

Issue Analysis Form



Date: September 8, 2020
Amendment to Lease Agreement between County of Prince George and Tree Time Adventures, Inc.

Item:

Lead Department(s): County Attorney

Contact Person(s): Dan Whitten

Description and Current Status

The County and Tree Time Adventures, Inc. (TTA) entered into an agreement on November 16, 2018 to lease a portion of the 130+/- acre property known as Scott Park. The County and TTA desire to amend the Agreement to provide that the County shall pay the cost of a water/sewer connection fee and to reflect the amended condition in the special exception permit regarding operating hours.

The cost of the connection fee to connect the Property to County water and sewer will be paid from the County tourism budget. TTA will be responsible for all utility fees to include but not limited to water, sewer, electric, and cable.

TTA may be open for business 7 days a week. Written notice shall be given to the Director of Parks and Recreation for events between dusk to dawn. Zip line and rope course activities shall not occur between dusk to dawn until required site lighting is installed.

TTA must get advance approval to serve alcohol for private special events and a special event permit must be obtained through the Planning and Zoning Department as well as ABC special event requirements.

Attached is the Amended Lease Agreement. Staff recommends accepting the terms of the amended Lease Agreement.

Sample Motion: I move that the Board authorize the County Administrator to sign the Amendment to Lease Agreement between the County of Prince George, Virginia and Tree Time Adventures, Inc.

Government Path

- | | | |
|--|---|--|
| Does this require IDA action? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does this require BZA action? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does This require Planning Commission Action? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does this require Board of Supervisors action? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Does this require a public hearing? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| If so, before what date? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Fiscal Impact Statement

County Impact

Notes

Board of Supervisors
County of Prince George, Virginia

Resolution

At a regular meeting of the Board of Supervisors of the County of Prince George held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia, this 8th day of September, 2020:

Present:

Donald Hunter, Chairman
Alan R. Carmichael, Vice-Chair
Floyd M. Brown, Jr.
Marlene J. Waymack
T. J. Webb

Vote:

A-5

On motion of _____, seconded by _____, which carried unanimously, the following Resolution was adopted:

RESOLUTION ACCEPTING AMENDMENT TO LEASE AGREEMENT BETWEEN COUNTY OF PRINCE GEORGE AND TREE TIME ADVENTURES, INC.

WHEREAS, the County and Tree Time Adventures, Inc. (TTA) entered into an agreement on November 16, 2018 to lease a portion of the 130+/- acre property known as Scott Park; and

WHEREAS, the County and TTA desire to amend the Agreement to provide that the County shall pay the cost of a water/sewer connection fee and to reflect the amended condition in the special exception permit regarding operating hours; and

WHEREAS, the connection fee to connect the Property to County water and sewer will be paid from the County tourism budget. TTA will be responsible for all utility fees to include but not limited to water, sewer, electric, and cable; and

WHEREAS, TTA may be open for business 7 days a week. Written notice shall be given to the Director of Parks and Recreation for events between dusk to dawn. Zip line and rope course activities shall not occur between dusk to dawn until required site lighting is installed; and,

WHEREAS, TTA must get advance approval to serve alcohol for private special events and a special event permit must be obtained through the Planning and Zoning Department as well as ABC Special event requirements.

NOW, THEREFORE, BE IT RESOLVED, that the Prince George County Board of Supervisors accepts the Amendments to the Lease Agreement on September 8, 2020 and that the County Administrator is empowered and directed to execute the Amendment to Lease Agreement between the County of Prince George, Virginia and Tree Time Adventures, Inc.

A Copy Teste:

Percy C. Ashcraft
County Administrator

**AMENDMENT TO LEASE AGREEMENT
BETWEEN THE COUNTY OF PRINCE GEORGE, VIRGINIA
AND TREE TIME ADVENTURES, INC.**

THIS AMENDMENT TO THE LEASE AGREEMENT ("Amendment") made this 8th day of September, 2020, by and between the **COUNTY OF PRINCE GEORGE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (hereinafter referred to as "County") located at 6602 Courts Drive, Prince George, Virginia 23875, and **TREE TIME ADVENTURES, INC.**, (hereinafter referred to as "TTA"), a Virginia subchapter S Corporation, located at 2482 Miry Run Road, Sutherland, Virginia 23885.

WHEREAS, the County and TTA entered into an agreement (hereinafter "Agreement") on November 16, 2018 to lease a portion of the 130 +/- acre property, known as Scott Park and shown in attachment "A" (hereinafter "Property"), for TTA to construct improvements within a portion of the Property and to use the Property for a commercial venture providing eco-tourism, tree adventures, outdoor adventures and other related activities to the public for a fee; and

WHEREAS, both the County and TTA desire to amend the Agreement to provide that the County shall pay the cost of a water/sewer connection fee; and

WHEREAS, both the County and TTA desire to amend the Agreement to reflect the amended condition in the special exception permit regarding operating hours.

WITNESSETH:

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions contained herein, the parties hereto mutually covenant and agree as follows:

- 1) Connection Fee: The County shall pay the cost of the connection fee to connect the Property to County water and sewer. The \$7,000 fee shall be paid from the County tourism budget.

- 2) Utility Fees: TTA shall be responsible for all utility fees to include but not limited to water, sewer, electric, and cable.
- 3) Hours of Operation: TTA may be open for business 7 days a week. For any events held between dusk to dawn, TTA shall give written notice to the Director of Parks and Recreation. Until required site lighting is installed in accordance with the approved lighting plan, zip line and rope course activities shall not occur between dusk to dawn.
- 4) Alcohol Use: Upon advance approval by the County, TTA may serve alcohol for private special events. TTA shall get a special event permit through the Planning and Zoning Department and comply with ABC special event requirements.
- 5) Noise: The County noise ordinance in §54-23.1 of the County Code will be adhered to at all times by TTA.
- 6) Entire Agreement: The Agreement and Amendment contain all agreements, promises or understandings between the County and TTA, and no verbal or oral agreements, promises or understandings shall be binding upon either the County or TTA in any dispute, controversy or proceeding at law, and any addition, variation or modification to the Agreement and Amendment shall be void and ineffective unless made in writing and signed by the parties.
- 7) Severability: In the event any provision of the Agreement and Amendment is found to be invalid or unenforceable, such a finding shall not affect the validity and enforceability of the remaining provisions of the Agreement and Amendment.
- 8) Authority: The County and TTA each hereby warrant to the other that the person executing this Amendment on behalf of the warranting party has the full right, power and authority to enter into, and execute, this Amendment on that party's behalf, and

that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Amendment.

- 9) Other Terms of the Agreement: All other terms and conditions of the Agreement remain in full force and effect and shall remain binding on the parties hereto.

(REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK)

IN WITNESS WHEREOF, Tree Time Adventures, Inc. and County of Prince George, Virginia have each executed this Agreement by officials authorized to legally bind each party.

COUNTY OF PRINCE GEORGE, VIRGINIA, a political subdivision of the Commonwealth of Virginia (Lessor)

By _____

Title

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this ____ day of September, 2020, by _____ on behalf of the COUNTY OF PRINCE GEORGE, VIRGINIA.

My commission expires:

Registration Number:

Notary Public

APPROVED AS TO FORM:

Dan Whitten, County Attorney

TREE TIME ADVENTURES, INC., a Virginia
subchapter S corporation

By _____

Title

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF , to-wit:

The foregoing instrument was acknowledged before me this ____ day of September 2020
by _____,
on behalf of Tree Time Adventures, Inc., a Virginia subchapter S corporation.

My commission expires:

Registration Number:

Notary Public

ATTACHMENT A

