OPERATING LEASE AND MAINTENANCE AGREEMENT
BETWEEN
LAKE COUNTY, FLORIDA AND
HIGHLAND TRACTOR CO.
FOR A BULLDOZER
RFP 14-0617

THIS OPERATING LEASE AND MAINTENANCE AGREEMENT is made by and between Lake County, Florida, a political subdivision of the State of Florida, hereinafter the "County", and Highland Tractor Co., a Florida corporation, its successors and assigns, hereafter "Lessor".

WHEREAS, the County has publicly issued a Request for Proposal, RFP #14-0617, in accordance with the Lake County Purchasing Policies and Procedures for firms qualified to provide one (1) Bulldozer for the Lake County Public Works Department, Division of Solid Waste; and

WHEREAS, the Lessor desires to provide and maintain such equipment subject to the terms of this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, premises, covenants and payment hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and incorporated herein.

2. **Lease Term.** The Lease term for each unit identified in the Equipment and Payment Schedule attached hereto and incorporated herein by reference as **Exhibit A**, shall commence on its "Delivery Date", which is the date the County takes possession of the Equipment, and shall continue for a period of sixty (60) months, unless otherwise terminated. All parties agree that title to the Equipment shall at all times remain with the Lessor during the lease term and renewal term, if any. The County will not accept any U.C.C. filings, nor will the County provide a IRS Form 8038/8038G.

3. **Payments.** During the lease term, the County shall make all lease payments on a timely basis, including lease payments that are required to be made in the renewal term, if any. See the Equipment and Payment schedule attached hereto as **Exhibit A**. The County shall not be entitled to cancel or terminate this Lease except as expressly provided herein. Any lease payment received from the County shall be applied to this Lease. Payments shall be made in accordance with the Florida Prompt Payment Act, Chapter 218, Part VII, Florida Statutes.

Invoices shall be submitted in duplicate to Lake County Board of County Commissioners, Attention: Department of Public Works, P.O. Box 7800, Tavares, Florida 32778. Invoices shall be itemized by equipment serial number and include the contract and/or purchase order number. Failure to submit invoices in the proscribed manner will delay payment

and the Lessor may be considered in default of this Agreement and this Agreement may be terminated.

4. **Option to Renew; Option to Purchase.** The initial Lease Term may be renewed for successive one (1) year periods at the same pricing, terms and conditions contained herein, upon sixty (60) days written notice to the Lessor prior to the expiration of the then current lease term. If the County is not in default under this Lease, the County may purchase any particular item of equipment on the lease termination date, or any renewal thereof, at the fair market value of the equipment. Fair market value shall be determined by reference to recent sales of used equipment of similar type and condition and/or by reference to the Green Guide Construction Equipment, published by PriMedia Books, current as of the time the County exercises the purchase option. If the parties cannot agree on the fair market value based upon sales of similar equipment or by use of the Green Guide Construction Equipment, the parties agree to have the Equipment valued by an independent appraisal company, mutually agreed upon, specializing in this type of equipment, and to equally divide the cost of such appraisal. To exercise the purchase option the County must notify the Lessor sixty (60) days prior to the end of the initial Lease Term, or applicable renewal term.

5. **Assignment.**

A. No assignment of the payments under this Lease, or assignment of any right or obligation hereunder may be made by the County or by the Lessor without the prior written consent of the other. In the event that the Lessor assigns this Lease with permission of the County, the assignee shall agree in writing to assume all obligations contained within this Lease, including all maintenance responsibilities described herein upon failure of the Lessor to fulfill such maintenance obligations. Failure of assignee to assume all responsibilities hereunder shall void the assignment. Lessor shall remain liable for its performance under this Lease regardless of any assignment. The County shall have the right to review the assignment and shall be provided a copy of any associated documents perfecting the assignment.

B. Assignments shall be in the form and manner set forth in **Exhibit B**, attached hereto and incorporated herein by reference. The County shall not make any payments to assignee, until such time as a copy of the fully executed Assignment is delivered to the County.

6. **Service and Use of Equipment.** Lessor shall provide, at no cost to the County, operator training to County sufficient to ensure efficient operation of the Equipment and shall provide at least two (2) copies of service, parts and operator's manual to County. County shall only be responsible for daily fueling, checking of fluid levels and adding fluid if necessary, and/or greasing of fittings if required. Otherwise, all service, maintenance and repairs shall be the responsibility of the Lessor and shall be conducted in accordance with the following:

A. Operational Condition. The Equipment shall be well maintained in top operating condition with 100% of all parts, components, and systems operational. All pin, hitches and moving parts shall be tight and within manufacturer's standards or tolerances.

Engines, transmissions, drive axles, and hydraulic systems shall be in peak operational condition at all times absent of leaks, blowby, reduced hydraulic pressures or driveline noise.

B. Downtime. Should the Lessor fail to complete the required service, maintenance, or repairs and return the Equipment to duty, or should the Lessor fail to supply the necessary parts or labor to effect the repair within forty-eight (48) continuous hours, including holidays, Saturdays and Sundays, from telephonic notification, followed by written confirmation, by the County to the Lessor, a delay charge equal to eight hundred dollars ($800.00) per calendar day, per unit shall be deducted from any leasing charge or maintenance fee schedules. Lessor shall be given the option of furnishing like equipment in lieu of the delay charge. Delay charges shall not be charged when the delay is a result of a natural disaster.

C. Transportation. All transportation for service, maintenance and repair shall be the responsibility of the Lessor.

D. Special Conditions. Due to the unique corrosive conditions of an ash filled landfill the Lessor may elect to perform a mid-term inspection and repaint of the under carriage of the bulldozer. The lessor shall be responsible for all associated costs for transportation, labor, and materials.

Lessor shall be entitled to inspect the Equipment during regular business hours at County's place of business. County shall not install any accessory or device on the Equipment, except for such as may be removed without affecting the originally intended function or use of the Equipment. The contract pricing includes 624 Annual Average hours.

7. <u>Scope of Service, Maintenance and Repair.</u>

A. <u>General.</u> The Lessor shall be responsible for all service, maintenance and repair, both scheduled and unscheduled during the Lease Term in accordance with the following:

1) This agreement includes all parts, filters, oils, and other fluids (excluding top-off lubricants and fuel), delivery freight charges, labor travel time and/or mileage charges to complete recommended preventive maintenance, oil sampling at 250 hours, and to complete any repairs not covered by warranty during the contract term.

2) Special arrangements may be made to complete repair work on Saturdays, Sundays, or holidays if the County grants permission to access the machine during those days. Lessor must approve all requests for overtime labor before work begins.

3) Lessor shall furnish all tools and equipment necessary for normal field adjustment of the equipment.

4) Parts orders received by Lessor Monday through Friday, 7:30 am to 1:30 pm, will be shipped the same day. Parts required for warranty repair are shipped for delivery the next business day, excluding Saturdays, Sundays, and holidays.

5) Lessor will assume that cosmetic damage is normal wear and tear, and since all maintenance and repair is the responsibility of the Lessor, no claim for damages based upon abnormal wear and tear shall be made. Cosmetic damage shall include minor scratches or dents, but shall not include the following specifically limited items: (1) large dents covering 25% or more of the individual parts surface area in the sheet metal; (2) guards; (3) broken glass; or (4) broken lights so long as such things are not caused by the negligence of the Lessor. The following shall also apply:

a. Lessor must provide immediate inspection at the time the Equipment is returned to Lessor by the County, or else Lessor waives any claims it may have regarding damage to the Equipment.

b. Lessor must provide an estimate to repair the non-cosmetic damage to the Lessee.

c. County has the right to fix the non-cosmetic damage within a reasonable amount of time if Lessor's repair estimate is deemed unacceptable by the Lessee.

B. Repair Requests.

1) All requests for scheduled service or repairs will be directed to the Lessor.

2) Requests for PM service must be requested a minimum of one week prior to the next scheduled interval and will be completed during normal business hours.

3) If repairs are required, the Lessor will arrange on-site service response and will notify County immediately if the equipment is inoperable.

8. County's Responsibilities.

A. Lake County will be responsible for the daily fueling, checking of fluid levels (adding if necessary), and/or greasing of fittings (if required).

B. Lake County will be responsible for completing mandatory daily and weekly maintenance and inspection requirements as outlined in the Lessor's service manual and the engine manufacturer's maintenance schedule.

C. The County is required to report any failure of the bulldozer's hour meter.

9. Return of Equipment. With respect to the Equipment, upon termination of this Lease, or any renewal thereof, or if the above option to purchase is not exercised, the County shall return the Equipment, at the Lessor's expense, to Lessor at a location designated by the County.

10. Disclaimer. County agrees that the Equipment has been selected by the County; the Equipment has been inspected by the County and County is satisfied that the Equipment is suitable for its purpose; Lessor is not the manufacturer of Equipment; and Lessor has not made any express warranties regarding this Equipment.

11. Insurance. County shall maintain pubic liability insurance on the Equipment with a minimum liability limits in the amount of $1,000,000.00 per occurrence for bodily injury, including death, and in the minimum amount of $250,000.00 per occurrence for property damage. County shall deliver to the Lessor, upon request, certificates or other evidence satisfactory to Lessor that insurance is maintained as required under this Lease. Lessor shall provide and maintain during the entire term of this Agreement insurance in the following types and limits with a company or companies authorized to do business in the State of Florida and which are acceptable to the County. Lessor shall not commence work under the Agreement until the County has received an acceptable certificate or certificates of insurance evidencing the required insurance, which is as follows:

(i) General Liability insurance on forms no more restrictive than the latest edition of the Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

Each Occurrence/General Aggregate	$1,000,000
Products-Completed Operations	$500,000
Personal & Adv. Injury	$500,000
Fire Damage	$50,000
Medical Expense	$5,000
Contractual Liability	

(ii) Automobile liability insurance, including owned, non-owned and hired autos with the following minimum limits and coverage:

Combined Single Limit	$300,000
or	
Bodily Injury (per person)	$100,000
Bodily Injury (per accident)	$300,000
Property Damage	$100,000

(iii) **Lake County, A Political Subdivision Of The State Of Florida, And The Board Of County Commissioners**, shall be name as additional insured as their interest may appear all applicable liability insurance policies.

(iv) Workers' compensation insurance in accordance with Florida Statute, Chapter 440, and/or any other applicable law requiring workers' compensation (Federal, maritime, etc).

(v) Certificates of insurance shall provide for a minimum of sixty (60) days prior written notice to the County of any change, cancellation, or nonrenewal of the required insurance.

(vi) Certificates of insurance shall identify the RFP number in the Description of Operations section of the Certificate.

(vii) Lessor shall be responsible for subcontractors and their insurance. Subcontractors are to provide certificates of insurance to the County evidencing coverage and terms in accordance with the Lessor's requirements.

(viii) The Certificate holder shall be: LAKE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND THE BOARD OF COUNTY COMMISSIONERS, P.O. BOX 7800, TAVARES, FL 32778-7800

(ix) All deductibles or self-insurance shall appear on the certificates and shall be subject to approval by the County. At the option of the County, the insurer shall reduce or eliminate such deductibles or self-insured retentions, or the lessor and/or subcontractor shall be required to procure a bond guaranteeing payment of losses and related claims expenses.

(x) The County shall be exempt from, and in no way liable for, any sums of money which may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of the lessor and/or subcontractor providing such insurance.

Failure to obtain and maintain such insurance as set out above will be considered a breach of contract and may result in termination of the contract for default.

Neither approval by the County of any insurance supplied by the vendor or subcontractor, nor a failure to disapprove that insurance, shall relieve the lessor or subcontractor of full responsibility for liability, damages, and accidents as set forth herein.

12. <u>Loss or Damage.</u>

A. All risk of loss or damage to the Equipment shall be the responsibility of the County, with exception of loss or damage resulting from the failure of Lessor to maintain the Equipment in accordance with this Lease. If any unit becomes stolen, destroyed or irreparably damaged from any cause other than from acts of the Lessor during the Lease Term, County shall give Lessor prompt notice thereof. County shall, in its sole discretion, elect to use the proceeds

from any insurance claim to be applied to the repair of the Equipment or to payment of any obligation hereunder.

B. The County shall be responsible for injury or death of any person, to the extent permitted by section 768.28, Florida Statutes that arises out of County's possession, use, operation or storage of the Equipment.

13. Fees and Property Taxes. Unless otherwise provided herein, the County shall not be responsible for any taxes and fees.

14. Event of Default. A party shall be in default of this Lease by failing to perform or observe any covenant or condition contained herein that such party is required to perform and where such failure continues for a period of ten (10) days after written notice thereof is sent to the defaulting party by the non-defaulting party.

15. Remedies. Upon default by either party under this Lease, the non-defaulting party may avail itself of any remedy available pursuant to Florida law, including terminating the remainder of this Lease agreement.

16. Termination. This Agreement may be terminated by the County upon thirty (30) days advance written notice to the other party.

A. Termination for Cause. Termination by County for cause, default, or negligence on the part of Lessor shall be excluded from the foregoing provision. Termination costs, if any, shall not apply. The 30-day advance notice requirement is waived in the event of termination for cause.

B. Non-appropriation of Funds. If funds are not budgeted and appropriated in any fiscal year for payments hereunder for the then current or succeeding fiscal year, this Lease shall impose no obligation on the County as to such current or succeeding fiscal year and shall become null and void except as to the lease payments herein agreed upon for which funds shall have been appropriated and budgeted, and no right of action or damage shall accrue to the benefit of Lessor, its successors and assigns. If the provisions of this section are used by the County, the County agrees to notify Lessor, or its assigns, immediately if funds are not budgeted and to surrender peaceably possession of the equipment to Lessor or its assignee.

17. Notices. Wherever provision is made in this Agreement for the giving, service or delivery of any notice, statement or other instrument, such notice shall be in writing and shall be deemed to have been duly given, served and delivered, if delivered by hand or mailed by United States registered or certified mail or sent by facsimile, addressed as follows:

If to Lessor:

Gary L. Coffman
Highland Tractor Co.
7398 NW 44th Avenue
Ocala, Florida 34478

If to County:

County Manager
Lake County Administration Bldg.
Post Office Box 7800
Tavares, Florida 32778-7800

cc: Public Works Director
437 Ardice Avenue
Eustis, Florida 32726

Each party hereto may change its mailing address by giving to the other party hereto, by hand delivery, United States registered or certified mail notice of election to change such address.

18. **Scope of Agreement.** This Agreement is intended by the parties hereto to be the final expression of their Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made.

19. **Waiver.** The failure of any party hereto at any time to enforce any of the provisions of this Agreement will in no way constitute or be construed as a waiver of such provision or of any other provision hereof, nor in any way affect the validity of, or the right thereafter to enforce, each and every provision of this Agreement.

20. **Severability.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

21. **Public Records.** Pursuant to Section 119.0701, Florida Statutes, Lessor shall comply with the Florida Public Records' laws, and shall:

A. Keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the services identified herein.

B. Provide the public with access to public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed the cost provided for by law.

C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

D. Meet all requirements for retaining public records and transfer, at no cost, to the County all public records in possession of the Lessor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the County in a format that is compatible with the information technology systems of the County.

Failure to comply with this section shall be deemed a breach of this Agreement and enforceable as set forth in Section 119.0701, Florida Statutes.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: County, through its Board of County Commissioners, signing by and through its Chairman on the 8 day of April, 2014 and by Lessor through its duly authorized representative.

LESSOR

Sidney Varner, President
Highland Tractor Co.

This 11th day of MARCH, 2014.

COUNTY

LAKE COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

Jimmy Conner
Chairman

This 10th day of April, 2014.

ATTEST:

Neil Kelly, Clerk of the Board
of County Commissioners
of Lake County, Florida

Approved as to form and legality:

Sanford A. Minkoff, County Attorney

2013/Procuremet/14-0617/highland_lease 3-10-14

EXHIBIT A: EQUIPMENT AND PAYMENT SCHEDULE

Equipment:	**John Deere 750K**
Delivery Date:	**Delivery must be made on or before April 21, 2014.**
Payment Terms:	**Prepayment 120 days in advance ($11,433.04 each payment (covers 4 months) x 15 payments)**
Annual Average Hours:	**624**
Service Facility:	**Ocala, Florida**
Total Contract Amount*:	**$171,495.60**

*Total includes full warranty and full maintenance on all units for the term of the Lease.

All equipment shall satisfy all specifications set forth below.

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ENGINE and DRIVETRAIN:

a.	Turbo charged six (6) cylinder diesel EPA tier 2 emission certified	Yes ✓ No____
b.	Minimum net flywheel horsepower rating of 145 HP	Yes ✓ No____
c.	Engine manufacturer	Mfg Deere
d.	Engine horsepower	Eng HP: 155
e.	Engine RPM's	RPM's: 1800
f.	Automatic reversing cooling fan	Yes ✓ No____
g.	24-volt electrical system; minimum 80 amp; alternator	Yes ✓ No____
h.	Remote mounted filters located within easy reach for servicing	Yes ✓ No____
i.	Trash guard radiator with reinforced swing out guard	Yes ✓ No____
j.	Engine electronic monitoring/warning system	Yes ✓ No____
k.	Fuel tank – 74 U.S. gallons min with tank guard	Yes ✓ No____ Tank capacity:____
l.	Hydrostatic or power shift transmission	Yes ✓ No____
m.	Floor mounted decelerator pedal	Yes ✓ No____
n.	Single stick for steering and directional control	Yes ✓ No____

UNDERCARRIAGE:

a.	Wide track, low ground pressure (LGP)	Yes ✓ No____
b.	5.0 psi maximum ground pressure (MGP)	Yes ✓ No____ Ground PSI: 4.57
c.	Track gauge of 85 inches minimum with trapezoidal holes	Yes ✓ No____ Track gauge: 85
d.	On ground track length at least 120 inches	Yes ✓ No____ Track length: 121
e.	8,000 square inch ground contract area	Yes____ No ✓ Sq. inch: 7277
f.	Blade capacity 6 cubic yards with trash rack for MSW	Yes ✓ No____ Capacity:____ cy
g.	Six (6) way tilting blade	Yes ✓ No____
h.	Complete waste handling guarding for working in MSW, including hydraulic tank guard, shields for crankcase, final drive and idler seats, lift cylinder line and pre-cleaner, with striker bars on rear of bulldozer	Yes ✓ No____

OPERATING WEIGHT:

a.	Between 37,500 to 42,500 lbs. with standard MSW equipment	Yes ✓ No____ Model 750K weight: 37595 lbs

CABIN:

a.	Fully enclosed with Rollover Protection Structure (ROPS)	Yes ✓ No____
b.	Pressurized sound suppression cabin design	Yes ✓ No____
c.	All tinted safety glass	Yes ✓ No____
d.	Standard instrumentation and interior lighting	Yes ✓ No____

e.	Front and rear windshield wipers/washer	Yes ✓ No ____
f.	Cloth covered, adjustable suspension seat with seatbelt	Yes ✓ No ____
g.	Air conditioned with heater/defroster	Yes ✓ No ____
h.	Outside work lighting, (two (2) forward; one (1) aft, minimum)	Yes ✓ No ____
i.	Rearview mirrors, (one (1) inside; two (2) outside)	Yes ✓ No ____

MISCELLANEOUS:

a.	Electrical corrosion prevention package	Yes ✓ No ____
b.	Two (2) 12-volt power receptacles, radio/cellphone	Yes ✓ No ____
c.	Standard factory color	Yes ✓ No ____
		Color: Yellow
d.	Front warning horn and back-up alarm	Yes ✓ No ____
e.	Rear draw hitch with drop pin	Yes ✓ No ____
f.	Hour meter	Yes ✓ No ____
g.	Front pull hook(s)	Yes ✓ No ____
h.	Complete vandalism protection package	Yes ✓ No ____
i.	Sight gauge for checking hydraulic fluid level	Yes ✓ No ____

EXHIBIT B: ASSIGNMENT AGREEMENT

ASSIGNMENT AGREEMENT

RE: That certain Operating Lease and Maintenance Agreement Between Lake County, Florida and _____, for a Bulldozer (hereinafter collectively referred to as the "Lease") and entered into by and between _____., as "Manufacturer", and _____, as "Finance Company."

RECITALS

WHEREAS, Manufacturer desires to sell, transfer, and assign to Finance Company (1) all of its right, title and interest in and to the Lease and all rights and remedies thereunder, (2) all of the items of equipment more fully described in the Lease Schedule (the "Equipment"), (3) all proceeds of the foregoing, and (4) all lease payments and other sums due and to become due under the Lease Schedule (the "Payments") (all of the foregoing are collectively hereinafter referred to as the "Assets").

WHEREAS, in order to induce Finance Company to finance and take assignment of the Assets from Manufacturer, Manufacturer has agreed to certain representations, warranties, and covenants (as detailed herein); Finance Company intends to finance and take assignment of the Assets in reliance on such representations, warranties and covenants;

NOW, THEREFORE, IN CONSIDERATION OF the above premises and the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Representations, Warranties and Covenants.** In consideration of the purchase price paid (or to be paid to Manufacturer), Manufacturer hereby sells, transfers, and assigns to Finance Company all of its right, title and interest in and to the Assets. Manufacturer hereby represents, warrants and covenants to Finance Company that: (a) Manufacturer has delivered to Finance Company an original of the Lease and all documents related thereto (the "Documents"). The Documents represent true, correct and complete originals of the documents executed by Manufacturer under the Lease. Each of the Documents are duly executed by the County are genuine, valid, and enforceable in accordance with their terms. (b) All of the names, addresses, descriptions of Equipment and other statements of fact contained in the Lease are true and correct. (c) There are no agreements between Manufacturer and County in connection with the Lease, except as contained in the Documents provided to Finance Company by Manufacturer. No express or implied warranties have been made by Manufacturer to County except as contained in the Documents provided to Finance Company by Manufacturer. (d) Finance Company shall have good and marketable title to all of the Assets, free and clear of all liens, claims, security interests and encumbrances on and as of the date hereof. Manufacturer shall have no authority, without Finance Company's prior written consent, to repossess or consent to the return of the Equipment, or to modify the terms of the Lease. (e) All of the Equipment has been delivered to County's address indicated in the Lease, properly installed and in good working order, condition and repair, conforming to specifications. (f) Manufacturer shall provide all required maintenance and service of the Equipment to the satisfaction of County. Finance Company shall additionally assume and shall be responsible for performing any obligations of Manufacturer in respect of the Equipment, including all maintenance responsibilities to the satisfaction of County (g) As of the date of this Assignment Agreement, Manufacturer has no knowledge of any facts which may impair the validity of the Lease, or would constitute a default under the terms or the Lease, or if presented or disclosed to Finance Company would have materially influenced Finance Company's decision to purchase and take assignment of the Lease. Manufacturer has not committed any fraudulent act or participated in any fraudulent activity in connection with the Lease or the Equipment. (h) Manufacturer has not received any security deposits, advance rent payments, or other monies from County, except as previously disclosed. (i) County is a state, territory, or possession of the United States, or fully constituted political subdivision or agency of any of the foregoing, or the District of Columbia. (j) Manufacturer has complied and will continue to comply with all bidding requirements applicable to the Lease and with all requirements of any applicable Request for Proposal or other purchase or offering document issued by the County in connection with the

Lease (the "RFP") including, without limitation, those applicable to the Equipment (and any services to be provided by Manufacturer) and all federal and state statutes and regulations governing equal employment opportunity, affirmative action and environmental protection. (k) Manufacturer is the entity which submitted the proposal in response to the RFP. (l) County has complied fully with all applicable laws governing the approval and execution of the Lease, including without limitation open meetings, public bidding and appropriations. (m) the Equipment will be used solely by County in connection with its governmental and proprietary functions and will not be used by or for the benefit of any private entity. (n) Manufacturer shall not take any action (or fail to take any action) which causes the Lease to be cancelled or otherwise terminated by County. (o) Manufacturer shall indemnify and hold harmless Finance Company and its affiliates, subsidiaries, employees, officers and agents from any and all losses, claims by or against Finance Company, liabilities, demands and expenses whatsoever, including reasonable attorney's fees and costs, arising out of or in connection with any breach by Manufacturer of its representations, warranties, covenants or obligations, and shall, at Finance Company 's request, purchase the Lease and the Equipment from Finance Company for an amount equal to the Net Book Value (as such term is defined below) thereof. Upon receipt of such Net Book Value, Finance Company shall sell, transfer and assign to Manufacturer all of their right, title and interest in and to the Lease and the Equipment **AS-IS, WHERE-IS, WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED.** In the event Finance Company is deemed by any third party to be a Contractor or a sub-contractor under the RFP and Finance Company determines in its sole judgment that it does not comply with any provision of the RFP which would be applicable thereto, in which case the purchase of the Lease shall be effective as of the day preceding the date on which Finance Company is deemed to be a Contractor.

IN WITNESS WHEREOF, the parties have signed this Assignment Agreement as of this _____ day of _____, 20___.

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____