

**AMENDMENT OF
TAX ABATEMENT AGREEMENT
(Section II)**

Effective Date: April 17, 2017

This Amendment to Tax Abatement Agreement is made and entered on the above date by the following persons for the purposes provided herein pursuant to Section 11 of that certain Tax Abatement Agreement dated July 5, 2016 (the "Original Abatement Agreement") by the City of Foley, Alabama and Foley Holdings LLC:

Granting Authority: City of Foley, Alabama

Company: Foley Holdings LLC

Park at OWA: Park at OWA LLC

Shops at OWA: Shops at OWA LLC

FOR VALUE RECEIVED, and in consideration of the mutual agreements herein and in the Original Abatement Agreement, the undersigned do hereby covenant and agree as follows:

Section 1. Incorporation of Defined Terms

- (a) Capitalized terms used herein without definition shall have the respective meanings assigned thereto in the Original Abatement Agreement.
- (b) Park at OWA LLC Project shall mean the part of the Project described in the Application attached hereto as Exhibit A.
- (c) Shops at OWA LLC Project shall mean the part of the Project described in the Application attached hereto as Exhibit B.
- (d) Original Abatement Agreement shall mean the Tax Abatement Agreement dated July 5, 2016 by the Granting Authority and the Company.

Section 2. Representations

The Company, Park at OWA and Shops at OWA hereby represent and warrant to the Granting Authority as follows:

- (a) Park at OWA is duly organized under the laws of the State of Alabama.

- (b) Park at OWA is registered with the Alabama Secretary of State to do business in the State of Alabama.
- (c) Park at OWA is an Affiliate or Subsidiary of the Company within the meaning of the Original Abatement Agreement.
- (d) Park at OWA will own or operate the part of the Project described on the Application attached hereto as Exhibit A.
- (e) Shops at OWA is duly organized under the laws of the State of Alabama.
- (f) Shops at OWA is registered with the Alabama Secretary of State to do business in the State of Alabama.
- (g) Shops at OWA is an Affiliate or Subsidiary of the Company within the meaning of the Original Abatement Agreement.
- (h) Shops at OWA will own or operate the part of the Project described on the Application attached hereto as Exhibit B.

Section 3. Agreements of Granting Authority

The Granting Authority hereby covenants and agrees that the Park at OWA Project and Shops at OWA Project shall be part of the Project for all purposes of the Original Abatement Agreement and the abatements granted in Section 3 of the Original Abatement Agreement shall apply to, and benefit, the Park at OWA Project and Shops at OWA Project in all respects.

Section 4. Agreements of The Company, Park at OWA and Shops at OWA

Park at OWA and Shops at OWA hereby covenants and agrees (i) to be bound by the Original Abatement Agreement with respect to the Park at OWA Project and Shops at OWA Project and (ii) that all provisions of the Original Abatement Agreement with respect to the Company shall be binding upon and enforceable against Park at OWA and Shops at OWA.

Section 5. General Provisions

The Granting Authority, Company, Park at OWA and Shops at OWA hereby covenant and agree:

- (a) This Agreement shall become part of the Original Abatement Agreement for all purposes thereof.
- (b) This Agreement shall be construed in accordance with, governed by, the laws of the State of Alabama without regard to principles of conflict of laws.
- (c) This Agreement may be executed in any number of counterparts, each of which shall be an original and all such counterparts shall together constitute one and the same agreement.
- (d) This Agreement shall be binding upon the successors and assigns of the Granting Authority, the Company, Park at OWA and Shops at OWA.

Section 6. Notices.

- (a) Any notices to the Granting Authority and the Company shall be given and made in accordance with Section 19 of the Original Abatement Agreement.
- (b) Any notice to Park at OWA or Shops at OWA under this Agreement shall be made in writing and delivered thereto at the following addresses or at such other addresses as shall have been provided by Park at OWA or Shops at OWA and acknowledged in writing:

Park at OWA
c/o James T. Martin
Creek Indian Enterprises Development Authority
100 Brookwood Road
Atmore, Alabama 36502

Shops at OWA
c/o James T. Martin
Creek Indian Enterprises Development Authority
100 Brookwood Road
Atmore, Alabama 36502

Section 7. Termination

This Agreement shall terminate and be discharged simultaneously with the termination and discharge of the Original Abatement Agreement.

IN WITNESS WHEREOF, the undersigned Foley Holdings LLC, the undersigned Park at OWA LLC, the undersigned Shops at OWA LLC and the undersigned City of Foley, Alabama, have each caused this agreement to be executed in the name and on behalf thereof, under seal, by an officer thereof duly authorized thereunto, as of the Effective Date first above written.



Attest:

Kathryn Taylor
City Clerk

CITY OF FOLEY, ALABAMA
(the Granting Authority)

By: [Signature]

Name: John E. Koniar

Title: Mayor

FOLEY HOLDINGS LLC
(the Company)

By: [Signature]

Name: JAMES T. MARTIN

Title: MANAGING MEMBER

PARK AT OWA LLC

By: [Signature]

Name: JAMES T. MARTIN

Title: MANAGING MEMBER

SHOPS AT OWA LLC

By: [Signature]

Name: JAMES T. MARTIN

Title: MANAGING MEMBER

EXHIBIT A
APPLICATION

EXHIBIT B
APPLICATION



ALABAMA DEPARTMENT OF REVENUE

Application to Granting Authority for Abatement of Taxes

Form CO: CAA
6/15

Under Chapter 9B, Title 40, Code of Alabama 1975

Noneducational Sales and Use Taxes, Noneducational Property Taxes, and/or Mortgage and Recording Taxes

This form is to be submitted to the granting authority for consideration in granting an abatement of all state and local noneducational property taxes, all construction related transaction (sales and use) taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or mortgage and recording fees, in accordance with the provisions of Section 40-9B-1 et seq., Code of Alabama 1975.

1a. TYPE OF ABATEMENT APPLYING FOR: ☒ Sales & Use Taxes ☒ Property Taxes ☐ Mortgage & Recording Taxes	2. PROJECT NAICS CODE: <table border="1"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>						

1b. IS APPLICANT REQUESTING PROPERTY TAX ABATEMENT FOR A PERIOD LONGER THAN 10 YEARS? ☐ Yes ☒ No	3. TYPE OF PROJECT: ☒ New Project ☐ Major Addition To An Existing Facility
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4. DOES MAJOR ADDITION EQUAL THE LESSER OF: (CHECK APPLICABLE BOX)
☐ \$2,000,000 - OR - ☐ 30% of original cost of existing property, original cost \$

5. PROJECT APPLICANT: Park at OWA LLC	DBA:
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6. ADDRESS OF APPLICANT: 100 Brookwood Road	CITY: Atmore	STATE: AL	ZIP CODE: 36502
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7. NAME OF CONTACT PERSON: James T. Martin	EMAIL ADDRESS: jtmartin@pcicie.com	TELEPHONE NUMBER: (251) 368-0819
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8. DATE COMPANY ORGANIZED:
February 27, 2017 (Alabama)

9. PHYSICAL LOCATION OF PROJECT:
10113 Foley Beach Expressway

CITY (IF OUTSIDE CITY LIMITS, PLEASE INDICATE): Foley	COUNTY: Baldwin	ZIP CODE: 36535
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10. BRIEF DESCRIPTION OF PROJECT (ATTACH A COMPLETE AND DETAILED LISTING OF PROJECT PROPERTY COSTS TO ENABLE A COST/BENEFIT ANALYSIS BY GRANTING AUTHORITY):

Part of Foley Holdings LLC's tourist destination attraction complex.

11. ESTIMATED DATE CONSTRUCTION WILL BEGIN: July 1, 2016	12. ESTIMATED DATE CONSTRUCTION WILL BE COMPLETED: December 31, 2020	13. ESTIMATED DATE PROPERTY WILL BE PLACED IN SERVICE: December 31, 2020
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14. HAVE BONDS BEEN ISSUED FOR PROJECT: ☒ No ☐ Yes If yes, date bonds issued:	15. WILL BONDS BE ISSUED FOR PROJECT ☒ No ☐ Yes If yes, projected date of issue:
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16. ESTIMATED NUMBER OF NEW EMPLOYEES	17. ESTIMATED ANNUAL PAYROLL OF NEW EMPLOYEES	Estimated Investment for Project	18. COST OR VALUE FOR PROPERTY TAX	19. COST SUBJECT TO SALES TAX
INITIALLY	INITIALLY		18a	
0		a. Land (if donated, show market value)	\$ 45,766,000	XXXXXXXXXX
YEAR 1	YEAR 1		18b	
15	\$ 495,000	b. Existing Building(s) (if any)		XXXXXXXXXX
YEAR 2	YEAR 2		18c	
13	\$ 429,000	c. Existing Personal Property (if any)		XXXXXXXXXX
YEAR 3	YEAR 3		18d	19d
27	\$ 891,000	d. New Building(s) and/or New Additions to Existing Building(s) (19d = building materials only)	\$ 188,500,000	\$ 113,100,000
This form may be used as the application to the granting authority required by Section 40-9B-6(a), Code of Alabama 1975. The information requested here is required by Section 40-9B-6 and Section 40-2-11(7), Code of Alabama 1975.		e. New Manufacturing Machinery	18e	19e
		f. Other New Personal Property (non-mfg machinery, office equipment, computers, etc.)	18f	19f
		g. TOTALS (PROPERTY TAX TOTAL MUST EQUAL TOTAL PROJECT INVESTMENT. SALES TAX TOTAL WILL BE LESS.)	18g	19g
			\$ 56,550,000	\$ 56,550,000
			\$ 290,816,000	\$ 169,650,000

The abatement of noneducational property taxes is based on the market value of specific assets; therefore, the actual amount of taxes abated is determined each year as the property is assessed and valued. An abatement of noneducational sales and use taxes shall apply only to tangible personal property and taxable services incorporated into private use industrial property, the cost of which may be added to capital account with respect to the property, determined without regard to any rule which permits expenditures properly chargeable to capital account to be treated as current expenses. No abatement of sales and use taxes shall extend beyond the date private use industrial property is placed in service. A verification inspection of qualifying property will be conducted by the Alabama Department of Revenue to insure compliance with Section 40-9B-1 et seq., Code of Alabama 1975, as amended.

I hereby affirm that, to the best of my knowledge and belief, the information in this application and any accompanying statement, schedules, and other information is true, correct and complete.

James T. Martin

NAME (PRINT)

James T. Martin
SIGNATURE

President/CEO

TITLE

April 17, 2017

DATE

0279

STATE OF ALABAMA)
)
DOMESTIC LIMITED LIABILITY COMPANY)

STATE OF ALABAMA CO
SECRETARY OF STATE
JAN 27 2019

FEB 27 P 12:19

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279-282
51.00

CERTIFICATE OF FORMATION

OF

PARK AT OWA LLC

1. The name of the limited liability company is Park at OWA LLC (the "Company").

2. The type of entity being formed by this Certificate of Formation is a limited liability company pursuant to the Alabama Limited Liability Company Law.

3. The general purposes of the Company are the ownership, operation and management of amusement and theme parks, as well as the transaction of any or all lawful business for which a limited liability company may be organized under the Alabama Limited Liability Company Law. Without limiting the generality of the foregoing, the Company may do any of the following:

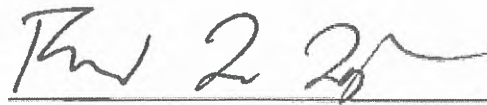
- (i) Purchase, take, receive, lease or otherwise acquire and own, hold, improve, use and otherwise deal in or with real or personal property, or any legal or equitable interest in real or personal property, wherever situated;
- (ii) Sell, convey, mortgage, pledge, create a security interest in, lease, exchange and otherwise dispose of all or any Company property;
- (iii) Make contracts and guarantees;
- (iv) Incur liabilities, borrow money, and issue temporary or long-term evidence of indebtedness;
- (v) Issue notes, bonds and other obligations, and secure any of its obligations by mortgage or pledge of all or any part of its property and income;
- (vi) Lend money, invest and reinvest its funds, and receive and hold real or personal property as security for repayment;
- (vii) Locate and open physical offices;

- (viii) Appoint officers, hire employees and agents of the Company, and define their power and compensation;
 - (ix) Make donations to and otherwise devote its resources for the public welfare or for charitable, scientific, educational, humanitarian, philanthropic or religious purposes;
 - (x) Indemnify a member, manager, employee, officer or agent or any other person as set forth in the Company's operating agreement; and
 - (xi) Operate and own amusement and theme parks.
4. The period of the Company's duration is perpetual.
 5. The location and mailing address of the initial registered office of the Company is 5811 Jack Springs Road, Atmore, Alabama 36502, and the name of the registered agent for the Company at that address is Lori Stinson.
 6. The name and mailing address of the organizer of the Company are: Ronald Link Loegler; and 5811 Jack Springs Road, Atmore, Alabama 36502, respectively.
 7. The name and mailing address of the initial member of the Company are as follows: Foley Holdings LLC; and 100 Brookwood Road, Atmore, Alabama 36502, respectively.
 8. The cessation of membership of one or more members shall not result in the dissolution of the Company.
 9. The manager of the Company shall have the power to manage the business and affairs of the Company as provided in the Company's operating agreement. The name and mailing address of the initial manager of the Company, who shall serve until its successor(s) are elected and begin serving, is:

<u>NAME</u>	<u>ADDRESS</u>
Creek Indian Enterprises Development Authority	100 Brookwood Road Atmore, Alabama 36502

[Intentionally left blank.]

This Certificate of Formation has been executed as of the 27th day of February, 2017, by the undersigned, who affirms that the statements made herein are true under penalties of perjury.



Ronald Link Loegler
Organizer

This document was drafted by:
R. Link Loegler, Esq.
Assistant Attorney General
Poarch Band of Creek Indians
5811 Jack Springs Road
Atmore, Alabama 36502

John H. Merrill
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

pursuant to the provisions of Title 10A, Chapter 1, Article 5, Code of Alabama 1975, and upon an examination of the entity records on file in this office, the following entity name is reserved as available:

Park at OWA LLC

This name reservation is for the exclusive use of Ronald L Loegler, 31249 Buckingham Blvd, Spanish Fort, AL 36527 for a period of one year beginning February 10, 2017 and expiring February 10, 2018



RES749222

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.

February 10, 2017

Date

A handwritten signature in cursive script that reads "J. H. Merrill".

John H. Merrill

Secretary of State

EXHIBIT B
APPLICATION



ALABAMA DEPARTMENT OF REVENUE Application to Granting Authority for Abatement of Taxes

Form CO: CAA
6/15

Under Chapter 9B, Title 40, Code of Alabama 1975

Noneducational Sales and Use Taxes, Noneducational Property Taxes, and/or Mortgage and Recording Taxes

This form is to be submitted to the granting authority for consideration in granting an abatement of all state and local noneducational property taxes, all construction related transaction (sales and use) taxes, except those local construction related transaction taxes levied for educational purposes or for capital improvements for education, and/or mortgage and recording fees, in accordance with the provisions of Section 40-9B-1 et seq., Code of Alabama 1975.

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1b. IS APPLICANT REQUESTING PROPERTY TAX ABATEMENT FOR A PERIOD LONGER THAN 10 YEARS? ☐ Yes ☒ No	3. TYPE OF PROJECT: ☒ New Project ☐ Major Addition To An Existing Facility
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4. DOES MAJOR ADDITION EQUAL THE LESSER OF: (CHECK APPLICABLE BOX)
☐ \$2,000,000 - OR - ☐ 30% of original cost of existing property, original cost \$ _____

5. PROJECT APPLICANT: Shops at OWA LLC DBA: _____

6. ADDRESS OF APPLICANT: 100 Brookwood Road CITY: Atmore STATE: AL ZIP CODE: 36502

7. NAME OF CONTACT PERSON: James T. Martin EMAIL ADDRESS: jtmartin@pcicie.com TELEPHONE NUMBER: (251) 368-0819

8. DATE COMPANY ORGANIZED: February 27, 2017 (Alabama)

9. PHYSICAL LOCATION OF PROJECT: 10113 Foley Beach Expressway

CITY (IF OUTSIDE CITY LIMITS, PLEASE INDICATE): Foley COUNTY: Baldwin ZIP CODE: 36535

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INITIALLY	INITIALLY		18a	
0		a. Land (if donated, show market value)	\$ 21,058,000	XXXXXXXXXX
YEAR 1	YEAR 1		18b	
2	\$ 66,000	b. Existing Building(s) (if any)		XXXXXXXXXX
YEAR 2	YEAR 2		18c	
2	\$ 66,000	c. Existing Personal Property (if any)		XXXXXXXXXX
YEAR 3	YEAR 3		18d	
3	\$ 99,000	d. New Building(s) and/or New Additions to Existing Building(s) (19d = building materials only)	\$ 85,500,000	19d \$ 51,300,000
This form may be used as the application to the granting authority required by Section 40-9B-6(a), Code of Alabama 1975. The information requested here is required by Section 40-9B-6 and Section 40-2-11(7), Code of Alabama 1975.		e. New Manufacturing Machinery	18e	19e
		f. Other New Personal Property (non-mfg machinery, office equipment, computers, etc.)	18f \$ 28,150,000	19f \$ 29,070,000
		g. TOTALS (PROPERTY TAX TOTAL MUST EQUAL TOTAL PROJECT INVESTMENT. SALES TAX TOTAL WILL BE LESS.)	18g \$ 134,708,000	19g \$ 80,370,000

The abatement of noneducational property taxes is based on the market value of specific assets; therefore, the actual amount of taxes abated is determined each year as the property is assessed and valued. An abatement of noneducational sales and use taxes shall apply only to tangible personal property and taxable services incorporated into private use industrial property, the cost of which may be added to capital account with respect to the property, determined without regard to any rule which permits expenditures properly chargeable to capital account to be treated as current expenses. No abatement of sales and use taxes shall extend beyond the date private use industrial property is placed in service. A verification inspection of qualifying property will be conducted by the Alabama Department of Revenue to insure compliance with Section 40-9B-1 et seq., Code of Alabama 1975, as amended.

I hereby affirm that, to the best of my knowledge and belief, the information in this application and any accompanying statement, schedules, and other information is true, correct and complete.

James T. Martin

NAME (PRINT)

SIGNATURE

President/CEO

TITLE

April 17, 2017

DATE

0283

STATE OF ALABAMA)
)
DOMESTIC LIMITED LIABILITY COMPANY)

FILED ALABAMA CO
FEB 27 12:21

633
283-284

CERTIFICATE OF FORMATION

51.00

OF

SHOPS AT OWA LLC

1. The name of the limited liability company is Shops at OWA LLC (the "Company").

2. The type of entity being formed by this Certificate of Formation is a limited liability company pursuant to the Alabama Limited Liability Company Law.

3. The general purposes of the Company is the ownership, operation, and management of retail, entertainment, and dining centers and developments, as well as the transaction of any or all lawful business for which a limited liability company may be organized under the Alabama Limited Liability Company Law. Without limiting the generality of the foregoing, the Company may do any of the following:

- (i) Purchase, take, receive, lease or otherwise acquire and own, hold, improve, use and otherwise deal in or with real or personal property, or any legal or equitable interest in real or personal property, wherever situated;
- (ii) Sell, convey, mortgage, pledge, create a security interest in, lease, exchange and otherwise dispose of all or any Company property;
- (iii) Make contracts and guarantees;
- (iv) Incur liabilities, borrow money, and issue temporary or long-term evidence of indebtedness;
- (v) Issue notes, bonds and other obligations, and secure any of its obligations by mortgage or pledge of all or any part of its property and income;
- (vi) Lend money, invest and reinvest its funds, and receive and hold real or personal property as security for repayment;
- (vii) Locate and open physical offices;

- (viii) Appoint officers, hire employees and agents of the Company, and define their power and compensation;
 - (ix) Make donations to and otherwise devote its resources for the public welfare or for charitable, scientific, educational, humanitarian, philanthropic or religious purposes;
 - (x) Indemnify a member, manager, employee, officer or agent or any other person as set forth in the Company's operating agreement; and
 - (xi) Lease space in its retail, entertainment and dining centers to third parties.
4. The period of the Company's duration is perpetual.
 5. The location and mailing address of the initial registered office of the Company is 5811 Jack Springs Road, Atmore, Alabama 36502, and the name of the registered agent for the Company at that address is Lori Stinson.
 6. The name and mailing address of the organizer of the Company are: Ronald Link Loegler; and 5811 Jack Springs Road, Atmore, Alabama 36502, respectively.
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 8. The cessation of membership of one or more members shall not result in the dissolution of the Company.
 9. The manager of the Company shall have the power to manage the business and affairs of the Company as provided in the Company's operating agreement. The name and mailing address of the initial manager of the Company, who shall serve until its successor(s) are elected and begin serving, is:

NAMEADDRESS

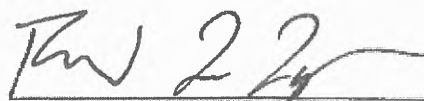
Creek Indian Enterprises Development
Authority

100 Brookwood Road
Atmore, Alabama 36502

[Intentionally left blank.]

0285

This Certificate of Formation has been executed as of the 27th day of February, 2017, by the undersigned, who affirms that the statements made herein are true under penalties of perjury.

A handwritten signature in black ink, appearing to read 'RW 22', is written over a horizontal line.

Ronald Link Loegler
Organizer

This document was drafted by:
R. Link Loegler, Esq.
Assistant Attorney General
Poarch Band of Creek Indians
5811 Jack Springs Road
Atmore, Alabama 36502

John H. Merrill
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

pursuant to the provisions of Title 10A, Chapter 1, Article 5, Code of Alabama 1975, and upon an examination of the entity records on file in this office, the following entity name is reserved as available:

Shops at OWA LLC

This name reservation is for the exclusive use of Ronald L Loegler, 31249 Buckingham Blvd, Spanish Fort, AL 36527 for a period of one year beginning February 10, 2017 and expiring February 10, 2018



RES749225

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.

February 10, 2017

Date

A handwritten signature in dark ink, appearing to read 'J. H. Merrill', is written over a horizontal line.

John H. Merrill

Secretary of State