



**Bulloch County  
Board of  
Commissioners  
Regular Meeting**

**February 7, 2013  
Estimated Time: 1 Hour 30 Minutes  
North Main Annex Community Room  
Statesboro, Georgia  
5:30 PM**

Meeting Function:	<b>Board of Commissioners</b>	Type of Meeting:	<b>Regular Meeting</b>
Meeting Chair:	<b>Chairman, Garrett Nevil (Presiding)</b>	Recorder:	<b>Clerk of the Board, Christy Strickland</b>
Parliamentarian:	<b>County Attorney, Jeff Akins</b>	Ex-Officio:	<b>Tom Couch, County Manager; Harry Starling, Chief Financial Officer; Andy Welch, Development Services Director; Kelly Collingsworth, Keep Bulloch Beautiful Director; Kirk Tatum, County Engineer and Randy Newman, Zoning Administrator.</b>

**General Agenda**

ITEM	RESOURCE PERSON/FACILITATOR	TIME	REFER
Call to Order; Welcome Media and Visitors	Chairman Nevil	5:30 PM	
Invocation and Pledge of Allegiance	Commissioner Anthony Simmons	5:32 PM	
Roll Call	Clerk of the Board Christy Strickland	5:33 PM	
Zoning Agenda and Public Hearings	Chairman & Zoning Administrator	5:34 PM	P/Z Pkg.
Approval of General Agenda	Chairman Nevil	6:00 PM	
Presentations	Chairman Nevil		
Proclamation-Arbor Day	KBB Director Kelly Collingsworth	6:02 PM	
Kendricks Road	Kathy Todd	6:12 PM	
Sherriff's Dept	Harry Jackson	6:22 PM	
Public Comments	Audience	6:32 PM	
Consent Agenda	Chairman Nevil	6:42 PM	
Approval of Minutes – Regular Meeting held on January 15, 2013	Clerk of the Board		Tab A
Approval of a Waste Services Agreement	Environmental Dept/Legal Dept		Tab B
Approval of a Resolution Authorizing Master Tax- Exempt Lease Purchase Agreement	County Manager/Legal Dept.		Tab C
Approval of Alcohol Beverage License	Clerk of the Board		Tab D
New Business			
Discussion/Action: To Terminate a Contract for Road Striping	County Manager/Legal Dept/County Engineer	6:45 PM	Tab E
Commission and Staff Comments	Chairman Nevil, et al.	6:55 PM	
Executive Session: Potential Litigation	Legal Dept		
Adjourn	Chairman	7:15PM	

**Additional Information**

Background information in Board packets



# Bulloch County Departmental Review

<b>Agenda Item:</b>	1	<b>Meeting Date:</b>	February 7, 2013
<b>Application #:</b>	RZ2012-042	<b>Application Type:</b>	Rezoning
<b>Request:</b>	Robert K. Bell, Jr. submitted an application to rezone 34.22 acres from R-40 (Residential 40,000 square feet) to PUD-1 (Planned Unit Development-1). The property is located on Pretoria Rushing Road. Bruce Boysen is acting as agent. This item was tabled at the January 3, 2013.		
<b>P&amp;Z Recommendation</b>	To approve the request with conditions.		

<b>Applicant:</b>	Robert K. Bell, Jr.	<b>Acres in Request:</b>	34.22
<b>Location:</b>	Pretoria Rushing Road	<b>Current Zoning:</b>	R-40
<b>Map #:</b>	107 000014 008	<b>Requested Zoning:</b>	PUD-1
<b>Future Land Use:</b>	Suburban-Neighborhood		
<b>Directions to Property:</b>	Take Hwy 80 East and turn right onto Pretoria Rushing Road in Grove Lake Subdivision. Property will be on the left before five-points intersection.		

Rezone Standards	Yes	No	Comment
(1) Is the proposed use suitable in view of the zoning and development of adjacent and nearby property?	X		
(2) Will the proposed use adversely affect the existing use or usability of adjacent or nearby property?		X	
(3) Are their substantial reasons why the property cannot or should not be used as currently zoned?		X	
(4) Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, EMS, sheriff or fire protection?		X	
(5) Is the proposed use compatible with the purpose and intent of the Comprehensive Plan?	X		
(6) Will the use be consistent with the purpose and intent of the proposed zoning district?	X		
(7) Is the proposed use supported by new or changing conditions not anticipated by the Comprehensive Plan?		X	
(8) Does the proposed use reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?	X		

## LAND USE PLANNING IMPACT

**Future Land Use Map:** The Bulloch County Joint Comprehensive Plan indicates that the property would be appropriate for suburban-neighborhood.

**Existing Land Use Pattern:** There are primarily residential and agricultural uses at adjacent and nearby properties.



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**Zoning Patterns and Consistency:** The proposed change appears to be consistent with the zoning patterns in the nearby area.

**Neighborhood Character:** There is no evidence that the proposed change in use should injure or detract from existing neighborhoods.

Zoning Density Analysis		Future Land Use Map Density (gross)	
Current Density	1.089 units per acre	Farmland Preservation	0.2 units per acre
		Rural Development	1.0 units per acre
Proposed Density	6.25 units per acre (net)	Residential Development	2.0 units per acre
		Planned Unit Development	2-10 units per acre

**Neutral Impact:** Neighborhood development is encouraged in this area of the County according to the Future Land Use Plan.

## FISCAL/ECONOMIC IMPACT

**Property Values:** Values for adjacent properties may be enhanced by the proposed development provided aesthetic restrictions are placed in private deed covenant, and, if enforcement of County land use and property maintenance regulations is applied. However, failure to enforce any property standards is likely to result in stagnant or lower property values.

**Neutral Impact:** There is not enough information about the development to determine economic or fiscal impact with precise accuracy.

## SCHOOL IMPACT

**Student Enrollment Created by New Development:** A minimum of 6 new students in the Statesboro High School District.

**Slightly Negative Impact:** The Statesboro High feeder system is already at or over capacity.

## WATER / SEWER IMPACT

**Water System:** A privately-owned, public system meeting state EPD standards will be required.  
**Sewerage:** On-site disposal is proposed. Septic tank installation approval as required by the County Health Department or community system by EPD.

**Neutral Impact:** The presence of hydric soils may pose limitations for septic tanks.

## SOLID WASTE IMPACT

**Nearest Existing Solid Waste and Recycling Centers:** Pretoria Recycling Center.  
**Waste Generation Estimate** (4 tons per household per year): 960 tons annually at build out.

**Neutral Impact:** Private collection services are available. No significant impact on the County's Solid Waste Management Plan or Ordinance requirements is expected.

## ENVIRONMENTAL IMPACT

**Wetlands and Flood Zones:** Development does include wetland areas. Wetland delineation will have to be approved by the Army Corp of Engineers.

**Stormwater:** The impervious surface ratio based on the proposed number of rooftops and paving. The plans propose two stormwater detention ponds on the property.



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**Aquifer Recharge Areas:** There are no known areas affected.

**Water Supply Watersheds:** There are no known watersheds affected.

**River Corridors:** There are no known corridors affected.

**Air:** This project is not expected to create an air pollution nuisance.

**Soils:** The property consists of a number of different types soils, some of which are suitable and other which are not suitable for development. The less suitable soils appear to be on the southeast portion of the property.

**Historic or Archeological Resources:** There are no known resources affected.

**Resources of Regional or Statewide Importance:** There are no known resources affected.

**Neutral Impact:** This property may be unsuitable for more intensive development.

## TRAFFIC AND ROAD INFRASTRUCTURE IMPACT

**ITE Trip Generation Rate:** 9.75 per household or 975.0 – 1,365.0 total trip ends per day at build out in 2021.

Phase I: 292.5 – 409.5 (2015)

Phase II: 682.5 – 955.5 (2019)

Phase III: 975.0 – 1,365.0 (2021)

**Proposed Road Construction in Development:** Roads meeting county standards are proposed for the development; public dedication has not been determined.

**Parking:** On-site parking is permitted pursuant to the zoning code for residential districts. There is no known provision for street parking that has been submitted by the applicant.

**GDOT Road Classification for Access Road:** Pretoria Rushing Road is a rural local road.

**Bulloch Transportation Plan Classification for Access Road:** Pretoria Rushing Road is a minor collector route.

**Condition of Access Road:** Pretoria Rushing Road is a county maintained paved road that is currently in good condition, but substandard for the level of current development.

**Drainage:** The development is located in the Lotts Creek Drainage Basin. Currently all drainage is natural with no known man-made improvements to the existing development other than roadside drainage ditches and culverts. The access way/driveways to the site should have proper roadside drainage measures installed. Proper stormwater management measures will have to be installed to minimize potential flooding and pollution and pollution effects.

**Negative Impact:** The rezone request, in consideration of the scale of the development, would affect road infrastructure, traffic safety and drainage. A traffic study and hydrologic analysis would need to be conducted to determine additional mitigation measures needed.

## E-911 AND EMERGENCY MANAGEMENT IMPACT

Street addresses can be easily assigned. The County Emergency Management Director should be contacted prior to construction.

**Neutral Impact:** These services would not be severely impacted.

## LAW ENFORCEMENT IMPACT

**Agency:** Bulloch County Sheriff's Department

**Level of Service Standard (national: 0.6 per 1,000 population):** Bulloch County has 33 sworn officers for road patrols. The LOS would be 43.8.



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Public Safety Unit	Facility Distance / Response Time	LOS Impact or Deficiency	Intangibles
Law Enforcement (Sheriff)	5 miles, 7 minutes depending on patrolling patterns	(-.0225) field deputies per 1,000 population	Shift of 3 covers 684 square miles
Georgia State Patrol	6 miles, 8 minutes depending on patrolling patterns	NA	Post #45 located south of Statesboro on US 301

**Neutral Impact:** The Sheriff's Department's capabilities are already exceeding capacity.

## EMS AND FIRE SERVICE IMPACT

Public Safety Unit	Facility Distance / Response Time	LOS Impact or Deficiency	Intangibles
Fire Statesboro (Fire Department)	2.9 miles, 4 minutes response time	ISO Rating 3	City of Statesboro would need to be called as first responder or in event of a haz mat spill.
EMS-Rescue (County)	4.3 miles, 6 minutes response time	(-0.109) EMT / Paramedic per 1,000 population	

**Neutral Impact:** Response times for law enforcement, fire and EMS are adequate. Fire hydrants would be required by ordinance, but water system capacity may or may not meet NFPA standards.

## RECREATION-OPEN SPACE IMPACT

**Recreation Facilities:** The nearest public recreation facilities are located at Mill Creek Park. No private recreation facilities have been proposed by the applicant at this time.

**Level of Service (national: 6.5 acres of parkland per 1,000 pop.):** Bulloch County currently has 300 acres of parkland.

**Level of Service Impact Created by the Development:** (-2.19) acres.

**Open Space:** Reserved, on-site open space has been proposed, but not finally been determined or offered.

**Greenway Connections:** The Bulloch County bike trail is located across the street from this property.

**Neutral Impact:** No significant impact will be created by the development.



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## SUMMARY OF FINDINGS – FINAL STAFF RECOMMENDATION

Impact Summary			
Impact Factor	Positive	Negative	Neutral
Land Use Planning			X
Fiscal-Economic			X
Schools		X	
Water-Sewer			X
Solid Waste			X
Environmental			X
Traffic and Roads		X	
Emergency Management			X
Law Enforcement			X
EMS-Fire			X
Recreation			X
<b>Total</b>	<b>0</b>	<b>2</b>	<b>9</b>
Local Impact Findings	Project could have a neutral impact with a lower zoning density and mitigation measures.		
Regional Impact Findings	Not applicable.		

The subject property does appear suitable for the development at the proposed density.

Staff recommends approval of the rezone and Master Development Plan for a PUD-1 with the following conditions:

Conditions Category	Conditions
Density and phasing requirements.	<ol style="list-style-type: none"> <li>The three (3) phases proposed by the Master Development Plan (MDP) shall be generally followed according to schedule, <b>except that any changes in the context of phasing or scheduling will require an amendment to the MDP, may be approved as a minor modification by the Planning and Zoning Commission to the Master Development Plan and/or the Final Development Plan upon submission of conceptual site plans for each individual development phase or pod.</b></li> <li>Pursuant to section 1212 of the County PUD requirements, up to three 5% bonus density increments, with a maximum of 15%, may be granted beyond the performance standards pursuant to Section 1213 of the County PUD requirements in the Zoning Ordinance. The proposed net density in the MDP is currently at 6.25 units per acre. If amenities that are proffered in the MDP proposal by the applicant/developer qualify for up to 15% incentive standard and the MDP proposal, (with an approved sewer system) the applicant/developer is granted a maximum net density for the entire development at 7.2 units per acre without a formal request for an amendment to the MDP.</li> </ol>



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Conditions Category	Conditions
<p><b>Special studies required prior to approval of a land disturbing activity permit.</b></p>	<ol style="list-style-type: none"> <li>1. The results of the required special studies submitted to the County by the applicant/developer are not automatically binding. The County, at its discretion, may review the required special studies and may over-rule or amend submitted recommendations from studies provided by the applicant-developer.</li> <li>2. Thirty (30) days prior to submitting an application to the County for a Final Development Plan for each phase or pod of development, the applicant/developer shall perform and submit the results of a Hydrologic Analysis conforming to an overall Stormwater Management Plan for the entire development subject to the standards of the Georgia Stormwater Management Manual (Coastal Edition is optional).</li> <li>3. Thirty days (30 days) prior to submitting an application to the County for a Final Development Plan for Phase II or Pod II of development, the applicant/developer shall perform a Traffic Impact Analysis based on the proposed final build-out of Phases or Pods I, II and III, that shall include:               <ol style="list-style-type: none"> <li>a) Level of Service (LOS) and Capacity Analysis: Evaluate existing and proposed LOS or capacity conditions as applicable on roadways and intersections within one mile of the development. The difference in operations shall be considered the site impacts. LOS should be recalculated as necessary.</li> <li>b) Sensitivity Analysis: Sensitivity testing or 10 to 20 year traffic projections. Sensitivity testing would entail capacity analyses on incremental (5% to 20%) traffic increases. Traffic projections would require evaluation of future traffic operations based on an agreed annual growth rate. Operational impacts as a result of background traffic increases (sensitivity testing or traffic projections) may not be required to be mitigated unless such is a result of a phased development.</li> <li>c) Peak-hour Analysis: Existing and proposed AM (7:30-8:30) and PM (5:00 and 6:00) peak hour trips.</li> <li>d) Trip Generation Analysis: Evaluate existing and proposed trip generation.</li> <li>e) Trip Distribution Analysis: Existing and proposed 24-hour directional traffic count on a typical weekday for each roadway or access point.</li> <li>f) Traffic Impact Mitigation: Evaluation and recommendations of on-site and off-site roadway improvements to accommodate the additional predicted traffic to be generated by the site, including access management and safety improvements regarding warrants for additional turn lanes and channelization, medians and islands and signalization as provided in the <u>GDOT Driveway and Encroachment Control Manual</u>. Roadway improvements as recommended by the study shall be installed at no cost to the County, and all additional right-of-way necessary shall be granted in the favor of Bulloch County in fee simple and at no additional cost.</li> </ol> </li> </ol>
<p><b>The following architectural standards shall be required.</b></p>	<ol style="list-style-type: none"> <li>1. All units shall have compatible architectural details and a defined character. All structures must be site-built traditional construction according to state minimum building codes. No manufactured or industrialized structures shall be permitted.</li> <li>2. For principal and accessory structures, exterior finish on all facades, except for trim and minor treatments, shall primarily consist of brick, stone,</li> </ol>



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Conditions Category	Conditions
	<p>or decorative masonry finish, <b>high-grade stucco (simulated or artificial stucco is prohibited), natural wood and cement-based artificial wood siding.</b> Metal roofing will be prohibited.</p> <p>3. All principal structures shall be sodded to the rear drip line of the principal structure, and grassed to the rear property line. <b>Before a Certificate of Occupancy is issued for any principal structure, each affected parcel shall have a permanent stand of grass, sprigs or sod established for the front, side and rear yards exclusive of designated landscape beddings to abate soil erosion, with the current phase of development shall be in compliance with County erosion control and sedimentation standards.</b></p> <p>4. The development shall have uniform mail boxes throughout.</p> <p>5. Motif street signage is permitted provided that all lettering, directional and safety attributes on the signs meet MUTCD requirements. The motif shall be consistent with architectural details and character of the development.</p>
<p><b>The following buffer and landscaping standards shall be required.</b></p>	<p>1. To ensure the proper placement of suitable materials and subject to the approval of the County Development Review Committee, the applicant/developer shall provide a Master Landscaping Plan (MLP) for all buffered areas and where other landscaping requirements apply, prepared by a registered landscape architect, which specifies the type and size of proposed vegetation, as well as identifying the location of existing vegetation to be retained, pursuant to this set of conditions. The MLP should include detail regarding the proposed Trail Linkage Easement in the MDP.</p> <p>2. Subdivision entrance signs or structures, if constructed, shall have monument-based signs made of brick, stone or decorative masonry with landscaping, consistent with the architectural details and character of the development. Such signs shall not be placed in the right-of-way for Pretoria Rushing Road and shall be so built as to not interfere with sight-triangles at the intersection.</p> <p>3. Entrance islands and medians, if any, shall be grassed or have non-invasive landscaping.</p> <p>4. A continuous landscaped street buffer is required along Pretoria-Rushing Road contiguous to the right of way for the length of the development that is twenty-five feet (25') wide consisting of multi-species shade trees spaced no less than seventy-five (75') feet apart (minimum three-inch caliper) combined with a dense, compact evergreen planting screen capable of growing to a height of at least eight (8') feet within three (3) years. Such street buffer shall be installed after a final determination of road and pedestrian improvements based on the Traffic Impact Analysis results and recommendations.</p> <p>5. A linear street tree plan shall be provided for internal subdivision streets that will consist of multi-species shade trees spaced no less than seventy-five (75') feet apart (minimum three-inch caliper). The shade trees shall have non-invasive root systems to prevent encroachment, damage or disruption to dedicated public sidewalks and curbing.</p> <p>6. Existing natural buffers of the proposed project may be maintained to</p>



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Conditions Category	Conditions
	<p>satisfy buffer requirements provided the County Development Review Committee determines that it is an appropriate vegetative screen.</p> <p>7. If existing natural buffers are either cleared or removed in any manner, the developer must demonstrate in the required landscape plan that a continuous landscaped buffer strip exists along the side and rear property lines with a minimum of twenty five (25') feet width consisting of plantings that possess growth characteristics of such a nature as to produce a dense, compact evergreen planting screen capable of growing to a height of at least eight (8') feet within three (3) years, and shall be properly maintained.</p>
<p><b>The following access, parking and internal circulation standards shall be required.</b></p>	<ol style="list-style-type: none"> <li>1. All lots and parcels within the subdivision shall have access only to internal roads within the development.</li> <li>2. No building, sign, structure or object, tree or other landscape feature shall be installed, built, or allowed to grow which will impede visibility at street corners, driveways and/or intersections, pursuant to AASHTO standards for sight triangles.</li> <li>3. At least one (1) inter-parcel vehicle access point (or stub-out road) to the proposed development from a contiguous parcel must be provided to allow opportunities for future development to connect to.</li> </ol>
<p><b>The following dedications and public improvements shall be required.</b></p>	<ol style="list-style-type: none"> <li>1. <del>In addition to any future additional right of way requirements or improvements resulting from the required Traffic Impact Analysis, the developer shall provide at no cost an additional right of way in fee simple in favor of Bulloch County along the length of the development along Pretoria Rushing Road, at a minimum width of fifteen feet (15'), and shall install a paved four foot (4') a pedestrian-bicycle lane/pedestrian zone with pavement marking identifiers. Pending the recommendations for mitigation measures determined by the Traffic Impact Analysis, the developer shall install a pedestrian zone that is contiguous to the required streetscape (see Condition #4, Buffer and Landscaping Standards) that includes a sidewalk along the length of the development's frontage on Pretoria Rushing Road closely adhering to the schematic recommended in the Bulloch County Transportation Plan Sub-Area Study.</del></li> <li>2. The proposed Trail Linkage Easement referenced in the MDP shall be privately owned and maintained by a common interest element, and be constructed and completed within one (1) year of the initial building permit issued in Phase or Pod I. The trail, except for any bridges or other such structures, may have natural surface, but shall be maintained with mulch, compacted fine aggregates or similarly approved materials to minimize erosion. The access point perpendicular to Pretoria-Rushing Road shall be improved at a level satisfactory to the Zoning Administrator to allow the pedestrians using it to cross any drainage ways or obstacles along flat surfaces to execute crossing the road. However, no crosswalk or signage will be required.</li> <li>3. If the proposed internal roadway system is proffered by the applicant as being privately owned and maintained by a common interest element, any proposed future public dedication requires that the roads meet county</li> </ol>



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	<p>standards at that time. No public funds shall be invested to correct any construction or condition deficiencies to meet such standards, unless a county special assessment tax improvement district is approved by affected property owners.</p> <p><del>4. An internal sidewalk system within the subdivision shall be installed by the applicant/developer on at least one side of the each internal street within the right of way as proposed in the MDP.</del></p> <p>4. <del>5.</del> The developer shall be responsible for any public improvements determined by the required warrant studies or approved by the County.</p> <p>5. <del>6.</del> The fire suppression capacity shall be approved upon review and consultation with the County Fire Department, Public Safety Director and their consultant, prior to any approval of the phase or pod of the Final Development Plan.</p>

### Staff Reminder

- 1) Wetland delineation must be approved by the Army Corp of Engineers.

### Participants

Tom Couch, County Manager; Andy Welch, Development Services Director; Mike Rollins, Recreation Director, Ted Wynn, Public Safety Director, Kirk Tatum, County Engineer; Randy Newman, Zoning Administrator.

### Planning and Zoning Recommendation

<b>Motion:</b>	To recommend approval of the rezone request.
<b>Vote:</b>	4-1 vote (Thomas Moore absent/Derek Duke Opposed the motion)
<b>Issues:</b>	Traffic, Density, Water Run Off
<b>Opposition:</b>	There were several people signed up to speak in opposition of the request.



January 15, 2013  
Statesboro, GA

### Regular Meeting

The Board of Commissioners met at 8:30 a.m. in the Community Room of the North Main Annex. Chairman Nevil welcomed guests and called the meeting to order. Chairman Nevil gave the invocation and the pledge of allegiance.

Ms. Christy Strickland, Clerk of the Board, performed the roll call of the commissioners and staff. The following commissioners were present: Chairman Nevil, Commissioner Mosley, Commissioner Ethridge, and Vice-Chairman Gibson. The following staff were present: County Manager Thomas Couch, County Attorney Jeff Akins, Developmental Services Director Andy Welch, Chief Financial Officer Harry Starling, Transportation Director Dink Butler, and Statesboro-Bulloch Parks and Recreation Director Mike Rollins.

After Roll Call, Chairman Nevil asked for amendments or modifications of the General Agenda. Hearing none, Commissioner Gibson offered a motion to approve the General Agenda as presented. Commissioner Mosley seconded the motion, and it carried unanimously with Commissioner Gibson, Commissioner Mosley, and Commissioner Ethridge voting in favor of the motion.

Next, Chairman Nevil asked for public comments from the audience at large or in writing. Ms. Elizabeth Dewester was present to speak on the ditches being cleaned up at the Luetta Moore Building. She stated it is an eyesore and there is going to be a Fair in April held on the property and she would like to have it cleaned up before the event. County Manager Tom Couch stated the Luetta Moore Building is owned by the County but as far as maintaining the ditches and right of ways that is the City of Statesboro's responsibility. Statesboro-Bulloch Parks and Recreation Director Mike Rollins stated he knew that the city had received a recreational trail grant and planned to start Phase I of that in the near future but did not think it would be done by April. County Manager Tom Couch suggested to Ms. Dewester that she attend a Statesboro City Council meeting to see if they could give any additional information on the project.

Doctors Alvin and Gail Jackson, President of the Willow Hill Schools, wanted to thank the Commissioners for their participation and support for the past few years during

the Annual Willow Hill Festival. They updated the Commissioners on the progress that has been made in the last few years and on future programs and projects. County Manager Tom Couch and Clerk of the Board Christy Strickland both stated that there were no formal requests or petitions received in writing. Hearing no further comments Chairman Nevil moved to the next item of business.

Chairman Nevil stated that the next item on the Agenda was to approve the Consent Agenda as follows: (1) To approve the minutes of the Regular Meeting held on January 3, 2013; (2) To approve a renewal for an Alcoholic Beverage License to Tybrds # 2 (3) To approve a carpet cleaning contract to All Star Carpet Cleaning (See Exhibit # 2013-007). Commissioner Mosley offered a motion to approve the Consent Agenda as presented. Commissioner Ethridge seconded the motion, and it carried unanimously with Commissioner Gibson, Commissioner Mosley, and Commissioner Ethridge voting in favor of the motion.

Without any items of Old Business Chairman Nevil stated the first item under New Business was for Discussion/Action for an Amendment to Section 8-26(1) e.2. Of Article II of Chapter 8 of the Code of Ordinances of Bulloch County, Georgia. Chairman Nevil called on County Attorney Jeff Akins to initiate discussion on the matter. County Attorney Jeff Akins stated the amendment was deleting one sentence in the Ordinance that states "The use of the six foot bed system will not be allowed on such an existing lot requiring more than 24 inches of fill material." He stated this had been discussed at a previous meeting and he had spoken with Environmental Health County Manager Brad Wiggins who was in agreement with the amendment. Chairman Nevil asked Mr. Wiggins if there were any current systems that have used the six foot bed system that required more than 24 inches of fill material. Mr. Wiggins stated there were currently not any in Bulloch County. After hearing no further discussion, Commissioner Ethridge made a motion to approve the amendment to Section 8-26(1) e.2. Of Article II of Chapter 8 of the Code of Ordinances of Bulloch County, Georgia as presented (See Exhibit # 2013-008). Commissioner Mosley seconded the motion, and it carried unanimously with Commissioner Gibson, Commissioner Mosley and Commissioner Ethridge voting in favor of the motion.

Chairman Nevil stated the second item under New Business was for Discussion only on the Business and financial Issues regarding Splash in the Boro. Chairman Nevil called on Statesboro-Bulloch Parks and Recreation Director Mike Rollins to initiate discussion on the matter. Mr. Rollins went over the progress of Splash in The Boro since it opened in April of 2003. He stated the attendance along with revenue had gradually increased every year and they had only one increase in admission charges which had a minor affect on the revenue but not an extreme amount. Mr. Rollins went over the future plans and what is needed for Splash to continue being successful. After additional discussion, Chairman Nevil moved to the next item on the agenda.

Chairman Nevil stated the third item under New Business was for Discussion/Action to authorize the administrative staff to proceed with disposition of property at the former site of Bulloch Memorial Hospital. Chairman Nevil called on County Manager Tom Couch to initiate discussion on the matter. Mr. Couch stated the property known as the "old hospital" was purchased several years ago by the County with intentions to build an administrative building but since then the County has purchased other property for the building and now the property is just sitting without any use. He stated he would like to proceed with trying to sell it. County Attorney Jeff Akins stated the Commissioners could either choose to do seal bids or have an Auction but suggested setting a minimum amount. Commissioner Ethridge asked if they would need to get an appraisal done before proceeding to sell. County Attorney Jeff Akins suggested just using the tax assessors' value on the property. After no further discussion, Commissioner Gibson offered a motion to authorize the Administrative Staff to proceed with disposition of the property at the former site of Bulloch Memorial Hospital. Commissioner Mosley seconded the motion and it carried unanimously with Commissioner Gibson, Commissioner Mosley, and Commissioner Ethridge voting in favor of the motion.

Chairman Nevil stated the fourth item under New Business was for Discussion/Action to authorize the use of SPLOST 2013 Bond proceeds for acquisition of 31 additional radios for Georgia Southern University Public Safety. Chairman Nevil called on County Manager Tom Couch to initiate discussion on the matter. Mr. Couch stated that in November 2012 the Board of Commissioners authorized the purchase of approximately two hundred (200) radios using bond proceeds. It has been determined

that thirty-one (31) additional radios would be needed for Georgia Southern Public Safety. However, this acquisition would close out Tier I and Tier II funding of the 2013 funds for category PS-16 in the preliminary SPLOST CIP schedule. Chairman Nevil asked if they are the same price as the radios that were purchased in November. Public Safety Director Ted Wynn stated that they were the same price. After hearing no further discussion, Commissioner Mosley made a motion to authorize the use of SPLOST 2013 Bond proceeds for acquisitions of thirty-one (31) additional radios for Georgia Southern University Public Safety. Commissioner Ethridge seconded the motion and it carried unanimously with Commissioner Gibson, Commissioner Mosley, and Commissioner Ethridge voting in favor of the motion.

Chairman Nevil stated the fifth item under New Business was for Discussion/Action to adopt a resolution to amend the FY 2013 General Appropriations Budget for position control and to accept state funds to establish the Bulloch County Mental Health Court through agreement with the Criminal Justice Coordinating Council of Georgia. Chairman Nevil called on County Manager Tom Couch to initiate discussion on the item. Mr. Couch stated that in October, the Chief Judge of the Superior Court applied for funds to establish a Mental Health Court as a result of criminal reform legislation adopted by the General Assembly in the 2012 session. He stated that similar to the DUI court the program is designed to divert clients from incarceration, and provides case management for treatment options and monitoring primarily through an assigned staff person from Pineland Mental Health. Mr. Couch stated that the grant agreement offset up to \$146,366 from October 1, 2012 to June 30, 2013. It provides reimbursement for staffing, provider contracts and resources. The established position will have the status of being grant funded and continued contingent upon sufficient funding from the State. Commissioner Ethridge asked if there is adequate room at the Superior Court Building for a Mental Health Coordinator. County Manager Tom Couch stated Judge Woodrum assured that there was enough office space. After hearing no further discussion, Commissioner Ethridge made a motion to adopt a Resolution to amend the FY 2013 General Appropriations Budget for positions control and to accept state funds to establish the Bulloch County Mental Health Court through agreement with the Criminal Justice Coordinating Council of Georgia. (See Exhibit 2013-009) Commissioner Gibson

seconded the motion and it carried unanimously with Commissioner Ethridge, Commissioner Mosley, and Commissioner Gibson voting in favor of the motion.

Chairman Nevil stated the sixth and final item under New Business was for Discussion/Action to authorize the administrative staff and County Attorney to negotiate with US Bancorp to provide Equipment Master Lease financing for recent and anticipated purchases for heavy equipment at the Road Department and for EMS ambulances based on the lowest and most advantageous proposal. Chairman Nevil called on County Manager Tom Couch to initiate discussion on the matter. Mr. Couch stated the request for proposal were released in November 2012 for \$615,000 in anticipated purchases for boom-axe tractors, road harrows, and two EMS Ambulances. He stated the road equipment purchases was approved at the January 3, 2013 Commissioners meeting. Mr. Couch stated the ambulance bids will be released in January and that the master lease will authorize up to an additional \$1, 0000.000 in equipment purchases, if needed, at the prevailing rates and terms. Mr. Couch stated the proceeds will be taken from the 2007 SPLOST roads and public safety and available funds are sufficient. He stated with the favorable bids on road equipment, and pending ambulance bids, the amount to be financed may fall below \$615,000. Commissioner Ethridge asked to recused herself from voting on the matter. After hearing no further discussion, Commissioner Gibson made a motion to approve the administrative staff and County Attorney to negotiate with US Bancorp to provide Equipment Master Lease financing for recent and anticipated purchases for heavy equipment at the Road Department and for EMS ambulances based on the lowest and most advantageous proposal (See Exhibit 2013-010). Commissioner Mosley seconded and it carried unanimously with Commissioner Gibson and Commissioner Mosley voting in favor of the motion.

Next, Chairman Nevil asked each Commissioner to take thirty seconds for any general comments or statements, beginning with Commissioner Ethridge and then proceeding down the bench accordingly. Commissioner Ethridge, Commissioner Mosley, and Commissioner Gibson thanked the staff for all their hard work and thanked Doctor Alvin & Gail Jackson for coming and giving the presentation on Willow Hill School. Commissioner Gibson asked about the striping contract and County Attorney Jeff Akins went over the procedures of how a contract has to be terminated. County

Manager Tom Couch added that a local citizen Pasty Bobo has some concerns on striping in front of her house on Country Club Road where there have been several accidents and the staff is looking into it.

Next, Chairman Nevil asked for comments from the Staff, and Mr. Couch went over the work that is left to be completed in the Community Room and said that by the February 7, 2013 meeting the audio system should be ready. Clerk of the Board Christy Strickland stated the 2013 ACCG Capitol Connector Conference is February 4 & 5 in Atlanta and the 2013 Community Retreat is in Savannah on February 22 & 23 and that if anybody would like to attend to please let her know. Statesboro-Bulloch Parks & Recreation Director Mike Rollins gave a brief update on the design plans for the Arena and Administrative Annex and stated they would be setting up meetings in the next few weeks with the architects to start on the plans if any of the Commissioners would like to attend; Mr. Rollins also stated that the Greenway has been a success and they are looking at further ways to improve it.

Hearing no further comments from the Board or Staff, Chairman Nevil asked for a motion to adjourn. Commissioner Gibson offered a motion to adjourn the meeting. Commissioner Mosley seconded the motion, and it carried unanimously with Commissioner Gibson, Commissioner Mosley, and Commissioner Ethridge voting in favor of the motion.

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J. Garrett Nevil, Chairman

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Attest: Christy Strickland, Clerk of the Board

**BULLOCH COUNTY BOARD OF COMMISSIONERS  
AGENDA ITEM SUMMARY**

<b>DEPARTMENT MAKING REQUEST (Box 1)</b> Environmental Dept./Legal Dept.	<b>MEETING DATE (Box 2)</b> February 7, 2013	<b>RESOLUTION ATTACHED? (Box 3)</b>	
		YES	
		NO	X

**REQUESTED MOTION OR ITEM TITLE (Box 4)**  
Approval of Waste Services Agreement with Briggs & Stratton Corporation

**SUMMARY/BACKGROUND ATTACH DETAILED SUMMARY, IF NEEDED (Box 5)**  
The attached agreement is a renewal of the current agreement the County has with Briggs & Stratton for waste services. Approval is recommended.

<b>AGENDA CATEGORY (CHECK ONE) (Box 6)</b>		<b>FINANCIAL IMPACT STATEMENT (Box 7)</b>					
<b>PRESENTATION (6a)</b>		<b>BUDGETED ITEM? (7a)</b>	YES		<b>AMENDMENT REQUIRED? (7b)</b>	YES	
			NO			NO	
<b>PUBLIC HEARING (6b)</b>		<b>ATTACH DETAILED ANALYSIS, IF NEEDED (7c)</b>					
<b>CONSENT (6c)</b>	X						
<b>NEW BUSINESS (6d)</b>							
<b>OLD BUSINESS (6e)</b>							
<b>OTHER (6f)</b>							

**APPROVED FOR AGENDA (Box 8)**

<b>DEPARTMENT DIRECTOR</b>		<b>PURCHASING OFFICER</b>		<b>OTHER</b>		<b>COUNTY CLERK</b>		<b>COUNTY STAFF ATTORNEY</b>		<b>COUNTY MANAGER</b>	
YES		YES		YES		YES	✓	YES	✓	YES	
NO		NO		NO		NO		NO		NO	
INITIAL		INITIAL		INITIAL		INITIAL	CAF	INITIAL	Q/a	INITIAL	
DATE		DATE		DATE		DATE	1-13	DATE	1/12/13	DATE	

**COMMISSION ACTION AND REFERRAL (Box 9)**

<b>APPROVED</b>	<b>DATE TO BE RETURNED TO AGENDA</b>
<b>DENIED</b>	
<b>DEFERRED</b>	<b>NOTES</b>
<b>OTHER</b>	

## WASTE SERVICES AGREEMENT

THIS WASTE SERVICES AGREEMENT is made this 14 day of January 2013, by and between Bulloch County (Public Works Division) a Georgia county, (hereinafter referred to as “Contractor”), and BRIGGS & STRATTON CORPORATION, a Wisconsin corporation (the “Company”).

### RECITALS

Company and Contractor acknowledge the following:

A. Company generates and/or collects certain waste, specifically, Non-Hazardous Plant Trash, hereinafter (the “Waste Material”) at its plant in Statesboro, Georgia in the course of its business.

B. Company desires Contractor to transport the Waste Material to and arrange for the recycling, treatment or disposal of the Waste Material at Broadhurst Landfill located in Screven, Georgia, via Bulloch County’s Transfer Station which has obtained the necessary permits and approvals and operates in compliance with all applicable federal, state and local laws and other legal requirements necessary to accept and store, treat, process and dispose of the Waste Material (“Regulated Facility”).

C. Contractor has the ability to transport the Waste Material to and arrange for the recycling, treatment or disposal of the Waste Material at Broadhurst Landfill located in Screven, Georgia, via Bulloch County’s Transfer Station as described in this Agreement in a manner which is in compliance with applicable federal, state and local laws and desires to provide such services to Company.

## AGREEMENTS

In consideration of the recitals and the mutual agreements that follow, the parties agree as follows:

1. Contractor Services. Contractor hereby agrees to transport the Waste Material to and arrange for the recycling, treatment or disposal of the Waste Material at Broadhurst Landfill located in Screven, Georgia, via Bulloch County's Transfer Station in a careful, workmanlike and lawful manner. Contractor shall take all reasonable and appropriate precautions as to avoid injury to persons and damage to property and natural resources. Contractor may not subcontract services to other carriers without the written permission of the Company. Subcontractors are required to meet the same terms and conditions of this Agreement in providing services.

2. Compensation for Services.

(a) Fees. Company shall pay Contractor for all transporting, recycling, treatment and disposal costs of the Waste Material in accordance with the terms of this Agreement and in conformance with the price terms stated in Exhibit A attached hereto and incorporated herein by reference.

(b) Taxes. Company agrees the foregoing fees shall include any amounts which Contractor is required to pay to local, state or federal agencies by virtue of a tax, tariff, fee surcharge or other charge, such as Energy and Fuel Tax, on the transportation, recycling, treatment and disposal of the Waste Material. Such amounts will be invoiced to the Company as a separate item on each invoice.

(c) Insurance. Company agrees the foregoing fees shall include such amounts that are necessary to offset increased costs Contractor incurs for its environmental liability,

general liability, automobile liability, fire damage, excess liability and workers' compensation and employer's liability insurance which is described in Paragraph 11.

(d) Invoicing. Contractor agrees to invoice Company monthly no later than the 20th day of each month for services rendered during the previous month. Company agrees to make payment within 30 days after the date of invoice.

3. Term of Agreement.

(a) Effective Dates. The term of this Agreement shall be for a period of three (3) years from the date this Agreement is executed.

(b) Termination. Either party may terminate this Agreement for any reason upon thirty (30) calendar days written notice.

4. Waste Analysis. Company agrees to provide Contractor with representative samples of the Waste Material to enable Contractor to transport, recycle, treat and dispose of such Waste Material. Company also agrees to provide Contractor with detailed written physical and chemical descriptions or analyses of the Waste Material, attached hereto as Exhibit B, to include a listing of unique chemical characteristics and processes that generated the Waste Material, if such exist, that would be of material significance to the proper handling of the Waste Material. Company understands that Contractor is relying on its descriptions of the Waste Material. Company's descriptions or analyses of the Waste Material shall set forth the concentration and/or range of concentration of the constituents of the Waste Material.

5. Nonconforming Waste Material.

(a) Nonconforming. The Waste Material shall be considered nonconforming

if the Waste Material contains any nuclear or radioactive constituents, polychlorinated biphenyls or other constituents not previously disclosed by Company under Paragraph 4 which Contractor is not legally authorized to transport and arrange for recycling, treatment or disposal. The Waste Material shall also be considered nonconforming if the Waste Material contains constituents in concentrations not previously disclosed by Company under Paragraph 4 which Contractor is not legally authorized to transport and arrange for recycling, treatment or disposal.

(b) Rejection of Waste Material. If Contractor determines that the Waste Material delivered by Company is Nonconforming Waste Material, Contractor shall immediately notify Company and the parties shall arrange for the satisfactory disposition of such Nonconforming Waste Material upon mutually acceptable terms and conditions. Contractor shall have the right to return any Nonconforming Waste Material to Company and in such event, Company shall pay Contractor's reasonable charges for the handling, transportation and time involved in return of such Nonconforming Waste Material.

6. Title and Liability. The Contractor acknowledges that, by virtue of this Agreement, it becomes the owner, and subject to the Nonconforming Waste Material provisions of this Agreement, of any Waste Material which is transported and recycled, treated or disposed of as a result of the services performed by the Contractor under this Agreement. The Company acknowledges that it continues to be the owner of any Nonconforming Waste Material which is returned to the Company by Contractor as described in Paragraph 5.

7. Delivery of Waste Material.

(a) Compliance with Law. Contractor shall comply with all applicable laws of

the United States and other governing state and local jurisdictions in moving, handling and transporting the Waste Material to and recycling, treating or disposing of the Waste Material at a Regulated Facility.

(b) Safe Workplace. Company shall provide a safe working environment on Company premises for any employee, agent or subcontractor of Contractor who must enter Company premises in the course of performing services under this Agreement. Company shall provide safe, satisfactory roadways and approaches to the point of loading. While on Company premises, employees, agents and subcontractors of Contractor shall comply with all safety procedures required by applicable federal, state and local law and with all of Company's safety procedures related to the handling of Waste Material, provided such Company procedures are conspicuously and legibly posted in the work area or have been furnished to Contractor by Company prior to commencement of services of Company.

(c) Corrective Action. Contractor agrees to take whatever actions are necessary to eliminate, abate and rectify any hazardous, unsafe, unhealthy or environmentally unsound conditions resulting from activities and operation in connection with Contractor's moving, handling or transporting of the Waste Material.

(d) Emergency Procedures. If an emergency occurs while an employee, agent or subcontractor of Contractor is on Company's premises, Company shall make available to such person or persons emergency services, including first aid, to the same extent that emergency services would be available to an employee, agent or subcontractor of Company at the same facility.

8. Contractor Warranties. Contractor warrants and represents to Company that:

(a) Contractor understands the currently known hazards and risks that are presented to human beings, property and the environment in moving, handling and transporting the Waste Material and of recycling, treating and disposing of the Waste Material.

(b) Contractor is engaged in the business of moving, handling and transporting Waste Materials to Regulated Facilities and has developed the requisite expertise for moving, handling and transporting the Waste Material. Contractor is also engaged in the business of recycling, treating, and disposing of Waste Materials at Regulated Facilities and has developed the requisite expertise for recycling, treating and disposing of the Waste Material.

(c) Contractor will move, handle and transport the Waste Material to and arrange for recycling, treatment or disposal of the Waste Material at a Regulated Facility in full compliance with all applicable laws or other legal requirements of the federal, state and local governments in whose jurisdictions such activities are performed under this Agreement. Regulated Facilities must have all permits, licenses, certificates or approvals required by applicable federal, state and local laws or other legal requirements necessary to allow such facility to accept and store, treat, process and dispose of Waste Material.

9. Company Warranties. Company warrants and represents to Contractor that:

(a) The description Company delivers to Contractor of all Waste Material shall be true and correct to the best of its knowledge, fairly advise Contractor of the hazards and risks presented to persons or the environment when exposed to the Waste Material and otherwise comply with all applicable material description requirements of local, state and federal laws or other legal requirements.

(b) Company will not, after its waste analysis, mix the Waste Material with

other materials or otherwise cause the alteration of the characteristics or components of the Waste Material.

(c) Containers of Waste Material supplied by Company when tendered to Contractor will conform to the container specification and container marking and labeling requirements provided in applicable local, state and federal laws or other legal requirements.

(d) Company has obtained, and will during the term of this Agreement maintain, all permits, licenses, certificates and other approvals required by applicable local, state and federal laws or other legal requirements, as are necessary to allow Company to hold the Waste Material on its premises and to lawfully tender it to Contractor.

(e) Company will report promptly to Contractor any information obtained by Company at any time during the term of this Agreement, indicating that the Waste Material to be moved, handled, transported and recycled, treated or disposed of presents or may present a hazard or risk to the persons or the environment not otherwise disclosed in the Waste Analysis.

(f) Any manifest or shipping document required by local, state or federal law to be delivered to Contractor at the time of the tender of the Waste Material shall be delivered in the form and number required and shall have been prepared and executed in the manner and by those persons specified in such laws.

(g) Company has full authority to transfer possession of the Waste Material to Contractor for transportation from Company premises. At the time Company transfers possession of the Waste Material to Contractor, Company will not be prohibited by any governmental law from transferring the Waste Material.

10. Indemnification.

(a) Company shall indemnify, hold harmless and defend Contractor and its successors from and against such civil penalties, claims, losses, costs and expenses (including, without limitation, reasonable attorneys' fees) and causes of action as may be brought on account of death, bodily injury to any persons, destruction or damage to any property, injury to, destruction of or loss of natural resources or any violation of any federal, state or local law caused by the negligence or willful acts or omission of Company or its employees or agents in the delivery to Contractor of Nonconforming Waste Material or caused by Company's breach of any warranty contained in Paragraph 9. Contractor shall timely notify Company of any written claim, demand, assessment, action, suit or proceeding to which the indemnities set forth in this paragraph shall apply.

(b) (i). Contractor shall indemnify, hold harmless and defend Company and its successors from and against such civil penalties, claims, losses, costs and expenses (including, without limitation, reasonable attorneys' fees) and causes of action as may be brought on account of death, bodily injury to any persons, destruction or damage to any property, injury to, destruction of or loss of natural resources or any violation of any federal, state or local law caused by the negligence or willful acts or omissions of Contractor or its employees or agents in the movement, handling or transportation of Waste Material or caused by Contractor's breach of any warranty contained in Paragraph 8. Company shall timely notify Contractor of any written claim, demand, assessment, action, suit or proceeding to which the indemnities set forth in this paragraph shall apply.

(ii). Contractor further agrees to indemnify, defend and hold harmless Company from all liability (including, without limitation, reasonable attorneys' fees) for removal

or remedial actions under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (also known as Superfund) or comparable state law, incurred as the result of the transportation, recycling, treatment or disposal (including incineration) of any Waste Material under this Agreement (reference Exhibit C); provided, however, that this indemnification obligation shall not apply to Nonconforming Waste Material as that term is defined in this Agreement. Company shall timely notify Contractor of any written claim, demand, assessment, action, suit or proceeding to which the indemnity set forth in this paragraph shall apply.

(c) Neither party shall be liable to the other for any loss of use, income, profits or other incidental business losses.

11. Insurance.

(a) Contractor shall meet applicable financial standards as required by applicable local, state and federal laws. Contractor specifically agrees to maintain the following types of insurance at its own expense during the term of this Agreement:

<u>Coverage</u>	<u>Limits</u>
Workers' Compensation	Statutory
General Liability (bodily injury and property damage combined)	\$2,000,000 each occurrence \$2,000,000 aggregate
Automobile Liability (bodily injury and property damage combined)	\$1,000,000

(b) The comprehensive automobile liability insurance policy and the general liability insurance policy shall include "Briggs & Stratton Corporation and all direct and indirect wholly owned subsidiaries" as additional insureds. Insurance certificates shall be provided to the

Company indicating this coverage, counter-signed by an insurer licensed to do business in the State in which the services are provided or by ACCG-IRMA, an interlocal risk management agency established for counties pursuant to Georgia law, and covering the period of this Agreement.

12. Miscellaneous.

(a) Specific Performance. In the event of any controversy concerning the rights or obligations under this Agreement, such rights or obligations shall be enforceable in a court of equity by a decree of specific performance. Such remedies shall, however, be cumulative and non-exclusive and shall be in addition to any other remedy that the parties may have.

(b) Amendment. This Agreement may only be amended by a written agreement of the parties.

(c) Governing Law. This Agreement shall be governed by and subject to the laws of the State of Georgia.

(d) Waiver. The failure of Contractor or Company to insist, in any one or more instances, upon performance of any of the terms or conditions of this Agreement, shall not be construed as a waiver or relinquishment of any rights granted hereunder or the future performance of any such term, covenant or condition.

(e) Notices. Any notice to be given hereunder shall be deemed given and sufficient if in writing and delivered or mailed by registered or certified mail, in the case of Contractor, to:

Bulloch County  
Public Works Division  
P.O. Box 347  
Statesboro, Georgia 30459  
Attn: Bob Smith, Bulloch County Environmental Manager

and, in the case of Company, to:

Briggs & Stratton Corporation  
7251 Zell Miller Parkway  
Statesboro, Georgia 30458  
Attn: Steve Holmes

or to such address as Contractor or Company may designate by notice in writing to the other.

(f) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit and burden of and shall be enforceable by Contractor and Company, their successors and assigns. This Agreement may not be assigned by Contractor or Company without the written consent of the other.

(g) Severability. Any provision of this Agreement that is prohibited, unenforceable, or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability, or non-authorization without invalidating or affecting the remaining provisions.

(h) Entire Agreement. This Agreement contains the entire agreement between the parties with regard to the matters contained herein. This Agreement supersedes and takes precedence over any prior agreement between the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives on the dates set forth below.

BRIGGS & STRATTON CORPORATION

BY: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

BULLOCH COUNTY

BY: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

45-WasteServicesAgreement.doc 7/10

## **EXHIBIT A**

## **Price Terms**

Bulloch County will furnish, for a three-year term, one 40 cubic yard Compactor Receiver roll-off container for plant trash collection and will service the container as needed for a fee of \$95.00 per service trip plus a disposal tippage fee of \$38.00 per ton. Weight tickets will be included with invoices. A second container will be used to switch out the full container to insure uninterrupted disposal service. Repairs and maintenance to the roll-off containers will be the responsibility of Bulloch County.

In addition, Bulloch County will furnish, for a three-year term, four 30 cubic yard, open top, roll-off containers for Old Corrugated Cardboard (OCC) collection and will service the containers as needed at no cost to Briggs & Stratton. Briggs & Stratton will break down all cardboard boxes before depositing them in the containers. Bulloch County will keep all profits from the sale of the OCC at \$90 per ton or below. Any profit above \$90 per ton received by Bulloch County for the sale of the OCC will be split equally and Briggs & Stratton's share credited to the service account.

In addition, Bulloch County will furnish, for a three-year term, one recycling container for the collection of aluminum, plastic and paper and service the container at no cost to Briggs & Stratton. Bulloch County will keep all profits from the sale of the materials in this container.

## **EXHIBIT B**

## Waste Description

January 14, 2013

### Plant Trash

Briggs and Stratton Corporation (Briggs) generates Non-hazardous Solid Waste at it's Statesboro, Georgia manufacturing facility. The waste is generated as a result of normal day-to-day production operations within the plant. The types of waste generated include: paper, wood pallets, small amounts of cardboard, various types of disposable gloves, and general cafeteria waste. This waste stream does not contain any CERCLA or RCRA listed wastes and contains no free liquids. The average amount of waste generated varies from 5 to 15 tons per week. The material is collected in a 40 cubic yard compactor receiver that is serviced at least once per week.

### Old Corrugated Cardboard (OCC)

Non-hazardous OCC is generated as a result of normal day-to-day production operations within the plant. OCC is typically generated from disposal of purchased part containers. This waste stream does not contain any CERCLA or RCRA listed wastes and contains no free liquids. The average amount of waste generated varies from 4 to 6 tons per week. The material is collected in a 30 cubic yard, open top, roll-off container that is serviced as needed throughout the week.

### Recyclable Materials

Scrap aluminum, plastic and white office paper is generated as a result of normal day-to-day office and cafeteria operations. This waste stream does not contain any CERCLA or RCRA listed wastes and contains no free liquids. The average amount of waste generated varies from 1 to 2 tons per quarter. The material is collected in a divided closed top, roll-off container that is serviced as needed.

Steven M. Holmes  
Environmental Engineer  
Briggs and Stratton Corporation  
7251 Zell Miller Parkway  
Statesboro, Georgia 30458

## **EXHIBIT C**

# Consuming Facility Compliance Checklist

Under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (also known as Superfund) or comparable state law, Contractor agrees to indemnify, defend and hold harmless Company from all liability (including, without limitation, reasonable attorneys' fees) for removal or remedial actions incurred during the collection or transportation of the Waste Material, or as a result of the recycling<sup>1</sup>, treatment or disposal (including incineration) of any Waste Material under this Agreement in a facility owned by a subsidiary or affiliate Contractor.

To satisfy the requirements of this law, [consuming facility] is seeking the following information as it relates to waste material [general refuse, paper, plastic, glass, textiles, rubber, metal, whole batteries, etc.] delivered to your facility for disposal and/or recycling:

**I. Facility Information**

- A. Company Name: City of Statesboro
- B. Physical Location: 168 Landfill Road
- C. Primary SIC or NAICS: 4212
- D. Contact Person: Jeff McCarty
- E. Telephone #: 912-764-5279

**II. Compliance Information:**

Is your facility in compliance with substantive provisions of Federal, State and local environmental laws and regulations that are applicable to the handling, processing, reclamation, storage, etc. of the recyclable material described above? Please use the following checklist to record your response. Substantive provisions relevant to this request may include, but are not limited to the followed environmental, legal or regulatory requirements based on SIC code, material handled, and specific activities at the facility:

	<i>Specific Provision</i>	<i>Is your facility in compliance with this regulatory requirements?</i>			<i>If no, is your facility subject to a notice of violation, compliance order or decree and meeting the conditions prescribed in the action?</i>		<i>If no, please explain: (if additional space is needed, attach explanation)</i>
		YES	NO	N/A	YES	NO	
CWA	Industrial NPDES or Pretreatment Permit	X					
RCRA	Hazardous Waste Regulations			X			
	Solid Waste Regulations	X					
	Used Oil Standards			X			
	Battery Reclamation Rules	X					
	Corrective Cleanup Action	X					
CAA	Air Permit			X			
EPCRA	Community Right to Know (Inventory Reporting 311/312)			X			
	TRI Reporting			X			
CWA	Stormwater Permit	X					
Other requirements, including state or local requirements not listed		X					

**III. Acknowledgement:**

I acknowledge that the information submitted was properly gathered and evaluated and to the best of my knowledge and belief, is true, accurate, and complete.

\_\_\_\_\_  
Signature

January 18, 2013

\_\_\_\_\_  
Date

<sup>1</sup> Under the Superfund Recycling Equity Act (*Pub. Law 106-113*), a scrap processor is required to exercise reasonable care to determine that the facility where the recyclable material was handled, processes, reclaimed, or otherwise managed by another person (referred to as a 'consuming facility') was in compliance with substantive (not procedural or administrative) provisions of any Federal, State or local environmental law or regulation, or compliance order or decree issued pursuant thereto, applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

**BULLOCH COUNTY BOARD OF COMMISSIONERS  
AGENDA ITEM SUMMARY**

<b>DEPARTMENT MAKING REQUEST (Box 1)</b>  County Manager/Legal	<b>MEETING DATE (Box 2)</b> February 7, 2013	<b>RESOLUTION ATTACHED? (Box 3)</b>	
		YES	X
		NO	

**REQUESTED MOTION OR ITEM TITLE (Box 4)**  
  
Resolution Authorizing Master Tax-Exempt Lease Purchase Agreement with U.S. Bancorp

**SUMMARY/BACKGROUND ATTACH DETAILED SUMMARY, IF NEEDED (Box 5)**  
  
The attached resolution is to authorize execution of the master lease purchase agreement with U.S. Bancorp on the terms and conditions which were previously approved at the Commissioners' meeting on January 15, 2013. The form of the lease and other documents are attached to the resolution.

<b>AGENDA CATEGORY (CHECK ONE) (Box 5)</b>		<b>FINANCIAL IMPACT STATEMENT (Box 7)</b>					
<b>PRESENTATION (6a)</b>		<b>BUDGETED ITEM? (7a)</b>	YES		<b>AMENDMENT REQUIRED? (7b)</b>	YES	
			NO			NO	
<b>PUBLIC HEARING (6b)</b>		<b>ATTACH DETAILED ANALYSIS, IF NEEDED (7c)</b>					
<b>CONSENT (6c)</b>	X						
<b>NEW BUSINESS (6d)</b>							
<b>OLD BUSINESS (6e)</b>							
<b>OTHER (6f)</b>							

**APPROVED FOR AGENDA (Box 8)**

<b>DEPARTMENT DIRECTOR</b>		<b>PURCHASING OFFICER</b>		<b>OTHER</b>		<b>COUNTY CLERK</b>		<b>COUNTY STAFF ATTORNEY</b>		<b>COUNTY MANAGER</b>	
YES		YES		YES		YES		YES	✓	YES	
NO		NO		NO		NO		NO		NO	
INITIAL		INITIAL		INITIAL		INITIAL		INITIAL <i>Op</i>		INITIAL	
DATE		DATE		DATE		DATE		DATE 1/31/13		DATE	

**COMMISSION ACTION AND REFERRAL (Box 9)**

<b>APPROVED</b>	<b>DATE TO BE RETURNED TO AGENDA</b>
<b>DENIED</b>	
<b>DEFERRED</b>	<b>NOTES</b>
<b>OTHER</b>	

**STATE OF GEORGIA  
COUNTY OF BULLOCH**

**THE BULLOCH COUNTY BOARD OF COMMISSIONERS**

**RESOLUTION # 2013 - \_\_\_\_**

At a duly called meeting of the governing body of Lessee held in accordance with all applicable legal requirements, including open meeting laws, on the 7<sup>th</sup> day of February, 2013, the following resolution was introduced and adopted:

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER TAX-EXEMPT LEASE PURCHASE AGREEMENT, AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.**

WHEREAS, the governing body of Bulloch County, Georgia (“Lessee”) desires to obtain certain equipment (the “Equipment”) described in the Equipment Schedule to the Master Tax-Exempt Lease Purchase Agreement (collectively, the “Agreement”) with Lessor, the form of which was been available for review by the governing body prior to this meeting; and

WHEREAS, the Equipment is essential for the Lessee to perform its governmental functions; and

WHEREAS, Lessee has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment; and

WHEREAS, Lessee proposes to enter into the Agreement with Lessor substantially in the forms presented to this meeting;

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LESSEE AS FOLLOWS:

Section 1. It is hereby found and determined that the terms of the Agreement in the forms presented to this meeting and incorporated in this resolution are in the best interests of Lessee for the acquisition of the Equipment.

Section 2. The Agreement and the acquisition and financing of the Equipment under the terms and conditions as described in the Agreement are hereby approved. The County Manager of Lessee and any other officer of Lessee who shall have power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Agreement with any changes, insertions and omissions therein as may be approved by the officers who execute the Agreement, such approval to be conclusively evidenced by such execution and delivery of the Agreement.

The Clerk of the Lessee and any other officer of Lessee who shall have power to do so be, and each of them hereby is, authorized to affix the official seal of Lessee to the Agreement and attest the same.

Section 3. The proper officers of Lessee be, and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Agreement.

Section 4. Pursuant to Section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code"), Lessee hereby specifically designates the Agreement as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code.

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further certifies that the Agreement executed on behalf of Lessee is the same as presented at such meeting of the governing body of Lessee, excepting only such changes, insertions and omissions as shall have been approved by the officers who executed same.

RESOLUTION APPROVED AND ADOPTED this 7th day of February, 2013.

BOARD OF COMMISSIONERS OF  
BULLOCH COUNTY, GEORGIA

By: \_\_\_\_\_  
J. Garrett Nevil, Chairman

Attest: \_\_\_\_\_  
Christy A. Strickland, Clerk

# Master Tax-Exempt Lease/Purchase Agreement

Between: U.S. Bancorp Government Leasing and Finance, Inc. (the "Lessor")  
13010 SW 68th Parkway, Suite 100  
Portland, OR 97223

And: <<Lessee>> (the "Lessee")  
<<LesseeAddress1>>  
<<LesseeAddress2>>  
<<LesseeCity>>, <<LesseeState>> <<LesseeZip>>  
Attention: <<LesseeContact>>  
Telephone: <<LesseePhone>>

Dated: <<MasterLeaseDate>>

## ARTICLE I DEFINITIONS

The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"**Agreement**" means this Master Tax-Exempt Lease/Purchase Agreement, including all exhibits and schedules attached hereto.

"**Code**" is defined in Section 3.01(f).

"**Commencement Date**" is the date when the term of a Property Schedule and Lessee's obligation to pay rent thereunder commences, which date shall be set forth in such Property Schedule.

"**Event of Default**" is defined in Section 13.01.

"**Lease Payments**" means the Lease Payments payable by Lessee under Article VI of this Agreement and each Property Schedule, as set forth in each Property Schedule. **Lease Payment Dates** means the Lease Payment dates for the Lease Payments as set forth in each Property Schedule.

"**Lease Term**" means, with respect to a Property Schedule, the Original Term and all Renewal Terms. The Lease Term for each Property Schedule executed hereunder shall be set forth in such Property Schedule, as provided in Section 4.02.

"**Lessee**" means the entity identified as such in the first paragraph hereof, and its permitted successors and assigns.

"**Lessor**" means the entity identified as such in the first paragraph hereof, and its successors and assigns.

"**Nonappropriation Event**" is defined in Section 6.06.

"**Original Term**" means, with respect to a Property Schedule, the period from the Commencement Date until the end of the budget year of Lessee in effect at the Commencement Date.

"**Property**" means, collectively, the property lease/purchased pursuant to this Agreement, and with respect to each Property Schedule, the property described in such Property Schedule, and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Section 8.01 or Article IX.

"**Property Schedule**" means a Property Schedule in the form attached hereto for Property Schedule I. Subsequent Property Schedules pursuant to this Agreement shall be numbered consecutively, beginning with Property Schedule 2.

"**Purchase Price**" means the amount that Lessee may, in its discretion, pay to Lessor to purchase the Property under a Property Schedule, as provided in Section 11.01 and as set forth in the Property Schedule.

"**Renewal Terms**" means the renewal terms of a Property Schedule, each having a duration of one year and a term coextensive with Lessee's budget year.

"**State**" means the state where Lessee is located.

"**Vendor**" means the manufacturer or contractor of the Property as well as the agents or dealers of the manufacturer or contractor from whom Lessor or Lessee purchased or is purchasing all or any portion of the Property.

## ARTICLE II

2.01 **Property Schedules Separate Financings.** Each Property Schedule executed and delivered under this Agreement shall be a separate financing, distinct from other Property Schedules. Without limiting the foregoing, upon the occurrence of an Event of Default or a Nonappropriation Event with respect to a Property Schedule, Lessor shall have the rights and remedies specified herein with respect to the Property financed and the Lease Payments payable under such Property Schedule, and except as expressly provided in Section 12.02 below, Lessor shall have no rights or remedies with respect to Property financed or Lease Payments payable under any other Property Schedules unless an Event of Default or Nonappropriation Event has also occurred under such other Property Schedules.

## ARTICLE III

3.01 **Covenants of Lessee.** As of the Commencement Date for each Property Schedule executed and delivered hereunder, Lessee shall be deemed to represent, covenant and warrant for the benefit of Lessor as follows:

- (a) Lessee is a public body corporate and politic duly organized and existing under the constitution and laws of the State with full power and authority to enter into this Agreement and the Property Schedule and the transactions contemplated thereby and to perform all of its obligations thereunder.
- (b) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic. To the extent Lessee should merge with another entity under the laws of the State, Lessee agrees that as a condition to such merger it will require that the remaining or resulting entity shall be assigned Lessee's rights and shall assume Lessee's obligations hereunder.
- (c) Lessee has been duly authorized to execute and deliver this Agreement and the Property Schedule by proper action by its governing body, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and the Property Schedule, and Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the Property Schedule and the acquisition by Lessee of the Property

thereunder. On or before the Commencement Date for the Property Schedule, Lessee shall cause to be delivered an opinion of counsel in substantially the form attached to the form of the Property Schedule as Exhibit 2.

- (d) During the Lease Term for the Property Schedule, the Property thereunder will perform and will be used by Lessee only for the purpose of performing essential governmental uses and public functions within the permissible scope of Lessee's authority.
- (e) Lessee will provide Lessor with current financial statements, budgets and proof of appropriation for the ensuing budget year and other financial information relating to the ability of Lessee to continue this Agreement and the Property Schedule in such form and containing such information as may be requested by Lessor.
- (f) Lessee will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 148 thereof, and the regulations of the Treasury Department thereunder, from time to time proposed or in effect, in order to maintain the excludability from gross income for federal income tax purposes of the interest component of Lease Payments under the Property Schedule and will not use or permit the use of the Property in such a manner as to cause a Property Schedule to be a "private activity bond" under Section 141(a) of the Code. Lessee covenants and agrees that it will use the proceeds of the Property Schedule as soon as practicable and with all reasonable dispatch for the purpose for which the Property Schedule has been entered into, and that no part of the proceeds of the Property Schedule shall be invested in any securities, obligations or other investments except for the temporary period pending such use nor used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of the Agreement, would have caused any portion of the Property Schedule to be or become "arbitrage bonds" within the meaning of Section 103(b)(2) or Section 148 of the Code and the regulations of the Treasury Department thereunder proposed or in effect at the time of such use and applicable to obligations issued on the date of issuance of the Property Schedule.
- (g) The execution, delivery and performance of this Agreement and the Property Schedule and compliance with the provisions hereof and thereof by Lessee does not conflict with or result in a violation or breach or constitute a default under, any resolution, bond, agreement, indenture, mortgage, note, lease or other instrument to which Lessee is a party or by which it is bound by any law or any rule, regulation, order or decree of any court, governmental agency or body having jurisdiction over Lessee or any of its activities or properties resulting in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any property or assets of Lessee or to which it is subject.
- (h) Lessee's exact legal name is as set forth on the first page of this Agreement. Lessee will not change its legal name in any respect without giving thirty (30) days prior notice to Lessor.

#### ARTICLE IV

**4.01 Lease of Property.** On the Commencement Date of each Property Schedule executed hereunder, Lessor will be deemed to demise, lease and let to Lessee, and Lessee will be deemed to rent, lease and hire from Lessor, the Property described in such Property Schedule, in accordance with this Agreement and such Property Schedule, for the Lease Term set forth in such Property Schedule.

**4.02 Lease Term.** The term of each Property Schedule shall commence on the Commencement Date set forth therein and shall terminate upon payment of the final Lease Payment set forth in such Property Schedule and the exercise of the Purchase Option described in Section 11.01, unless terminated sooner pursuant to this Agreement or the Property Schedule.

**4.03 Delivery, Installation and Acceptance of Property.** Lessee shall order the Property, shall cause the Property to be delivered and installed at the locations specified in the applicable Property Schedule and shall pay all taxes, delivery costs and installation costs, if any, in connection therewith. To the extent funds are deposited under an escrow agreement or trust agreement for the acquisition of the Property, such funds shall be disbursed as provided therein. When the Property described in such Property Schedule is delivered, installed and accepted as to Lessee's specifications, Lessee shall immediately accept the Property and evidence said acceptance by executing and delivering to Lessor the Acceptance Certificate substantially in the form attached to the Property Schedule.

#### ARTICLE V

**5.01 Enjoyment of Property.** Lessee shall during the Lease Term peaceably and quietly have, hold and enjoy the Property, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Agreement. Lessor shall not interfere with such quiet use and enjoyment during the Lease Term so long as Lessee is not in default under the subject Property Schedule.

**5.02 Location; Inspection.** The Property will be initially located or based at the location specified in the applicable Property Schedule. Lessor shall have the right at all reasonable times during business hours to enter into and upon the property of Lessee for the purpose of inspecting the Property.

#### ARTICLE VI

**6.01 Lease Payments to Constitute a Current Expense of Lessee.** Lessor and Lessee understand and intend that the obligation of Lessee to pay Lease Payments hereunder shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional, statutory or charter limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the faith and credit or taxing power of Lessee. Upon the appropriation of Lease Payments for a fiscal year, the Lease Payments for said fiscal year, and only the Lease Payments for said current fiscal year, shall be a binding obligation of Lessee; provided that such obligation shall not include a pledge of the taxing power of Lessee.

**6.02 Payment of Lease Payments.** Lessee shall promptly pay Lease Payments under each Property Schedule, exclusively from legally available funds, in lawful money of the United States of America, to Lessor in such amounts and on such dates as described in the applicable Property Schedule, at Lessor's address set forth on the first page of this Agreement, unless Lessor instructs Lessee otherwise. Lessee shall pay Lessor a charge on any delinquent Lease Payments under a Property Schedule in an amount sufficient to cover all additional costs and expenses incurred by Lessor from such delinquent Lease Payment. In addition, Lessee shall pay a late charge of five cents per dollar or the highest amount permitted by applicable law, whichever is lower, on all delinquent Lease Payments and interest on said delinquent amounts from the date such amounts were due until paid at the rate of 12% per annum or the maximum amount permitted by law, whichever is less.

**6.03 Interest Component.** A portion of each Lease Payment due under each Property Schedule is paid as, and represents payment of, interest, and each Property Schedule hereunder shall set forth the interest component (or method of computation thereof) of each Lease Payment thereunder during the Lease Term.

**6.04 Lease Payments to be Unconditional.** SUBJECT TO SECTION 6.06, THE OBLIGATIONS OF LESSEE TO PAY THE LEASE PAYMENTS DUE UNDER THE PROPERTY SCHEDULES AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED HEREIN SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE, FOR ANY REASON, INCLUDING WITHOUT LIMITATION, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE PROPERTY OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES. THIS PROVISION SHALL NOT LIMIT LESSEE'S RIGHTS OR ACTIONS AGAINST ANY VENDOR AS PROVIDED IN SECTION 10.02.

**6.05 Continuation of Lease by Lessee.** Lessee intends to continue all Property Schedules entered into pursuant to this Agreement and to pay the Lease Payments thereunder. Lessee reasonably believes that legally available funds in an amount sufficient to make all Lease Payments during the term of all Property Schedules can be obtained. Lessee agrees that its staff will provide during the budgeting process for each budget year to the governing body of Lessee notification of any Lease Payments due under the Property Schedules during the following budget year. Notwithstanding this covenant, if Lessee fails to appropriate the Lease Payments for a Property Schedule pursuant to Section 6.06, such Property Schedule shall terminate at the end of the then current Original Term or Renewal Term. Although Lessee has made this covenant, in the event that it fails to provide such notice, no remedy is provided and Lessee shall not be liable for any damages for its failure to so comply.

**6.06 Nonappropriation.** If during the then current Original Term or Renewal Term, sufficient funds are not appropriated to make Lease Payments required under a Property Schedule for the following fiscal year, Lessee shall be deemed to not have renewed such Property Schedule for the following fiscal year and the Property Schedule shall terminate at the end of the then current Original Term or Renewal Term and Lessee shall not be obligated to make Lease Payments under said Property Schedule beyond the then current fiscal year for which funds have been appropriated. Upon the occurrence of such nonappropriation (a "Nonappropriation Event") Lessee shall, no later than the end of the fiscal year for which Lease Payments have been appropriated, deliver possession of the Property under said Property Schedule to Lessor. If Lessee fails to deliver possession of the Property to Lessor upon termination of said Property Schedule by reason of a Nonappropriation Event, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to the portion of Lease Payments thereafter coming due that is attributable to the number of days after the termination during which the Lessee fails to deliver possession and for any other loss suffered by Lessor as a result of Lessee's failure to deliver possession as required. In addition, Lessor may, by written instructions to any escrow agent who is holding proceeds of the Property Schedule, instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, such sums to be credited to Lessee's obligations under the Property Schedule and this Agreement. Lessee shall notify Lessor

in writing within seven (7) days after the failure of the Lessee to appropriate funds sufficient for the payment of the Lease Payments, but failure to provide such notice shall not operate to extend the Lease Term or result in any liability to Lessee.

**6.07 Defeasance of Lease Payments.** Lessee may at any time irrevocably deposit in escrow with a defeasance escrow agent for the purpose of paying all of the principal component and interest component accruing under a Property Schedule, a sum of cash and non-callable securities consisting of direct obligations of, or obligations the principal of an interest on which are unconditionally guaranteed by, the United States of America or any agency or instrumentality thereof, in such aggregate amount, bearing interest at such rates and maturing on such dates as shall be required to provide funds sufficient for this purpose. Upon such defeasance, all right, title and interest of Lessor in the Property under said Property Schedule shall terminate. Lessee shall cause such investment to comply with the requirements of federal tax law so that the exclusion from gross income of the interest component of Lease Payments on said Property Schedule is not adversely affected.

#### ARTICLE VII

**7.01 Title to the Property.** Upon acceptance of the Property by Lessee and unless otherwise required by the laws of the State, title to the Property shall vest in Lessee, subject to Lessor's interests under the applicable Property Schedule and this Agreement.

**7.02 Personal Property.** The Property is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Property or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. If requested by Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Property from any party having an interest in any such real estate or building.

**7.03 Security Interest.** To the extent permitted by law and to secure the performance of all of Lessee's obligations under this Agreement with respect to a Property Schedule, including without limitation all Property Schedules now existing are hereafter executed, Lessee grants to Lessor, for the benefit of Lessor and its successors and assigns, a security interest constituting a first lien on Lessee's interest in all of the Property under the Property Schedule, whether now owned or hereafter acquired, all additions, attachments, alterations and accessions to the Property, all substitutions and replacements for the Property, and on any proceeds of any of the foregoing, including insurance proceeds. Lessee shall execute any additional documents, including financing statements, affidavits, notices and similar instruments, in form and substance satisfactory to Lessor, which Lessor deems necessary or appropriate to establish, maintain and perfect a security interest in the Property in favor of Lessor and its successors and assigns. Lessee hereby authorizes Lessor to file all financing statements which Lessor deems necessary or appropriate to establish, maintain and perfect such security interest.

#### ARTICLE VIII

**8.01 Maintenance of Property by Lessee.** Lessee shall keep and maintain the Property in good condition and working order and in compliance with the manufacturer's specifications, shall use, operate and maintain the Property in conformity with all laws and regulations concerning the Property's ownership, possession, use and maintenance, and shall keep the Property free and clear of all liens and claims, other than those created by this Agreement. Lessee shall have sole responsibility to maintain and repair the Property. Should Lessee fail to maintain, preserve and keep the Property in good repair and working order and in accordance with manufacturer's specifications, and if requested by Lessor, Lessee will enter into maintenance contracts for the Property in form approved by Lessor and with approved providers.

**8.02 Liens, Taxes, Other Governmental Charges and Utility Charges.** Lessee shall keep the Property free of all levies, liens and encumbrances, except for the interest of Lessor under this Agreement. The parties to this Agreement contemplate that the Property will be used for a governmental or proprietary purpose of Lessee and, therefore, that the Property will be exempt from all property taxes. The Lease Payments payable by Lessee under this Agreement and the Property Schedules hereunder have been established to reflect the savings resulting from this exemption from taxation. Lessee will take such actions necessary under applicable law to obtain said exemption. Nevertheless, if the use, possession or acquisition of the Property is determined to be subject to taxation or later becomes subject to such taxes, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to the Property. Lessee shall pay all gas, water, steam, electricity, heat, power, telephone, utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Property. Lessee shall pay such taxes or charges as the same may become due; provided that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the then current fiscal year of the Lease Term for such Property.

**8.03 Insurance.** At its own expense, Lessee shall maintain (a) casualty insurance insuring the Property against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State and any other risks reasonably required by Lessor in an amount equal to at least the outstanding principal component of Lease Payments, and (b) liability insurance that protects Lessor from liability in all events in an amount reasonably acceptable to Lessor, and (c) worker's compensation insurance covering all employees working on, in, near or about the Property; provided that Lessee may self-insure against all such risks. All insurance proceeds from casualty losses shall be payable as hereinafter provided in this Agreement. All such insurance shall be with insurers that are authorized to issue such insurance in the State. All such liability insurance shall name Lessor as an additional insured. All such casualty insurance shall contain a provision making any losses payable to Lessor and Lessee as their respective interests may appear. All such insurance shall contain a provision to the effect that such insurance shall not be canceled or modified without first giving written notice thereof to Lessor and Lessee at least thirty (30) days in advance of such cancellation or modification. Such changes shall not become effective without Lessor's prior written consent. Lessee shall furnish to Lessor, on or before the Commencement Date for each Property Schedule, and thereafter at Lessor's request, certificates evidencing such coverage, or, if Lessee self-insures, a written description of its self-insurance program together with a certification from Lessee's risk manager or insurance agent or consultant to the effect that Lessee's self-insurance program provides adequate coverage against the risks listed above.

**8.04 Advances.** In the event Lessee shall fail to either maintain the insurance required by this Agreement or keep the Property in good repair and working order, Lessor may, but shall be under no obligation to, purchase the required insurance and pay the cost of the premiums thereof or maintain and repair the Property and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the Lease Term for the applicable Property Schedule and shall be due and payable on the next Lease Payment Date and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the date such amounts are advanced until paid at the rate of 12% per annum or the maximum amount permitted by law, whichever is less.

#### ARTICLE IX

**9.01 Damage or Destruction.** If (a) the Property under a Property Schedule or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or (b) title to, or the temporary use of, the Property under a Property Schedule or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Lessor and Lessee will cause the Net Proceeds (as hereinafter defined) of any insurance claim, condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Property, unless Lessee shall have exercised its right to defease the Property Schedule as provided herein, or unless Lessee shall have exercised its option to purchase Lessor's interest in the Property if the Property Schedule so provides. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee. For purposes of Section 8.03 and this Article IX, the term "Net Proceeds" shall mean the amount remaining from the gross proceeds of any insurance claim, condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys' fees, incurred in the collection thereof.

**9.02 Insufficiency of Net Proceeds.** If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 9.01, Lessee shall (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds and, if Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Section 6.02, or (b) defease the Property Schedule pursuant to Section 6.07, or (c) exercise its option to purchase Lessor's interest in the Property pursuant to the optional purchase provisions of the Property Schedule, if any. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after such defeasance or purchase may be retained by Lessee.

## ARTICLE X

**10.01 Disclaimer of Warranties.** LESSOR MAKES NO (AND SHALL NOT BE DEEMED TO HAVE MADE ANY) WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN, OPERATION OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE PROPERTY, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE STATE OF TITLE THERETO OR ANY COMPONENT THEREOF, THE ABSENCE OF LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), AND LESSOR HEREBY DISCLAIMS THE SAME; IT BEING UNDERSTOOD THAT THE PROPERTY IS LEASED TO LESSEE "AS IS" ON THE DATE OF THIS AGREEMENT OR THE DATE OF DELIVERY, WHICHEVER IS LATER, AND ALL SUCH RISKS, IF ANY, ARE TO BE BORNE BY LESSEE. Lessee acknowledges that it has made (or will make) the selection of the Property from the Vendor based on its own judgment and expressly disclaims any reliance upon any statements or representations made by Lessor. Lessee understands and agrees that (a) neither the Vendor nor any sales representative or other agent of Vendor, is (i) an agent of Lessor, or (ii) authorized to make or alter any term or condition of this Agreement, and (b) no such waiver or alteration shall vary the terms of this Agreement unless expressly set forth herein. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, the Property Schedules, or the existence, furnishing, functioning or use of any item, product or service provided for in this Agreement or the Property Schedules.

**10.02 Vendor's Warranties.** Lessor hereby irrevocably assigns to Lessee all rights that Lessor may have to assert from time to time whatever claims and rights (including without limitation warranties) related to the Property against the Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the Vendor of the Property, and not against Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties of the Vendor of the Property.

**10.03 Use of the Property.** Lessee will not install, use, operate or maintain the Property improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Agreement and the applicable Property Schedule. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Property. In addition, Lessee agrees to comply in all respects with all laws of the jurisdiction in which its operations involving any item of Property may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the items of the Property; provided that Lessee may contest in good faith the validity or application of any such law or rule in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Property or its interest or rights under this Agreement. Lessee shall promptly notify Lessor in writing of any pending or threatened investigation, inquiry, claim or action by any governmental authority which could adversely affect this Agreement, any Property Schedule or the Property thereunder.

**10.04 Modifications.** Subject to the provisions of this Section, Lessee shall have the right, at its own expense, to make alterations, additions, modifications or improvements to the Property. All such alterations, additions, modifications and improvements shall thereafter comprise part of the Property and shall be subject to the provisions of this Agreement. Such alterations, additions, modifications and improvements shall not in any way damage the Property, substantially alter its nature or cause it to be used for purposes other than those authorized under the provisions of state and federal law; and the Property, on completion of any alterations, additions, modifications or improvements made pursuant to this Section, shall be of a value which is equal to or greater than the value of the Property immediately prior to the making of such alterations, additions, modifications and improvements. Lessee shall, at its own expense, make such alterations, additions, modifications and improvements to the Property as may be required from time to time by applicable law or by any governmental authority.

## ARTICLE XI

**11.01 Option to Purchase.** Lessee shall have the option to purchase Lessor's entire interest in all of the Property subject to a Property Schedule and to terminate any restrictions herein on the Property under such Property Schedule on the last day of the Lease Term for a Property Schedule, if the Property Schedule is still in effect on such day, upon payment in full of the Lease Payments due thereunder plus payment of One (1) Dollar to Lessor. Lessee shall give written notice to Lessor of its intent to purchase Lessor's interest in the Property at least sixty (60) days prior to the last day of the Lease Term for applicable Property Schedule. Upon exercise of the purchase option as set forth in this Section 11.01 and payment of the purchase price under the applicable Property Schedule, and performance by Lessee of all other terms, conditions and provisions hereof, Lessor shall deliver to Lessee all such documents and instruments as Lessee may reasonably require to evidence the transfer, without warranty by or recourse to Lessor, of all of Lessor's right, title and interest in and to the Property subject to such Property Schedule to Lessee.

**11.02 Option to Prepay.** Lessee shall have the option to prepay in whole the Lease Payments due under a Property Schedule, but only if the Property Schedule so provides, and on the terms set forth in the Property Schedule.

## ARTICLE XII

**12.01 Assignment by Lessor.** Lessor's right, title and interest in, to and under each Property Schedule and the Property under such Property Schedule may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor without the necessity of obtaining the consent of Lessee; provided that any assignment shall not be effective until Lessee has received written notice, signed by the assignor, of the name, address and tax identification number of the assignee. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees designated in such register. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements that may be reasonably requested by Lessor or any assignee to protect its interests in this Agreement and the Property Schedules.

**12.02 Property Schedules Separate Financings.** Assignees of the Lessor's rights in one Property Schedule shall have no rights in any other Property Schedule unless such rights have been separately assigned.

**12.03 Assignment and Subleasing by Lessee.** NONE OF LESSEE'S RIGHT, TITLE AND INTEREST IN, TO AND UNDER THIS AGREEMENT AND IN THE PROPERTY MAY BE ASSIGNED, SUBLEASED OR ENCUMBERED BY LESSEE FOR ANY REASON, WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR.

**12.04 Release and Indemnification Covenants.** To the extent permitted by applicable law, Lessee shall indemnify, protect, hold harmless, save and keep harmless Lessor from and against any and all liability, obligation, loss, claim and damage whatsoever, regardless of cause thereof, and all expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest (collectively, "Losses") arising out of or resulting from the entering into this Agreement, any Property Schedules hereunder, the ownership of any item of the Property, the loss of federal tax exemption of the interest on any of the Property Schedules, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Property or any accident in connection with the operation, use, condition, possession, storage or return of any item of the Property resulting in damage to property or injury to or death to any person; provided, however, that Lessee shall not be required to indemnify Lessor for Losses arising out of or resulting from Lessor's own willful or negligent conduct, or for Losses arising out of or resulting from Lessor's preparation of disclosure material relating to certificates of participation in this Agreement and any Property Schedule (other than disclosure material provided to Lessor by Lessee). The indemnification arising under this Section shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement, or the applicable Property Schedule, or the termination of the Lease Term for such Property Schedule for any reason.

## ARTICLE XIII

**13.01 Events of Default Defined.** Any of the following shall constitute an "Event of Default" under a Property Schedule:

- (a) Failure by Lessee to pay any Lease Payment under the Property Schedule or other payment required to be paid with respect thereto at the time specified therein;
- (b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed with respect to the Property Schedule, other than as referred to in subparagraph (a) above, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;
- (c) Any statement, representation or warranty made by Lessee in or pursuant to the Property Schedule or its execution, delivery or performance shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made;
- (d) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

- (e) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 consecutive days.

The foregoing provisions of Section 13.01 are subject to the following limitation: if by reason of force majeure Lessee is unable in whole or in part to perform its agreements under this Agreement and the Property Schedule (other than the obligations on the part of Lessee contained in Article VI hereof) Lessee shall not be in default during the continuance of such inability. The term "force majeure" as used herein shall mean the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections, riots, landslides, earthquakes, fires, storms, droughts, floods, explosions, breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessee.

A Nonappropriation Event is not an Event of Default.

**13.02 Remedies on Default.** Whenever any Event of Default exists with respect to a Property Schedule, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

- (a) Without terminating the Property Schedule, and by written notice to Lessee, Lessor may declare all Lease Payments and other amounts payable by Lessee thereunder to the end of the then-current budget year of Lessee to be due, including without limitation delinquent Lease Payments under the Property Schedule from prior budget years, and such amounts shall thereafter bear interest at the rate of 12% per annum or the maximum rate permitted by applicable law, whichever is less;
- (b) Lessor may terminate the Property Schedule, may enter the premises where the Property subject to the Property Schedule is located and retake possession of the Property, or require Lessee, at Lessee's expense, to promptly return any or all of the Property to the possession of Lessor at such place within the United States as Lessor shall specify, and Lessor may thereafter dispose of the Property in accordance with Article 9 of the Uniform Commercial Code in effect in the State; provided, however, that any proceeds from the disposition of the property in excess of the sum required to (i) pay off any outstanding principal component of Lease Payments, (ii) pay any other amounts then due under the Property Schedule, and (iii) pay Lessor's costs and expenses associated with the disposition of the Property (including attorneys fees), shall be paid to Lessee or such other creditor of Lessee as may be entitled thereto, and further provided that no deficiency shall be allowed against Lessee except with respect to unpaid costs and expenses incurred by Lessor in connection with the disposition of the Property;
- (c) By written notice to any escrow agent who is holding proceeds of the Property Schedule, Lessor may instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, such sums to be credited to payment of Lessee's obligations under the Property Schedule;
- (d) Lessor may take any action, at law or in equity, that is permitted by applicable law and that may appear necessary or desirable to enforce or to protect any of its rights under the Property Schedule and this Agreement.

Notwithstanding the foregoing, if the proceeds are insufficient to pay items (i) to (iii) in Section 13.02(b) in whole, Lessee shall remain obligated after application of proceeds to items (i) and (ii), to pay in whole the amounts for item (iii).

**13.03 No Remedy Exclusive.** No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article.

**13.04 Costs and Attorney Fees.** Upon the occurrence of an Event of Default by Lessee in the performance of any term of this Agreement, Lessee agrees to pay to Lessor or reimburse Lessor for, in addition to all other amounts due hereunder, all of Lessor's costs of collection, including reasonable attorney fees, whether or not suit or action is filed thereon. Any such costs shall be immediately due and payable upon written notice and demand given to Lessee, shall be secured by this Agreement until paid and shall bear interest at the rate of 12% per annum or the maximum amount permitted by law, whichever is less. In the event suit or action is instituted to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial or on appeal of such suit or action or in any bankruptcy proceeding, in addition to all other sums provided by law.

#### ARTICLE XIV

**14.01 Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified mail, postage prepaid, to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party), to any assignee at its address as it appears on the registration books maintained by Lessee.

**14.02 Arbitrage Certificates.** Unless a separate Arbitrage Certificate is delivered on the Commencement Date, Lessee shall be deemed to make the following representations and covenants as of the Commencement Date for each Property Schedule:

- (a) The estimated total costs, including taxes, freight, installation, cost of issuance, of the Property under the Property Schedule will not be less than the total principal amount of the Lease Payments.
- (b) The Property under the Property Schedule has been ordered or is expected to be ordered within six months after the Commencement Date and the Property is expected to be delivered and installed, and the Vendor fully paid, within eighteen months from the Commencement Date. Lessee will pursue the completion of the Property and the expenditure of the net proceeds of the Property Schedule with due diligence.
- (c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Lease Payments under the Property Schedule, or (ii) that may be used solely to prevent a default in the payment of the Lease Payments under the Property Schedule.
- (d) The Property under the Property Schedule has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Lease Payments under the Property Schedule.
- (e) There are no other obligations of Lessee which (i) are being sold within 15 days of the Commencement Date of the Property Schedule; (ii) are being sold pursuant to the same plan of financing as the Property Schedule; and (iii) are expected to be paid from substantially the same source of funds.
- (f) The officer or official who has executed the Property Schedule on Lessee's behalf is familiar with Lessee's expectations regarding the use and expenditure of the proceeds of the Property Schedule. To the best of Lessee's knowledge, information and belief, the facts and estimates set forth in herein are accurate and the expectations of Lessee set forth herein are reasonable.

**14.03 Further Assurances.** Lessee agrees to execute such other and further documents, including, without limitation, confirmatory financing statements, continuation statements, certificates of title and the like, and to take all such action as may be necessary or appropriate, from time to time, in the reasonable opinion of Lessor, to perfect, confirm, establish, reestablish, continue, or complete the interests of Lessor in this Agreement and the Property Schedules, to consummate the transactions contemplated hereby and thereby, and to carry out the purposes and intentions of this Agreement and the Property Schedules.

**14.04 Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

**14.05 Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**14.06 Waiver of Jury Trials.** Lessee and Lessor hereby irrevocably waive all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Agreement or the actions of Lessor or Lessee in the negotiation, administration, performance or enforcement hereof.

**14.07 Amendments, Changes and Modifications.** This Agreement may be amended in writing by Lessor and Lessee to the extent the amendment or modification does not apply to outstanding Property Schedules at the time of such amendment or modification. The consent of all assignees shall be required to any amendment or modification before such amendment or modification shall be applicable to any outstanding Property Schedule.

**14.08 Execution in Counterparts.** This Agreement and the Property Schedules hereunder may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

14.09 **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State.

14.10 **Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

<b>Lessor: U.S. Bancorp Government Leasing and Finance, Inc.</b>
By:
Name:
Title:

<b>Lessee: &lt;&lt;Lessee&gt;&gt;</b>
By:
Name:
Title:

Attest:
By:
Name:
Title:

## ADDENDUM (GEORGIA)

### Master Tax-Exempt Lease/Purchase Agreement

THIS ADDENDUM, which is entered into as of <<StartDate>> between U.S. Bancorp Government Leasing and Finance, Inc. ("Lessor") and <<Lessee>> ("Lessee"), is intended to modify and supplement Property Schedule No. <<Sched. #>> (the "Property Schedule") to the Master Tax-Exempt Lease/Purchase Agreement between Lessor and Lessee dated as of <<MasterLeaseDate>> (the "Master Agreement"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Master Agreement.

1. If Lessee is a county or a municipality, then notwithstanding anything to the contrary set forth in the Master Agreement, title to the Property subject to the Property Schedule shall remain in Lessor during the Lease Term for such Property Schedule, subject to Lessee's rights under the Master Agreement.

2. The definition of "Original Term" set forth in Article I of the Master Agreement is amended to read in its entirety as follows: "**Original Term**" means, with respect to a Property Schedule, the period from the Commencement Date until the end of the calendar year of Lessee in effect at the Commencement Date."

3. The definition of "Renewal Terms" set forth in Article I of the Master Agreement is amended to read in its entirety as follows: "**Renewal Terms**" means the renewal terms of a Property Schedule, each having a duration of one calendar year."

4. Sections 6.05 and 6.06 of the Master Agreement are amended to read in their entirety as follows:

**6.05 Continuation of Lease by Lessee.** This Agreement and each Property Schedule shall be automatically renewed at the end of the Original Term and each Renewal Term (other than the last Renewal Term) for the next succeeding Renewal Term without further action by Lessor or Lessee, unless Lessee gives written notice to Lessor that it intends to terminate a Property Schedule not later than thirty (30) days prior to the end of the then current Original Term or Renewal Term, in which event such Property Schedule shall terminate at the end of the then current Original Term or Renewal Term, and Lessee shall have no further obligations thereunder, except as set forth in this Section. Upon the occurrence of such a termination (a "Termination Event") Lessee shall, no later than the end of the then-current Original Term or Renewal Term, deliver possession of the Property under said Property Schedule to Lessor. If Lessee fails to deliver possession of the Property to Lessor upon termination of said Property Schedule by reason of a Termination Event, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to the portion of Lease Payments thereafter coming due that is attributable to the number of days after the termination during which the Lessee fails to deliver possession and for any other loss suffered by Lessor as a result of Lessee's failure to deliver possession as required. In addition, Lessor may, by written instructions to any escrow agent who is holding proceeds of the Property Schedule, instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, such sums to be credited to Lessee's obligations under the Property Schedule and this Agreement.

**6.06 Nonappropriation.** Lessee reasonably believes that legally available funds in an amount sufficient to make all Lease Payments during the term of all Property Schedules can be obtained. Lessee agrees that its staff will provide during the budgeting process for each budget year to the governing body of Lessee notification of any Lease Payments due under the Property Schedules during the following budget year. Notwithstanding the foregoing, if during the then current Original Term or Renewal Term, sufficient funds are not appropriated to make Lease Payments required under a Property Schedule for the following fiscal year, the Property Schedule shall terminate at the end of the then current fiscal year for which funds have been appropriated, unless sooner terminated at the end of a calendar year falling within said current fiscal year pursuant to Section 6.05, and Lessee shall not be obligated to make Lease Payments under said Property Schedule beyond the then current fiscal year for which funds have been appropriated, or the end of a calendar year falling within said current fiscal year for which termination has occurred pursuant to Section 6.05. Upon the occurrence of such nonappropriation (a "Nonappropriation Event") Lessee shall, no later than the end of the fiscal year for which Lease Payments have been appropriated or the end of a calendar year falling within said current fiscal year for which termination has occurred pursuant to Section 6.05, deliver possession of the Property under said Property Schedule to Lessor. If Lessee fails to deliver possession of the Property to Lessor upon termination of said Property Schedule by reason of a Nonappropriation Event, the termination shall nevertheless be effective but Lessee shall be responsible for the payment of damages in an amount equal to the portion of Lease Payments thereafter coming due that is attributable to the number of days after the termination during

which the Lessee fails to deliver possession and for any other loss suffered by Lessor as a result of Lessee's failure to deliver possession as required. In addition, Lessor may, by written instructions to any escrow agent who is holding proceeds of the Property Schedule, instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, such sums to be credited to Lessee's obligations under the Property Schedule and this Agreement. Lessee shall notify Lessor in writing within seven (7) days after the failure of the Lessee to appropriate funds sufficient for the payment of the Lease Payments, but failure to provide such notice shall not operate to extend the Lease Term or result in any liability to Lessee."

5. In addition to the representations, warranties and covenants of Lessee set forth in the Master Agreement, Lessee, as of the Commencement Date for the Property Schedule, represents, warrants and covenants for the benefit of Lessor as follows:

(a) If the Lessee is a school district, then (i) in any calendar year in which the Property Schedule is in effect, the total amount of Lease Payments for such Property Schedule due in such calendar year, when added to Lessee's total combined annual payments for contracts entered into pursuant to Georgia Code Ann. Section 20-2-506 and Article IX, Section III, Paragraph I of the Constitution of Georgia, will not exceed 7.5 percent of the total local revenue collected for maintenance and operation of the Lessee in the most recently completed fiscal year attach computation of such test; and (ii) the Master Agreement and the Property Schedule comply with the Official Code of Georgia Annotated, and regulations thereunder, relating to state allocated capital outlay funds and entitlements;

(b) If the Lessee is a county or municipality, the principal component of the Lease Payments for the Property Schedule, when added to the amount of debt incurred by Lessee pursuant to Article IX, Section V, Paragraph I of the Constitution of Georgia, will not, on the Commencement Date, exceed 10 percent of the assessed value of all taxable property within Lessee attach computation of such test; and

(c) The Property under the Property Schedule have not been the subject of a referendum which failed to receive the approval of the voters of Lessee within the four calendar years immediately preceding the Commencement Date.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Addendum to be executed in their names by their duly authorized representatives as of the date first above written.

<b>Lessor: U.S. Bancorp Government Leasing and Finance, Inc.</b>
By:
Name:
Title:

<b>Lessee: &lt;&lt;Lessee&gt;&gt;</b>
By:
Name:
Title:

Attest:
By
Name:
Title:

**Property Schedule No. <<Sched.#>>**

**Master Tax-Exempt Lease/Purchase Agreement**

This **Property Schedule No. <<Sched. #>>** is entered into as of the Commencement Date set forth below, pursuant to that certain Master Tax-Exempt Lease/Purchase Agreement (the "Master Agreement"), dated as of <<MasterLeaseDate>>, between **U.S. Bancorp Government Leasing and Finance, Inc.**, and <<Lessee>>.

1. Interpretation. The terms and conditions of the Master Agreement are incorporated herein by reference as if fully set forth herein. Reference is made to the Master Agreement for all representations, covenants and warranties made by Lessee in the execution of this Property Schedule, unless specifically set forth herein. In the event of a conflict between the provisions of the Master Agreement and the provisions of this Property Schedule, the provisions of this Property Schedule shall control. All capitalized terms not otherwise defined herein shall have the meanings provided in the Master Agreement.
2. Commencement Date. The Commencement Date for this Property Schedule is <<Start Date>>.
3. Property Description and Payment Schedule. The Property subject to this Property Schedule is described in Exhibit 1 hereto. Lessee shall not remove such property from the locations set forth therein without giving prior written notice to Lessor. The Lease Payment Schedule for this Property Schedule is set forth in Exhibit 1.
4. Opinion. The Opinion of Lessee's Counsel is attached as Exhibit 2.
5. Lessee's Certificate. The Lessee's Certificate is attached as Exhibit 3.
6. Proceeds. Lessor shall disburse the proceeds of this Property Schedule in accordance with the instructions attached hereto as Exhibit 4.
7. Acceptance Certificate. The form of Acceptance Certificate is attached as Exhibit 5.
8. Additional Purchase Option Provisions. In addition to the Purchase Option provisions set forth in the Master Agreement, Lease Payments payable under this Property Schedule shall be subject to prepayment in whole at any time by payment of the applicable Termination Amount set forth in Exhibit 1 (Payment Schedule) and payment of all accrued and unpaid interest through the date of prepayment.
9. Bank Qualification and Arbitrage Rebate. Attached as Exhibit 6.
10. Expiration. Lessor, at its sole determination, may choose not to accept this Property Schedule if the fully executed, original Master Agreement (including this Property Schedule and all ancillary documents) is not received by Lessor at its place of business by <<ExpirationDate>>.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Property Schedule to be executed in their names by their duly authorized representatives as of the Commencement Date above.

<b>Lessor: U.S. Bancorp Government Leasing and Finance, Inc.</b>
By:
Name:
Title:

<b>Lessee: &lt;&lt;Lessee&gt;&gt;</b>
By:
Name:
Title:

Attest:
By
Name:
Title:

**EXHIBIT 1**

**Property Description and Payment Schedule**

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Re: **Property Schedule No. <<Sched. #>>** to Master Tax-Exempt Lease/Purchase Agreement U.S. Bancorp Government Leasing and Finance, Inc. and <<Lessee>>.

THE PROPERTY IS AS FOLLOWS: The Property as more fully described in Exhibit A incorporated herein by reference and attached hereto. It includes all replacements, parts, repairs, additions, accessions and accessories incorporated therein or affixed or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries.

PROPERTY LOCATION: <<PropertyAddress>>, <<PropertyCity>>, <<PropertyState>> PropertyZip>>

USE: <<BriefUseDescription>> - This use is essential to the proper, efficient and economic functioning of Lessee or to the services that Lessee provides; and Lessee has immediate need for and expects to make immediate use of substantially all of the Property, which need is not temporary or expected to diminish in the foreseeable future.

Lease Payment Schedule

If the Due Dates are not defined in this Lease Payment Schedule, they shall be defined as the <<First/Last>> day of each <<PayPeriod>> period of this Lease Payment Schedule commencing with the Acceptance Date.

Total Principal Amount: \$<<Amount>>

Payment No.	Due Date	Lease Payment	Principal Portion	Interest Portion	Termination Amount (After Making Payment for said Due Date)
-------------	----------	---------------	-------------------	------------------	---

*[Insert Table]*

<b>Lessee:</b> <<Lessee>>
By:
Name:
Title:

EXHIBIT 2

Lessee's Counsel's Opinion

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[To be provided on letterhead of Lessee's counsel.]

[Address to Lessor and Lessee]

RE: Property Schedule No. <<Sched.#>> to Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. and <<Lessee>>.

Ladies and Gentlemen:

We have acted as special counsel to <<Lessee>> ("Lessee"), in connection with the Master Tax-Exempt Lease/Purchase Agreement, dated as of <<MasterLeaseDate>> (the "Master Agreement"), between <<Lessee>>, as lessee, and U.S. Bancorp Government Leasing and Finance, Inc. as lessor ("Lessor"), and the execution of Property Schedule No <<Sched. #>> (the "Property Schedule") pursuant to the Master Agreement. We have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion.

All capitalized terms not otherwise defined herein shall have the meanings provided in the Master Agreement and Property Schedule.

As to questions of fact material to our opinion, we have relied upon the representations of Lessee in the Master Agreement and the Property Schedule and in the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing, we are of the opinion that, under existing law:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) the police power.
2. Lessee has all requisite power and authority to enter into the Master Agreement and the Property Schedule and to perform its obligations thereunder.
3. The execution, delivery and performance of the Master Agreement and the Property Schedule by Lessee has been duly authorized by all necessary action on the part of Lessee.
4. All proceedings of Lessee and its governing body relating to the authorization and approval of the Master Agreement and the Property Schedule, the execution thereof and the transactions contemplated thereby have been conducted in accordance with all applicable open meeting laws and all other applicable state and federal laws.
5. Lessee has acquired or has arranged for the acquisition of the Property subject to the Property Schedule, and has entered into the Master Agreement and the Property Schedule, in compliance with all applicable public bidding laws.
6. Lessee has obtained all consents and approvals of other governmental authorities or agencies which may be required for the execution, delivery and performance by Lessee of the Master Agreement and the Property Schedule.
7. The Master Agreement and the Property Schedule have been duly executed and delivered by Lessee and constitute legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with the terms thereof, except insofar as the enforcement thereof may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other laws of equitable principles of

general application, or of application to municipalities or political subdivisions such as the Lessee, affecting remedies or creditors' rights generally, and to the exercise of judicial discretion in appropriate cases.

8. As of the date hereof, based on such inquiry and investigation as we have deemed sufficient, no litigation is pending, (or, to our knowledge, threatened) against Lessee in any court (a) seeking to restrain or enjoin the delivery of the Master Agreement or the Property Schedule or of other agreements similar to the Master Agreement; (b) questioning the authority of Lessee to execute the Master Agreement or the Property Schedule, or the validity of the Master Agreement or the Property Schedule, or the payment of principal or interest on, the Property Schedule; (c) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Master Agreement and the Property Schedule; or (d) affecting the provisions made for the payment of or security for the Master Agreement and the Property Schedule.

This opinion may be relied upon by Lessor, its successors and assigns, and any other legal counsel who provides an opinion with respect to the Property Schedule.

Very truly yours,

By: \_\_\_\_\_

Dated: \_\_\_\_\_

**EXHIBIT 3**

**Lessee's Certificate**

Re: **Property Schedule No. <<Sched.#>>** to Master Tax-Exempt Lease/Purchase Agreement U.S. Bancorp Government Leasing and Finance, Inc. and <<Lessee>>.

The undersigned, being the duly elected, qualified and acting \_\_\_\_\_ of the <<Lessee>> ("Lessee") do hereby certify, as of <<Start Date>>, as follows:

1. Lessee did, at a meeting of the governing body of the Lessee held \_\_\_\_\_ by resolution or ordinance duly enacted, in accordance with all requirements of law, approve and authorize the execution and delivery of the above-referenced Property Schedule (the "Property Schedule") and the Master Tax-Exempt Lease/Purchase Agreement (the "Master Agreement") by the following named representative of Lessee, to wit:

NAME OF EXECUTING OFFICIAL	TITLE OF EXECUTING OFFICIAL	SIGNATURE OF EXECUTING OFFICIAL
And/ Or		

2. The above-named representative of the Lessee held at the time of such authorization and holds at the present time the office set forth above.

3. The meeting(s) of the governing body of the Lessee at which the Master Agreement and the Property Schedule were approved and authorized to be executed was duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, and the enactment approving the Master Agreement and the Property Schedule and authorizing the execution thereof has not been altered or rescinded. All meetings of the governing body of Lessee relating to the authorization and delivery of Master Agreement and the Property Schedule have been: (a) held within the geographic boundaries of the Lessee; (b) open to the public, allowing all people to attend; (c) conducted in accordance with internal procedures of the governing body; and (d) conducted in accordance with the charter of the Lessee, if any, and the laws of the State.

4. No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default or a Nonappropriation Event (as such terms are defined in the Master Agreement) exists at the date hereof with respect to this Property Schedule or any other Property Schedules under the Master Agreement.

5. The acquisition of all of the Property under the Property Schedule has been duly authorized by the governing body of Lessee.

6. Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Lease Payments scheduled to come due during the current budget year under the Property Schedule and to meet its other obligations for the current budget year and such funds have not been expended for other purposes.

7. As of the date hereof, no litigation is pending, (or, to my knowledge, threatened) against Lessee in any court (a) seeking to restrain or enjoin the delivery of the Master Agreement or the Property Schedule or of other agreements similar to the Master Agreement; (b) questioning the authority of Lessee to execute the Master Agreement or the Property Schedule, or the validity of the Master Agreement or the Property Schedule, or the payment of principal of or interest on, the Property Schedule; (c) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Master Agreement and the Property Schedule; or (d) affecting the provisions made for the payment of or security for the Master Agreement and the Property Schedule.

<<Lessee>>
By:
Title:
<b>SIGNER MUST NOT BE THE SAME AS THE EXECUTING OFFICIAL(S) SHOWN ABOVE.</b>

EXHIBIT 4

Payment of Proceeds Instructions

U.S. Bancorp Government Leasing and Finance, Inc.  
13010 SW 68th Parkway, Suite 100  
Portland, OR 97223

Re: Property Schedule No. <<Sched.#>> (the "Property Schedule") to Master Tax-Exempt Lease/Purchase Agreement between U.S. Bancorp Government Leasing and Finance, Inc. ("Lessor") and <<Lessee>> ("Lessee").

Ladies and Gentlemen:

The undersigned, an Authorized Representative of the Lessee hereby requests and authorizes Lessor to disburse the net proceeds of the Property Schedule as follows:

Name of Payee: \_\_\_\_\_

By check \_\_\_\_\_

By wire transfer \_\_\_\_\_

If by check, Payee's address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If by wire transfer, instructions as follows:

Pay to Bank Name:

\_\_\_\_\_

Bank Address:

\_\_\_\_\_

Bank Phone #:

\_\_\_\_\_

For Account of:

\_\_\_\_\_

Account No.:

\_\_\_\_\_

ABA No.:

\_\_\_\_\_

<<Lessee>>

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

EXHIBIT 5

Acceptance Certificate

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U.S. Bancorp Government Leasing and Finance, Inc.  
13010 SW 68th Parkway, Suite 100  
Portland, OR 97223

Re: **Property Schedule No. <<Sched. #>>** to Master Tax-Exempt Lease/Purchase Agreement between **U.S. Bancorp Government Leasing and Finance, Inc.** and <<Lessee>>

Ladies and Gentlemen:

In accordance with the above-referenced Master Tax-Exempt Lease/Purchase Agreement (the "Master Agreement"), the undersigned ("Lessee") hereby certifies and represents to, and agrees with, **U.S. Bancorp Government Leasing and Finance, Inc.** ("Lessor"), as follows:

- (1) The Property, as such terms are defined in the above-referenced Property Schedule, has been acquired, made, delivered, installed and accepted on the date indicated below.
- (2) Lessee has conducted such inspection and/or testing of the Property as it deems necessary and appropriate and hereby acknowledges that it accepts the Property for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default or a Nonappropriation Event (as such terms are defined in the Master Agreement) exists at the date hereof.

Date: \_\_\_\_\_

<<Lessee>>  
as Lessee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

<<ATTACHED EXHIBIT A -- PROPERTY DESCRIPTION>>

**EXHIBIT 6**

**Bank Qualification And Arbitrage Rebate**

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U.S. Bancorp Government Leasing and Finance, Inc.  
13010 SW 68th Parkway, Suite 100  
Portland, OR 97223

Re: **Property Schedule No. <<Sched.#>>** to Master Tax-Exempt Lease/Purchase Agreement **U.S. Bancorp Government Leasing and Finance, Inc.** and <<Lessee>>

[Consult tax counsel for applicable provisions]

**Bank Qualified Tax-Exempt Obligation under Section 265**

[Lessee hereby designates this Property Schedule as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code. Lessee reasonably anticipates issuing tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds and including all tax-exempt obligations of subordinate entities of the Lessee) during the calendar year in which the Commencement Date of this Property Schedule falls, in an amount not exceeding \$10,000,000.]

or

[Not applicable.]

**Arbitrage Rebate**

[Use Small Issuer Exception, if applicable.]

[Small Issuer Exception:

(a) Lessee is a governmental unit under the law of the State with general taxing powers, (b) this Property Schedule is not a private activity bond as defined in Section 141 of the Code, (c) 95% or more of the net proceeds of this Property Schedule will be used for local government activities of Lessee, and (d) the aggregate face amount of all tax-exempt obligations (other than private activity bonds) issued by Lessee (and all subordinate entities thereof) during the calendar year in which the Commencement Date of this Property Schedule falls is not reasonably expected to exceed \$5,000,000 (plus any additional amounts, not to exceed \$10,000,000 which are for the construction, reconstruction or rehabilitation of public school facilities).]

or

[Eighteen Month Exception:

Pursuant to Treasury Regulations Section 1.148-7(d), the gross proceeds of this Property Schedule will be expended for the governmental purposes for which this Property Schedule was entered into, as follows: at least 15% within six months after the Commencement Date, at least 60% within 12 months after the Commencement Date, and 100% within 18 months after the Commencement Date. If Lessee is unable to comply with Section 1.148-7(d) of the Treasury Regulations, Lessee shall compute rebatable arbitrage on this Agreement and pay rebatable arbitrage to the United States at least once every five years, and within 60 days after payment of the final Lease Payment due under this Agreement.]

*[Consult tax counsel if neither exception is available or if there is any chance that the Eighteen Month Exception will not be met.]*

Lessee: <<Lessee>>
By:
Name:
Title:

## Language for UCC Financing Statements

### Schedule 1

SECURED PARTY: U.S. Bancorp Government Leasing and Finance, Inc.

DEBTOR: <<Lessee>>

This financing statement covers all of Debtor's right, title and interest, whether now owned or hereafter acquired, in and to the equipment leased to Debtor under Property Schedule No. <<Sched.#>> dated StartDate>> to that certain Master Tax-Exempt Lease Purchase Agreement dated as of <<MasterLeaseDate>>, in each case between Debtor, as Lessee, and Secured Party, as Lessor, together with all accessions, substitutions and replacements thereto and therefore, and proceeds (cash and non-cash), including, without limitation, insurance proceeds, thereof, including without limiting, all equipment described on Exhibit A attached hereto and made a part hereof.

Debtor has no right to dispose of the equipment.

## INSURANCE AUTHORIZATION AND VERIFICATION

Date: \_\_\_\_\_

Property Schedule No: <<Sched.#>>

To: <<Lessee>> (the "Lessee")

From: **U.S. Bancorp Government Leasing and Finance, Inc. (the "Lessor")**  
**13010 SW 68th Parkway, Suite 100**  
**Portland, OR 97223**  
**Attn: Regina Eckendorf**

**TO THE LESSEE:** In connection with the above-referenced Property Schedule, Lessor requires proof in the form of this document, executed by both Lessee\* and Lessee's agent, that Lessee's insurable interest in the financed property (the "Property") meets Lessor's requirements as follows, with coverage including, but not limited to, fire, extended coverage, vandalism, and theft:

**Lessor, AND ITS SUCCESSORS AND ASSIGNS, shall be covered as both ADDITIONAL INSURED and LENDER'S LOSS PAYEE with regard to all equipment financed or leased by policy holder through or from Lessor. All such insurance shall contain a provision to the effect that such insurance shall not be canceled or modified without first giving written notice thereof to Lessor and Lessee at least thirty (30) days in advance of such cancellation or modification.**

**Lessee must carry GENERAL LIABILITY (and/or, for vehicles, Automobile Liability) in the amount of no less than \$1,000,000.00 (one million dollars).**

**Lessee must carry PROPERTY Insurance (or, for vehicles, Physical Damage Insurance) in an amount no less than the 'Insurable Value' \$ \_\_\_\_\_ [amount of financing], with deductibles no more than \$10,000.00.**

*\*Lessee: Please execute this form and return with your document package. Lessor will fax this form to your insurance agency for endorsement. In lieu of agent endorsement, Lessee's agency may submit insurance certificates demonstrating compliance with all requirements. If fully executed form (or Lessee-executed form plus certificates) is not provided within 15 days, we have the right to purchase such insurance at your expense. Should you have any questions, please contact Regina Eckendorf at (303) 585-4025.*

**By signing, Lessee authorizes the Agent named below: 1) to complete and return this form as indicated; and 2) to endorse the policy and subsequent renewals to reflect the required coverage as outlined above.**

Agency/Agent: \_\_\_\_\_ / \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone/Fax: \_\_\_\_\_ / \_\_\_\_\_  
E-Mail: \_\_\_\_\_

<<LESSEE>>

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TO THE AGENT: *In lieu of providing a certificate, please execute this form in the space below and promptly fax it to Lessor at \_\_\_\_\_. This fully endorsed form shall serve as proof that Lessee's insurance meets the above requirements.***

**Agent hereby verifies that the above requirements have been met in regard to the Property listed below.**

Print Name Of Agency: X \_\_\_\_\_

By: X \_\_\_\_\_  
(Agent's Signature)

Print Name: X \_\_\_\_\_

Date: X \_\_\_\_\_

**Insurable Value:** \$ \_\_\_\_\_ [amount of financing]

**ATTACHED: PROPERTY DESCRIPTION FOR PROPERTY SCHEDULE NO.:** <<Sched.#>>

## Notification of Tax Treatment to Master Tax-Exempt Lease/Purchase Agreement

This **Notification of Tax Treatment** is pursuant to a Master Tax-Exempt Lease/Purchase Agreement dated as of \_\_\_\_\_ and the related Property Schedule dated as of \_\_\_\_\_, between Lessor and Lessee (the "Agreement").

- \_\_\_\_\_ Lessee agrees that this Property Schedule SHOULD be subject to sales/use taxes
- X   Lessee agrees that this Property Schedule should NOT be subject to sales/use taxes and Lessee has included our tax-exemption certificate with this document package
- \_\_\_\_\_ Lessee agrees that this Property Schedule should NOT be subject to sales/use taxes and no tax-exemption certificate is issued to us by the State
- \_\_\_\_\_ Lessee agrees that this Property Schedule is a taxable transaction and subject to any/all taxes
- \_\_\_\_\_ Lessee agrees that this Property Schedule is subject to sales/use taxes and will pay those taxes directly to the State or Vendor

IN WITNESS WHEREOF, Lessee has caused this Notification of Tax Treatment to be executed by their duly authorized representative.

<b>Date:</b>
--------------

<b>Lessee:</b>
----------------

By:
-----

Name:
-------

Title:
--------

# VEHICLE TITLING ADDENDUM

Master Tax-Exempt Lease/Purchase Agreement dated <<MasterLeaseDate>> and related Property Schedule No. <<Sched.#>> dated <<Start Date>>, between <<Lessee>> as Lessee and U.S. Bancorp Government Leasing and Finance, Inc. as Lessor.

1. Lessor and Lessee hereby agree to amend the above referenced Agreement to add additional terms and conditions as set forth below:

Lessee agrees that it will provide to Lessor the original title documentation to the Equipment. Lessee shall provide such title documentation to Lessor within 15 days of Lessee's receipt of such title documentation from the appropriate titling authority. Lessee's failure to provide Lessor with title documentation to the Equipment in a timely fashion shall be deemed a condition of Default as defined in the default paragraph herein subject to remedies available to Lessor pursuant to the remedies paragraph. Lessee further agrees to pay a month to month unobtained titling fee if Lessor has not received the correct transferred title in Lessor's office.

2. Location: Lessor agrees that in regard to the location of the equipment, Lessee must be responsible for maintaining records showing the location of each piece of Leased equipment. Lessee will report this location to Lessor upon written request by Lessor. Failure to do so shall constitute a breach of the Agreement, which default shall be governed by the terms and conditions specified in the default and/or remedies paragraph of the Agreement.

3. Lessee will complete the physical titling of the vehicle as required by the state of Lessee's residence and guarantee U.S. Bancorp Government Leasing and Finance, Inc. that U.S. Bancorp Government Leasing and Finance, Inc. will receive the original title to the leased vehicle in a timely manner. Lessee agrees to indemnify U.S. Bancorp Government Leasing and Finance, Inc. from any damage or loss it incurs, including legal fees, due to its failure to complete its agreement herein.

## THE APPLICATION FOR TITLE MUST INCLUDE THE FOLLOWING AS 1<sup>ST</sup> LIEN HOLDER:

**U.S. BANCORP GOVERNMENT LEASING AND FINANCE, INC.  
1310 MADRID STREET  
MARSHALL, MN 56258**

By signing this Addendum, Lessee acknowledges the above changes to the Agreement and authorizes Lessor to make such changes. In all other respects the terms and conditions of the Agreement remain in full force and effect.

<b>Lessor: U.S. Bancorp Government Leasing and Finance, Inc.</b>
By:
Name:
Title:
Date:

<b>Lessee: &lt;&lt;Lessee&gt;&gt;</b>
By:
Name:
Title:
Date:

**BULLOCH COUNTY BOARD OF COMMISSIONERS  
AGENDA ITEM SUMMARY**

DEPARTMENT MAKING REQUEST:

MEETING DATE: 02.07.2013

Clerk of the Board/Sheriff

RESOLUTION ATTACHED?

YES

NO

REQUESTED MOTION OR ITEM TITLE:

To renew Blue Sky Trading Inc. 2013 Alcoholic Beverage License at 3180 US Highway 25 North for Ghanshaymbahi Patel (owner) and James Earl Clifton (Designee).

SUMMARY/BACKGROUND ATTACH DETAILED SUMMARY, IF NEEDED

There is no apparent reason to deny the applications. Approval is recommended.

AGENDA CATEGORY (CHECK ONE)		FINANCIAL IMPACT STATEMENT				
PRESENTATION		BUDGETED ITEM?	YES	N	AMENDMENT REQUIRED?	YES
			NO			NO <input checked="" type="checkbox"/>
PUBLIC HEARING		ATTACH DETAILED ANALYSIS, IF NEEDED:				
CONSENT	<input checked="" type="checkbox"/>					
NEW BUSINESS						
OLD BUSINESS						
OTHER						

**APPROVED FOR AGENDA**

DEPARTMENT DIRECTOR		PURCHASING OFFICER		OTHER		COUNTY CLERK		COUNTY STAFF ATTORNEY		COUNTY MANAGER	
YES		YES		YES		YES		YES		YES	
NO		NO		NO		NO		NO		NO	
INITIAL		INITIAL		INITIAL		INITIAL		INITIAL		INITIAL	
DATE		DATE		DATE		DATE		DATE		DATE	

**COMMISSION ACTION AND REFERRAL (Box 9)**

APPROVED		DATE TO BE RETURNED TO AGENDA
DENIED		
DEFERRED		NOTES
OTHER		

**BULLOCH COUNTY BOARD OF COMMISSIONERS  
AGENDA ITEM SUMMARY**

DEPARTMENT MAKING REQUEST (Box 1)  County Manager/Legal/Engineering	MEETING DATE (Box 2) February 7, 2013		
	RESOLUTION ATTACHED? (Box 3)	YES	
		NO	X

REQUESTED MOTION OR ITEM TITLE (Box 4)  
  
Discussion and/or Action to Terminate a Contract for Road Striping with Diversified Traffic Services, Inc.

SUMMARY/BACKGROUND ATTACH DETAILED SUMMARY, IF NEEDED (Box 5)  
  
Please review the attached copies of a letter dated January 11, 2013 to Diversified Traffic Services, Inc. ("Diversified") and its surety, Diversified's response to same dated January 25, 2013, and our response to Diversified dated January 29, 2013. Based on the reasons stated therein, we recommend and request that the Board declare Diversified in default and terminate for cause the road striping contract with Diversified dated June 6, 2012.

AGENDA CATEGORY (CHECK ONE) (Box 6)		FINANCIAL IMPACT STATEMENT (Box 7)					
PRESENTATION (6a)		BUDGETED ITEM? (7a)	YES		AMENDMENT REQUIRED? (7b)	YES	
			NO			NO	
PUBLIC HEARING (6b)		ATTACH DETAILED ANALYSIS, IF NEEDED (7c)					
CONSENT (6c)							
NEW BUSINESS (6d)	X						
OLD BUSINESS (6e)							
OTHER (6f)							

APPROVED FOR AGENDA (Box 8)

DEPARTMENT DIRECTOR		PURCHASING OFFICER		OTHER		COUNTY CLERK		COUNTY STAFF ATTORNEY		COUNTY MANAGER	
YES		YES		YES		YES		YES	✓	YES	
NO		NO		NO		NO		NO		NO	
INITIAL		INITIAL		INITIAL		INITIAL		INITIAL	jsa	INITIAL	
DATE		DATE		DATE		DATE		DATE	1/31/13	DATE	

COMMISSION ACTION AND REFERRAL (Box 9)

APPROVED		DATE TO BE RETURNED TO AGENDA
DENIED		
DEFERRED		NOTES
OTHER		

J. GARRETT NEVIL  
Chairman  
CAROLYN ETHRIDGE  
Commissioner  
WALTER GIBSON  
Commissioner  
RAY MOSLEY  
Commissioner  
ROBERT RUSHING  
Commissioner  
ANTHONY D. SIMMONS  
Commissioner  
ROY THOMPSON  
Commissioner



THOMAS M. COUCH  
County Manager  
HARRY STARLING  
Chief Financial Officer  
JEFF S. AKINS  
Chief Legal Counsel  
MAGGIE FITZGERALD  
Clerk of the Board

## BULLOCH COUNTY BOARD OF COMMISSIONERS

January 11, 2013

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**  
**(a copy of this letter also sent to the addressee via regular U.S. mail)**

Diversified Traffic Services, Inc.  
725 Main St.  
Blackshear, GA 31516  
Attn: Arlene Howard, President

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**  
**(a copy of this letter also sent to the addressee via regular U.S. mail)**

Diversified Traffic Services, Inc.  
P.O. Box 322  
Blackshear, GA 31516  
Attn: Arlene Howard, President

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**  
**(a copy of this letter also sent to the addressee via regular U.S. mail)**

WIMSUR, LLC  
6893 Beacon Mountain Dr.  
Lithonia, GA 30038  
Attn: Walter I. Miller, Managing Member

Re: Contract by and between Diversified Traffic Services, Inc. and Bulloch County dated June 6, 2012 for 2012 Off-system Roadway Striping in Bulloch County and the Town of Brooklet

Dear Ms. Howard & Mr. Miller:

In accordance with Section 3.1 of the performance bond issued for the above-referenced contract, this is to advise you that Bulloch County is considering declaring a Contractor Default and terminating its contract with Diversified Traffic Services, Inc. (hereinafter "Diversified"). Section 3 of the contract requires the work under the contract to be completed within ninety (90)

Diversified Traffic Services, Inc. & WIMSUR, LLC

January 11, 2013

Page 2

calendar days after issuance to the contractor of a notice to proceed. The notice to proceed was issued to Diversified on June 15, 2012, and the contract therefore should have been completed no later than September 13, 2012.

Despite our repeated requests for Diversified to diligently prosecute and finish the work, the contract remains approximately 65% incomplete as of the date of this letter. Furthermore, to our knowledge Diversified has not performed any substantial work on this contract since October of 2012 and has utterly failed to respond in any meaningful way to our entreaties. Thus, this contract is now four months beyond the completion date, and yet only about 35% of the contract has been performed and Diversified has not performed any substantial work in nearly 2 ½ months. This is a substantial breach of the contract that justifies termination for cause under Section 14 of the contract.

In accordance with Section 3.1 of the performance bond, we are requesting a conference with Diversified and its surety to discuss methods of performing the contract. We are willing to have this conference in person at our offices or by phone. The conference needs to take place sometime before January 29, 2013. Please advise us promptly of any dates and times for which you will **not** be available prior to January 29, and whether you wish to participate in person or by phone.

**I would prefer that you communicate with me via email at [tmcouch@bullochcounty.net](mailto:tmcouch@bullochcounty.net).** We will then schedule a date and time for the conference. If we cannot reach a satisfactory resolution at this conference, we will proceed with a declaration of default and termination of the contract and will expect WIMSUR, LLC to honor its obligation as surety to complete the contract by any of the various methods outlined in Paragraph 4 of the performance bond.

Sincerely,



Thomas M. Couch, County Manager

cc: J. Garrett Nevil, Chairman  
V. Kirk Tatum, County Engineer  
Harry Starling, Chief Financial Officer  
Jeff S. Akins, County Attorney

# DIVERSIFIED TRAFFIC SERVICES, INC

NAICS Code: 237310  
Mailing:  
P.O. Box 322  
Blackshear, Ga. 31516  
Phone (912)449-1213

DBE Certification  
Physical:  
725 Main St.  
Blackshear, Ga. 31516  
Fax (912)449-5789

DOT Vendor ID: 2DI502  
Shipping:  
4081 Walkerville Road  
Mershon, Ga. 31551  
Email: [arlene\\_howard@bellsouth.net](mailto:arlene_howard@bellsouth.net)

January 25, 2013

Mr. Thomas M. Couch  
Bulloch Co. Commissioners  
P.O. Box 347  
Statesboro, GA. 30459

Dear Mr. Couch,

D.T.S. proposes the following on getting the contract with your county completed in a timely manner. After doing my reconciliation on our WIMSUR account I see that we have \$6,159.56 in Escrow. I am giving you the breakdown of receivables and payables on this project.

Bulloch Co. Payables:  
Sign Balance: \$ 6,816.08  
Swarco Bal: \$ 97,421.83  
Bulloch Bal: \$40,000.00  
Total \$144,237.91

Bulloch Co. Receivables:  
White: \$ 33,341.25  
Yellow: \$110,707.25  
Handwork: \$ 6,328.25  
Total \$150,376.75

At the end of this project, we will have \$6,138.84 left over in profit. If all parties involved agree to advance us the funds, needed to complete this project we can have it finished in 30-60 days and all suppliers paid in full. This would mean using the \$6,159.56 in Escrow as well as \$6,000.00 in remaining profits. These funds will need to be deposited with the Walker Agency (Mychal Walker) so that funds will be transferred in a timely manner. We have exhausted all of our resources and feel this would help all parties involved to get this project completed. WIMSUR will need to understand we cannot have delays in requesting funds or it will shut us down and delay the project even further. Whatever decisions are made we are willing to comply, due to wanting to complete this project and get it put behind us. Please advise of any decisions that are made.

J. GARRETT NEVIL  
Chairman  
CAROLYN ETHRIDGE  
Commissioner  
WALTER GIBSON  
Commissioner  
RAY MOSLEY  
Commissioner  
ROBERT RUSHING  
Commissioner  
ANTHONY D. SIMMONS  
Commissioner  
ROY THOMPSON  
Commissioner



THOMAS M. COUCH  
County Manager  
HARRY STARLING  
Chief Financial Officer  
JEFF S. AKINS  
Chief Legal Counsel  
MAGGIE FITZGERALD  
Clerk of the Board

## BULLOCH COUNTY BOARD OF COMMISSIONERS

January 29, 2013

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**  
**(a copy of this letter also sent to the addressee via regular U.S. mail)**

Diversified Traffic Services, Inc.  
725 Main St.  
Blackshear, GA 31516  
Attn: Arlene Howard, President

**CERTIFIED MAIL/RETURN RECEIPT REQUESTED**  
**(a copy of this letter also sent to the addressee via regular U.S. mail)**

Diversified Traffic Services, Inc.  
P.O. Box 322  
Blackshear, GA 31516  
Attn: Arlene Howard, President

Re: Contract by and between Diversified Traffic Services, Inc. and Bulloch County dated June 6, 2012 for 2012 Off-system Roadway Striping in Bulloch County and the Town of Brooklet

Dear Ms. Howard:

As you know, we held a conference call with your surety, WIMSUR, LLC, in which you were invited to participate on Friday, January 25, 2013 at 10:00 a.m. While you elected not to participate in this conference call, I have reviewed your written proposal for completing the above-referenced contract sent to me via email on that same date.

Your proposal to complete the contract within 30 to 60 days if you can obtain additional advanced payment is wholly insufficient and unsatisfactory. Therefore, for the reasons stated in my previous letter to you and your surety dated January 11, 2013, I will recommend to the Board of Commissioners that they formally declare your company in default and terminate this contract at their next meeting on February 7, 2013.

Diversified Traffic Services, Inc.  
Attn: Arlene Howard, President  
January 29, 2013  
Page 2

Assuming the Board follows my recommendation, I will then send you and your surety formal notice of default and termination, and we will work with your surety to complete this contract in as economical and timely a manner as possible.

Sincerely,



Thomas M. Couch, County Manager

cc: J. Garrett Nevil, Chairman  
V. Kirk Tatum, County Engineer  
Harry Starling, Chief Financial Officer  
Jeff S. Akins, County Attorney  
Walter I. Miller, WIMSUR, LLC