the proceeds of any such sale en masse shall be accounted for in one account without distinction between the items included therein and without assigning to them any proportion of such proceeds, the Grantee hereby waiving the application of any doctrine of marshalling or like proceeding. In case the Grantor, in the exercise of the power of sale herein given, elects to sell the property in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the property not previously sold shall have been sold or all the obligations shall have been paid and performed in full and this instrument shall have been terminated as provided herein.

E. Rents and Leases. If an Event of Default exists, the Grantor, at its option, shall have the right, power and authority to collect the rents, profits, issues and revenues of the property, whether paid or accruing before or after the filing of any petition by or against the Grantee under the federal Bankruptcy Code, and, without taking possession, in the Grantor's own name to demand, collect, receive, sue for, attach and levy all of such rents, profits, issues and revenues, to give proper receipts, releases and acquittances therefor, and to apply the proceeds thereof as set forth in Paragraph 10(G).

F. Foreclosure Deeds. To the extent permitted by applicable law, the Grantee hereby authorizes and empowers the Grantor or the auctioneer at any foreclosure sale had hereunder, for and in the name of the Grantee as attorney-in-fact for the Grantee, to execute and deliver to the purchaser or purchasers of any of the property sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto, the same as if the Grantee executed said deed.

G. Order of Application of Proceeds. All payments received by the Grantor as proceeds of any of the property, as well as any and all amounts realized by the Grantor in connection with the enforcement of any right or remedy under this instrument, shall be applied by the Grantor as follows: (1) to the payment of all expenses incident to the exercise of any remedies under this instrument, including attorneys' fees and disbursements, appraisal fees, environmental site assessment fees, title search fees and foreclosure notice costs, (2) to the payment in full of any of the obligations that are then due and payable (including principal, accrued interest and all other sums secured hereby) in such order as the Grantor may elect in its sole discretion, (3) to a cash collateral reserve fund to be held by the Grantor in an amount equal to, and as security for, any of the obligations that are not then due and payable, and (4) the remainder, if any, shall be paid to the Grantee or such other persons as may be entitled thereto by law, after deducting therefrom the cost of ascertaining their identity.

11. Waiver of Certain Laws. The Grantee waives, to the fullest extent permitted by law, the benefit of all laws now existing or hereafter enacted providing for (1) any appraisal before sale of any portion of the property (commonly known as appraisal laws), or (2) any extension of time for the enforcement of the collection of the obligations or any creation or extension of a period of redemption from any sale made in collecting the obligations (commonly known as stay laws and redemption laws). The Grantee also waives any and all rights the Grantee may have to a hearing before any governmental authority prior to the exercise by the Grantor of any of its rights or remedies under this instrument, the Note, or any other documents executed in connection herewith.

12. Remedies Cumulative. The rights, powers and remedies of the Grantor under this instrument are cumulative and not exclusive of any other rights, powers or remedies now or hereafter existing at law or in equity.

13. **Lien as Security for Note.** The lien retained herein shall stand as security for the payment of the Note and any note or notes given as a modification, extension or renewal of the whole, or any part, of the indebtedness evidenced in the Note, the same as if such modification, extension or renewal was fully described and set forth herein; and the acceptance of new notes, and the delivery of old notes secured by the lien retained herein, shall in no way be construed as the satisfaction of said lien.

14. **Lease, Sale or Transfer, Etc.** The Grantee shall not lease, lease with an option to purchase, sell, convey, exchange, mortgage, transfer title or otherwise dispose of any of the property herein described or any interest therein or contract with any person for any of the foregoing, without having obtained the written consent of Grantor, which consent Grantor may withhold in its sole discretion. The Grantee shall not be dissolved, liquidated or terminated, whether by operation of law or otherwise. Any sale, pledge, encumbrance, contract to sell, assignment or other transfer of any equity interest in the Grantee, or any other transaction whereby the legal or beneficial ownership of the Grantee is changed, including the sale of additional shares or other equity interests, the liquidation or dissolution of the Grantee, the merger or consolidation of the Grantee with any other person, or the participation by the Grantee in a statutory share exchange with any other person, shall be treated as a transfer of the property for purposes of this Paragraph 14. The occurrence of any of the events described in this Paragraph 14 will constitute an Event of Default under this instrument, and the Grantor may, in its sole discretion, exercise any of its rights and remedies on default or require the payment after the date of such occurrence of a higher rate of interest on the unpaid principal portion of the indebtedness secured hereby as a condition to not exercising such rights and remedies, whether such rights and remedies be exercised by the Grantor to obtain a higher rate of interest on the indebtedness or to protect the security afforded by this instrument. The Grantee acknowledges the Grantor's express reliance on this Paragraph 14 in extending credit based on the security of this instrument. **ALL THIRD PARTIES ARE HEREBY ON NOTICE OF THE CONTENTS OF THIS PARAGRAPH 14 (IN ADDITION TO ALL OTHER PROVISIONS) AND ANY MORTGAGE OR LIEN FILED AGAINST THE PROPERTY WITHOUT THE WRITTEN CONSENT OF THE GRANTOR SHALL BE VOID AND OF NO EFFECT.**

15. **Miscellaneous.**

A. **Notices.** Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by this instrument to be made upon, given or furnished to, or filed with, the Grantee or the Grantor must (except as otherwise expressly provided in this instrument) be in writing and be delivered by one of the following methods: (1) by personal delivery at the hand delivery address specified below, (2) by first-class, registered or certified mail, postage prepaid, addressed as specified below, or (3) if facsimile transmission facilities for such party are identified below or pursuant to a separate written notice from such party, sent by facsimile transmission to the number specified below or in such notice. The hand delivery address, mailing address and (if applicable) facsimile transmission number for receipt of notice or other documents by such parties are as follows:

Grantee: Wolf Bay Lodge, Inc.
 20801 Mifflin Road
 Foley, Alabama 36535

Grantor: City of Foley
 Attention: City Clerk

407 East Laurel Avenue
Foley, Alabama 36535

Any of such parties may change the address or number for receiving any such notice or other document by giving notice of the change to the other parties named in this Paragraph 15(A). Any such notice or other document shall be deemed delivered when actually received by the party to whom directed (or, if such party is not an individual, to an officer, director, partner or other legal representative of the party) at the address or number specified pursuant to this Paragraph 15(A), or, if sent by mail, three business days after such notice or document is deposited in the United States mail, addressed as provided above. Five business days' written notice to the Grantee as provided above shall constitute reasonable notification to the Grantee when notification is required by law; provided, however, that nothing contained in the foregoing shall be construed as requiring five business days' notice if, under applicable law and the circumstances then existing, a shorter period of time would constitute reasonable notice.

B. Expenses. The Grantee shall promptly on demand pay all costs and expenses, including the fees and disbursements of counsel to the Grantor, incurred by the Grantor in connection with (a) the enforcement of this instrument, (b) the custody and preservation of the property, (c) the protection or perfection of the Grantor's rights and interests under this instrument in the property, (d) the exercise by or on behalf of the Grantor of any of its rights, powers or remedies under this instrument, and (e) the prosecution or defense of any action or proceeding by or against the Grantor, the Grantee, any other obligor, or any one or more of them, concerning any matter related to this instrument, any of the property, or any of the obligations. All such amounts shall bear interest from the date demand is made at 9% per annum (the "Default Interest Rate") and shall be included in the obligations secured hereby. The Grantee's obligations under this Paragraph 15(B) shall survive the payment and satisfaction in full of the obligations and the termination of this instrument.

C. Heirs, Successors and Assigns. Whenever in this instrument any party hereto is referred to, such reference shall be deemed to include the heirs, successors and assigns of such party, except that the Grantee may not assign or transfer this instrument without the prior written consent of the Grantor; and all covenants and agreements of the Grantee contained in this instrument shall bind the Grantee's heirs, successors and assigns and shall inure to the benefit of the successors and assigns of the Grantor.

D. Independent Obligations. The Grantee agrees that each of the obligations of the Grantee to the Grantor under this instrument may be enforced against the Grantee without the necessity of joining any other obligor, any other holders of liens in any property or any other person, as a party.

E. Governing Law; Submission to Jurisdiction. In all respects, including without limitation, matters of construction, validity and performance, this instrument and the obligations arising hereunder shall be governed by and construed in accordance with substantive, procedural and constitutional laws of the State of Alabama (excluding the law and principles thereof governing conflicts of laws) and any applicable law of the United States of America. Grantor and Grantee irrevocably submit to the jurisdiction and venue of the state courts located in Baldwin County, Alabama and waives any and all objections to such jurisdiction that they may have under the laws of any state or of the United States. Grantee agrees not to assert any defense to any action or proceeding initiated by Grantor based upon inconvenient forum or improper venue.

F. Separability Clause. If any provision of this instrument shall be invalid, illegal or

unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

G. No Oral Agreements. This instrument is the final expression of the agreement between the parties hereto with respect to the subject matter hereof, and this instrument may not be contradicted by evidence of any prior oral agreement between such parties. All previous oral agreements between the parties hereto have been incorporated into this instrument and the other transaction documents executed in connection herewith, and there is no unwritten oral agreement between the parties hereto in existence.

H. Waiver and Election. The exercise by the Grantor of any option given under this instrument shall not constitute a waiver of the right to exercise any other option. The filing of a suit to foreclose the lien granted by this instrument, either on any matured portion of the obligations or for the whole of the obligations, shall not be considered an election so as to preclude foreclosure under power of sale; nor shall the publication of notices for foreclosure under power of sale preclude the prosecution of a later or simultaneous suit to collect the obligations or foreclose by judicial foreclosure the liens granted by this instrument. No failure or delay on the part of the Grantor in exercising any right, power or remedy under this instrument shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any further exercise thereof or the exercise of any other right, power or remedy. No modification, termination or waiver of any provisions of this instrument, the Note, or any other document executed in connection herewith, nor consent to any departure by the Grantee therefrom, shall be effective unless in writing and signed by an authorized officer of the Grantor, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Grantee in any case shall entitle the Grantee to any other or further notice or demand in similar or other circumstances.

I. No Obligations of Grantor; Indemnification. The Grantor does not by virtue of this instrument or any of the transactions contemplated hereby assume any duties, liabilities or obligations with respect to any of the property unless expressly assumed by the Grantor under a separate agreement in writing, and this instrument shall not be deemed to confer on the Grantor any duties or obligations that would make the Grantor directly or derivatively liable for any person's negligent, reckless or willful conduct. The Grantee agrees to indemnify and hold the Grantor harmless against and with respect to any damage, claim, action, loss, cost, expense, liability, penalty or interest (including attorney's fees) and all costs and expenses of all actions, suits, proceedings, demands, assessments, claims and judgments (collectively, "claims and losses") directly or indirectly resulting from, occurring in connection with, or arising out of: (a) any inaccurate representation made by the Grantee or any obligor in this instrument or any other document; (b) any breach of any of the warranties or obligations of the Grantee or any obligor under this instrument or any other document; and (c) the Property, or the lien of the Grantor thereon.

J. Advances by the Grantor. If the Grantee shall fail to comply with any of the provisions of this instrument, the Grantor may (but shall not be required to) make advances to perform the same, and where necessary enter the property for the purpose of performing the Grantee's obligations under any such provision. The Grantee agrees to repay all such sums advanced upon demand, with interest from the date such advances are made at the Default Interest Rate, and all sums so advanced with interest shall be a part of the obligations secured hereby. The making of any such advances shall not be construed as a waiver by the Grantor of any Event of Default resulting from the Grantee's failure to pay such amounts.

K. Rights, Liens and Obligations Absolute. All rights of the Grantor hereunder, all liens granted to the Grantor hereunder, and all obligations of the Grantee hereunder, shall be absolute and

unconditional and shall not be affected by (a) any change in the time, manner or place of payment of, or any other term of the obligations, or (b) any exchange, release or non-perfection of any other collateral or any release, termination or waiver of any guaranty, for any of the obligations.

L. Construction of Vendor's Lien. This instrument is and may be construed as a vendor's lien, mortgage, deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, fixture filing, hypothecation or contract, or any one or more of them, in order fully to effectuate the liens created hereby and the purposes and agreements herein set forth.

M. Other Mortgages Encumbering the Property.

(a) **Authorization to Disclose.** The Grantee hereby authorizes the holder of any other mortgage encumbering any of the property to disclose to the Grantor at any time the following information: (1) the amount of debt secured by such mortgage; (2) the amount of such debt that is unpaid; (3) whether such debt is or has been in arrears; (4) whether there is or has been any default with respect to such mortgage or the debt secured thereby; and (5) any other information regarding such mortgage or the debt secured thereby that the Grantor may request from time to time. Nothing in this Paragraph 15(M) shall be deemed to limit the prohibition against Grantee granting any mortgage against the property without having obtained the prior written consent of the Grantor, which consent Grantor may withhold in its sole discretion.

(b) **No Amendments; Default, Etc.** The Grantee agrees to comply with the terms of any other mortgage encumbering any of the property and agrees not to consent to or permit any amendment or modification thereof without the prior written consent of the Grantor. The Grantee further agrees not to permit any default to occur under any other mortgage encumbering any of the property, but that if any default should be made in the payment of principal, interest or any other sum secured by any such mortgage, the Grantor may (but shall not be required to) pay all or any part of such amount in default, without notice to the Grantee. Any such action by the Grantor shall not cure any Event of Default created under this instrument by virtue of the default in the other mortgage.

N. Termination. The Grantor's liens under this instrument in the property will not be terminated until a written mortgage or lien satisfaction instrument executed by one of the Grantor's duly authorized representatives is filed for record in the county in which the property is located. Except as expressly set forth in such lien satisfaction instrument, no such satisfaction of Grantor's liens under this instrument shall in any way affect or impair the representations, warranties, agreements, covenants or other obligations of the Grantee hereunder or the powers, reservations, rights and remedies of the Grantor under this instrument, all of which shall survive such satisfaction.

O. Reinstatement. This instrument, the obligations of the Grantee hereunder, and the liens, rights, powers and remedies of the Grantor hereunder, shall continue to be effective, or be automatically reinstated, as the case may be, if at any time any amount applied to the payment of any of the obligations is rescinded or must otherwise be restored or returned to the Grantee, any obligor, or any other person (or paid to the creditors of any of them, or to any custodian, receiver, trustee or other officer with similar powers with respect to any of them, or with respect to any part of their property) upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Grantee, any obligor or any such person, or upon or as a result of the appointment of a custodian, receiver, trustee or other officer with respect to any of them, or with respect to any part of their property, or otherwise, all as though such payment had not been made.

P. WAIVER OF JURY TRIAL. THE GRANTEE AND THE GRANTOR HEREBY EXPRESSLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN ANY LAWSUIT OR OTHER COURT ACTION RELATED TO THIS INSTRUMENT, THE NOTE OR ANY TRANSACTION CONTEMPLATED HEREBY OR THEREBY, INCLUDING, WITHOUT LIMITATION, IN RESPECT TO ANY CLAIM, COUNTERCLAIM, THIRD-PARTY CLAIM, DEFENSE, OR SET-OFF ASSERTED IN ANY SUCH LAWSUIT. ANY SUCH LAWSUIT SHALL BE TRIED EXCLUSIVELY TO A COURT WITHOUT A JURY. THE GRANTEE SPECIFICALLY ACKNOWLEDGES THAT ITS EXECUTION OF THIS WAIVER OF JURY TRIAL IS A MATERIAL PORTION OF THE CONSIDERATION RECEIVED BY THE GRANTOR IN EXCHANGE FOR ITS ENTERING INTO THIS INSTRUMENT.

Q. Counterparts. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same agreement.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

GRANTOR:

CITY OF FOLEY, an Alabama municipal
corporation

By: _____
Its: _____

ATTEST:

By: _____
Its: _____

GRANTEE:

WOLF BAY LODGE, INC.
an Alabama corporation

By: _____
Its: _____

STATE OF ALABAMA :
COUNTY OF BALDWIN :

I, the undersigned Notary Public, in and for said County in said State, hereby certify that _____ and _____ whose names as _____ and _____, respectively, of the City of Foley, Alabama, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of this instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal this the ____ day of _____, 2015.

NOTARY PUBLIC
My Commission Expires: _____
(SEAL)

STATE OF ALABAMA :
COUNTY OF BALDWIN :

I, the undersigned Notary Public, in and for said County in said State, hereby certify that Charlene W. Haber, whose name as President of Wolf Bay Lodge, Inc., 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 this instrument, she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal this the ____ day of _____, 2015.

NOTARY PUBLIC
My Commission Expires: _____
(SEAL)

GRANTEE'S ADDRESS:
20801 Mifflin Road
Foley, Alabama 36535

This Instrument Prepared By:
John T. Dukes, Esquire
HELMSING, LEACH, HERLONG,
NEWMAN & ROUSE, P.C.
Post Office Box 2767
Mobile, Alabama 36652
(251) 432-5521

Exhibit “A”

Drawing of Bar Area

Exhibit “B”

Permitted Exceptions

1. [Easement Agreement]
2. [Insert from Title Commitment]

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